Hearing Date: March 24, 2023

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ITEM 5

PROPOSED DECISION

AND

PARAMETERS AND GUIDELINES AMENDMENT

Government Code Section 12525.5; as Added or Amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518)

California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229 as Added by Register 2017, No. 46

Racial and Identity Profiling

21-PGA-01 (18-TC-02)

City of Claremont, Requester

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Exhibit A

RECEIVED December 10, 2021 **Commission on State Mandates**

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December 10, 2021

Ms. Heather Halsey **Executive Director** Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814

CITY OF CLAREMONT

Request to Amend Claiming Instructions and Parameters and Guidelines: Racial and Identity Profiling claim, 18-TC-02

Dear Ms. Halsey,

On September 25, 2020, the Commission on State Mandates approved the Statement of Decision and Parameters and Guidelines for the Racial and Identity Profiling (RIPA) mandate program. Sections 999.226(a) and 999.227 dates (Gov. Code, § 12525.5(a)(2), Stats. 2017, ch. 328) of this mandate's regulations require the collection and electronic reporting to the Attorney General data on all "stops" made by law enforcement agencies.

The original test claimant had not incurred hardware costs related to implementing the mandate and therefore did not allege this activity should be included in the parameters. At the time, the city had no data or information regarding how the mandate would impact them and therefore could not comment during the development of the parameters and guidelines. (The City of Claremont employs less than 334 peace officers and statutes did not require implementation of the program until January, 2022 for agencies of this size).

Now that the city has begun exploring how to most efficiently implement this program, it has been determined that the Department will have to purchase equipment (cellular telephones loaded with RIPA data collection software) in order to implement the mandate. This is because the city's motor and bicycle units cannot be equipped with the existing in-car mobile data computers (MDCs).

The city believes that this expenditure on equipment purchase is a reasonably necessary expense necessary to comply with the mandated program and therefore requests that the Commission's Parameters and Guidelines be amended to add in "On-Going Activity B: Cost of hardware purchase necessary to implement the mandated program."

The attached declaration and supporting documentation from Lieutenant Michael Ciszek show the costs that the city will have to incur to allow their motor and bicycle units to input and submit the mandated RIPA data.

We respectfully request the inclusion of "Fixed Assets – Cost of hardware purchases" as an allowable reimbursable component for this mandated program.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 10th day of December, at Claremont, California.

Adam Pirrie

City Manager and Acting Finance Director

City of Claremont

DECLARATION OF MICHAEL CISZEK

I, Michael Ciszek, make the following declaration under oath and under penalty of perjury under the laws of the State of California that the following statements are true and correct of my own personal knowledge:

- 1) I am a Lieutenant for the City of Claremont Police Department (CPD). I have been employed by the City in this capacity since 2009 and have been a law enforcement officer since 1996. As part of my duties, I am, and have been directly involved and have personal knowledge of the procedures the Department is implementing in order to comply with the new requirements mandated by Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46: referred to as the Racial and Identity Profiling (RIPA) program.
- The CPD has contracted with a software provider to develop our RIPA reporting requirements, which will be conducted through our existing in-car mobile data computers (MDCs).
- 3) However, the CPD has motor officers and bicycle officers which cannot be equipped with an MDC. Since these officers are also mandated to input and submit RIPA data from their contacts, the Department has determined that the most efficient manner of implementing this program for those employees is to purchase several cellular telephones and upload the RIPA reporting software to the cellphones so that the data can be collected to comply with the state mandate.
- 4) The CPD has never provided nor paid for cellular equipment or service for any of its sworn patrol employees in the past and would be incurring these costs specifically and only to comply with this new State mandate RIPA program.
- 5) At the time the parameters and guidelines were being considered and approved for this program, the CPD did not know what measures would be necessary to implement the mandated program as the legislation did not require us to implement the program until FY 2021-22. Therefore, we would request that parameters and guidelines and claiming instructions be amended to include provisions to allow the inclusion of equipment (cellphone/hardware) purchases.
- 6) In addition, because ongoing costs for the monthly cellular service would be required as long as the State mandated program is in effect, we also request that these costs be included as a part of the allowable scope of the reimbursable costs of this mandate program.
- 7) CPD administrative staff believe the costs and activities presented are directly related to implementing the subject law, and believes these expenditures are reasonably necessary costs to comply with the mandated program. Government Code, Section 17514 states:

"'Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and information presented in declaration and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing statement, as well as the information in the attached Appendix A, are true and correct based upon my own personal knowledge.

Executed this _____ day of October, 2021 in Claremont, California.

Michael Ciszek

Lieutenant

Claremont Police Department

(WSCA 7-10-70-16) Quote-

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the event of any ambiguities or inconsistencies between the information contained in the completed pricing quote and the State Contract pricing and equipment, the information contained in the State Contract shall prevail. Please refer to the State Contract for details.



Hitech Systems Inc. dba Pulsiam Work Order #65603

Client:

Claremont Police Department

Work Order For:

Enhancement to SafetyNet Mobile Client to capture data

required by Assembly Bill 953 Updates

Description of Work:

Claremont Police Department (CPD) utilizes SafetyNet Computer Aided Dispatch (CAD), SafetyNet Mobile, SafetyNet Records Management System (RMS), and SafetyNet eReporting.

CPD has requested Pulsiam to enhance SafetyNet CAD and SafetyNet Mobile to allow the officer of the primary unit on a call to complete the profiling information upon the unit clearing the call.

Pulsiam will perform the enhancement based on the following documents attached hereto:

- California Department of Justice AB 953: Racial and Identity Profiling Act of 2015
 System Interface Diagrams and Specifications dated 12/6/2017
- State of California CJIS 2000 Department of Justice Stop Data Collection Form Racial & Identity Profiling Act - Penal Code Sections 13012 and 13519.4, and Gov. Code 12525.5
- AB 953 Stop Data Regulations California Department of Justice
- attachment-b-ab953-interface.json.zip

The reporting of the Stop Data to the Department of Justice will be performed via Web Service interface as described in the California Department of Justice AB 953: Racial and Identity Profiling Act of 2015 System Interface Diagrams and Specifications.

Implementation Plan:

Pulsiam will perform the following steps to accomplish the work described above:

- Designate a project manager to work with the CPD project manager and staff during the duration of the project
- Enhance SafetyNet CAD, SafetyNet Mobile, and SafetyNet Mobile Insight to provide for the collection of the following data:

Information Regarding Stop:

- o Date, Time, and Duration of Stop
- Location of Stop
- Reason for Stop
- o Stop in Response to Call for Service
- Actions Taken During Stop
- Basis for Search (if done)
- Contraband or Evidence Discovered
- Property Seized (Type and Basis for Seizure)
- Result of Stop



Hitech Systems Inc. dba Pulsiam Work Order #65603

Information Regarding Person Stopped:

- Perceived Race or Ethnicity
- o Perceived Gender
- Perceived to be LGBT
- Perceived Age
- Perceived Limited or No English Fluency
- Perceived or Known Disability

Information Regarding Officer:

- o Years of Experience
- Type of Assignment
- o Officer's Identification (ID) Number
- Install the enhancement on the CPD SafetyNet Application server in the test environment
- Provide enhanced versions of SafetyNet Mobile and SafetyNet Mobile Insight
- Work with CPD to test the enhancement on the CPD SafetyNet application server in the test environment using SafetyNet Mobile Client and SafetyNet Mobile Insight
- Upon successful completion of CPD testing,install the enhancement in the CPD SafetyNet Application server in the production environment

CPD will have the following responsibilities:

- Designate a project manager to work with Pulsiam for the duration of the project
- Provide resources to perform testing of the enhancements
- Install the enhanced versions of SafetyNet Mobile Client and SafetyNet Mobile Insight on one or more devices
- Configure one or more devices using SafetyNet Mobile Client and SafetyNet Mobile Insight to access the test environment on the CPD SafetyNet application server
- Test the enhancement on the SafetyNet Mobile Client and SafetyNet Mobile Insight devices on the CPD SafetyNet application server in the test environment
- Install the enhanced versions of SafetyNet Mobile Client and SafetyNet Mobile Insight on all client devices
- Document all issues on https://support.pulsiam.com

Documentation:

Pulsiam will provide documentation in the form of updated wiki pages on the Pulsiam Support Portal SafetyNet Wiki.

Training:

No training is required.



Hitech Systems Inc. dba Pulslam Work Order #65603

Testing:

Upon notification by Pulsiam that the enhancement is ready for testing in the test environment, CPD will have ten (10) business days to perform said testing prior to moving the enhancement to the live environment. During CPD's testing, any identified issues will be reported in the form of an Incident Report (IR) on https://support.pulsiam.com for resolution.

Acceptance:

Demonstration of the proper operation for a period of five (5) calendar days will constitute acceptance.

Terms:

CPD will pay Hitech the sum of \$7,500.00 plus non-labor expenses, if any, for the following:

Qty	Product Description	Unit Price	Total
	Services		
1	Development, Installation, Configuration, Testing, Documentation, and Project Management	\$7,500.00	\$7,500.00
	•	Grand Tota	al \$7,500.00

CPD shall make payments as follows:

- · A payment in the sum of \$1,500.00 upon the execution of this work order
- A payment in the sum of \$4,500.00 upon installation in the test environment on the CPD SafetyNet application server
- A payment in the sum of \$1,500.00 upon the acceptance

This work order is subject to the terms and conditions of the SafetyNet Software Agreement and the SafetyNet Maintenance and Support Services Agreement previously executed by the parties.

Pulsiam will not be held responsible for changes in specifications. CPD will pay Pulsiam on a time and materials basis for any costs associated with changes in specifications. Additional time will be billed at \$337 per hour. Pulsiam will not be liable for errors and/or omissions within the specifications provided by California Department of Justice. This offer is valid until May 1, 2021.



Hitech Systems Inc. dba Pulsiam Work Order #65603

Acknowledgment and Authorization:

Hitech Systems, Inc. dba Pulsiam	Claremont Police Department
Henry P. Unger	51/

Henry P. Unger President Shelly Vander Veen Police Chief Date: ____2021-04-13

Date: ____4/13/21

DECLARATION OF SERVICE BY EMAIL

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.

On December 16, 2021, I served the:

- Notice of Complete Request for Parameters and Guidelines Amendment, Schedule for Comments, and Notice of Tentative Hearing Date issued December 16, 2021
- Request for Parameters and Guidelines Amendment filed by the City of Claremont on December 10, 2021

Racial and Identity Profiling, 21-PGA-01

Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46¹

City of Claremont, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 16, 2021 at Sacramento, California.

Jill L. Magee

Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814

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¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 12/13/21

Claim Number: 21-PGA-01

Matter: Racial and Identity Profiling

Requester: City of Claremont

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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December 15, 2022

Mr. Kris Cook Mr. Adam Pirrie
Department of Finance City of Claremont
915 L Street, 10th Floor 207 Harvard Ave
Sacramento, CA 95814 Claremont, CA 91711

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Draft Proposed Decision and Parameters and Guidelines Amendment, Schedule for Comments, and Notice of Hearing

Racial and Identity Profiling, 21-PGA-01

Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46¹

City of Claremont, Requester

Dear Mr. Cook and Mr. Pirrie:

The Draft Proposed Decision and Parameters and Guidelines Amendment for the above-captioned matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the Draft Proposed Decision and Parameters and Guidelines Amendment by no later than **5:00 pm on January 5, 2023**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.²

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

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² Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Mr. Cook and Mr. Pirrie December 15, 2022 Page 2

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, March 24, 2023** at 10:00 a.m., via Zoom. The Proposed Decision and Parameters and Guidelines Amendment will be issued on or about March 10, 2023.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness you are bringing plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list and so that detailed instructions regarding how to participate as a witness in this meeting on Zoom can be provided to them. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,

Heather Halsey
Executive Director

Hearing Date: March 24, 2023

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ITEM

DRAFT PROPOSED DECISION

AND

PARAMETERS AND GUIDELINES AMENDMENT

Government Code Section 12525.5; as added or amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518)

California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229 as added by Register 2017, No. 46

Racial and Identity Profiling

21-PGA-01 (18-TC-02)

City of Claremont, Requester

EXECUTIVE SUMMARY

I. Summary of the Mandate

On May 22, 2020, the Commission on State Mandates (Commission) adopted the Test Claim Decision on *Racial and Identify Profiling*, 18-TC-02. The Commission found that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning November 7, 2017. Specifically, the Commission found that city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) are mandated to electronically report to the Attorney General, on an annual basis, data on all "stops" within their own jurisdiction, conducted by the agency's peace officers; and on those city and county law enforcement agencies that contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.²

On September 25, 2020, the Commission adopted the Decision and Parameters and Guidelines for claiming costs incurred beginning November 7, 2017.³ Section IV. of the Parameters and Guidelines authorizes reimbursement for, among other activities, local law enforcement to

¹ Exhibit X, Test Claim Decision, *Racial and Identity Profiling*, 18-TC-02, adopted May 22, 2020, pages 4-9, 59-64.

² Exhibit X, Test Claim Decision, *Racial and Identity Profiling*, 18-TC-02, adopted May 22, 2020, pages 5-8, 60-63.

³ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 3.

electronically report collected data to the DOJ,⁴ and for "One-time installation and testing of software necessary to comply with the state-mandated requirements for the collection and reporting requirements of data on all applicable stops." Section V.A. of the Parameters and Guidelines authorizes reimbursement for the direct costs to comply with the reimbursable activities, including costs for materials and supplies, fixed assets, and contracted services. ⁶

On December 10, 2021, the City of Claremont (requester) filed the Request for Parameters and Guidelines Amendment seeking reimbursement for its purchase of cellular telephones loaded with Racial and Identity Profiling Act (RIPA) reporting software, which the requester alleges are solely to comply with the mandate and necessary to provide to "motor and bicycle units [that] cannot be equipped with the existing in-car mobile data computers." The requester points out that the original claimant did not request the purchase of hardware to comply with the mandate and seeks to amend the reimbursable activities to add: "On-Going Activity B: Cost of hardware purchase necessary to implement the mandated program, or Fixed Assets - Cost of hardware purchases."

II. Procedural History

The requester filed the Request for Parameters and Guidelines Amendment on December 10, 2021. No comments were filed on the request. Commission staff issued the Draft Proposed Decision and Parameters and Guidelines Amendment on December 15, 2022. 10

III. Discussion

Government Code section 17557(d) authorizes a local agency, school district, or the state to file a written request with the Commission to amend the parameters and guidelines consistent with the test claim decision for several reasons, including to clarify what constitutes a reimbursable activity, to add reasonably necessary activities, and to amend the boilerplate language in the parameters and guidelines.¹¹

⁴ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 18.

⁵ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 15.

⁶ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 20.

⁷ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, page 1.

⁸ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 1, 2.

⁹ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, page 1.

¹⁰ Exhibit B, Draft Proposed Decision and Parameters and Guidelines Amendment, issued December 15, 2022.

¹¹ See also California Code of Regulations, title 2, section 1183.17(a).

As indicated above, the requester seeks to amend Section IV. of the Parameters and Guidelines to authorize reimbursement for the "Cost of hardware purchase necessary to implement the mandated program, or Fixed Assets - Cost of hardware purchases." The requester declares that peace officers in motor and bicycle units are mandated to input and submit RIPA data from their stops and need to be equipped with smartphones to comply with the mandate since these units cannot be equipped with a mobile data computer. The requester seeks reimbursement for the costs to purchase smartphones loaded with RIPA software and cellular service to comply with the mandate.

Staff finds that the Parameters and Guidelines already authorize reimbursement for the costs incurred to comply with the reimbursable activities, including the costs alleged by the requester. Therefore, the amendment is not necessary and the request should be denied. However, staff does recommend amending Section IV.B.3(a) to add clarifying language that "In-car mobile data computers, laptops, tablets, or smartphones may be used to comply with this activity." As a clarifying change to the existing Parameters and Guidelines, this amendment is effective beginning November 7, 2017, the original effective date of the Parameters and Guidelines. ¹⁴

A. Section V.A. of the Parameters and Guidelines Already Authorizes Reimbursement for Materials and Supplies, Fixed Assets, and Contracted Services to Comply with the Mandate. Therefore, the Request for Parameters and Guidelines Amendment Should Be Denied.

Section IV. of the Parameters and Guidelines authorizes reimbursement for, among other activities, local law enforcement to electronically report their collected data to the DOJ:

Submit all required stop data to the system developed by the DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; and (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].)¹⁵

Additionally, Section IV.A.2. of the adopted Parameters and Guidelines authorizes reimbursement for: "One-time installation and testing of software necessary to comply with the state-mandated requirements for the collection and reporting requirements of data on all applicable stops." Although the cost to purchase "hardware" (or smartphones) is not specifically approved in the Parameters and Guidelines, it may already be claimed under either Section V.A.2. of the Parameters and Guidelines, as "materials and supplies," or under Section

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¹² Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 1, 2.

¹³ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, page 3.

 $^{^{14}}$ Western Security Bank v. Superior Court (1997) 15 Cal.4th 232, 243.

¹⁵ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 18.

¹⁶ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 15.

V.A.4., as "fixed assets." The State Controller's Office Accounting Manual for Counties, as well as broad definitions of the Government Accounting Standards Board, both support this interpretation of the Parameters and Guidelines. ¹⁷ In addition, cellular service may be claimed under Section V.A.3. of the Parameters and Guidelines regarding "Contracted Services." The Commission's Test Claim Decision cites the DOJ regulatory materials that state that the mandate "may require up-front costs in technology investment to equip officers in the field with a laptop, tablet, or *smartphone*." Thus, the purchase of smartphones is consistent with the Test Claim Decision to the extent necessary to comply with the mandate.

Attached to the request is a work order for "Enhancement to SafetyNet Mobile Client to capture data required by Assembly Bill 953 Updates." The work order provides for Development, Installation, Configuration, Testing, Documentation, and Project Management for \$7,500.00." This supports the One-Time Installation and Testing of the RIPA Software already provided for by the Parameters and Guidelines. As stated above, installation and testing of the software is already reimbursable under the Parameters and Guidelines. However, software development has not been approved as a mandated or reasonably necessary activity in the Test Claim Decision or Parameters and Guidelines, nor was it included in the proposed amendment language: "On-Going Activity B: Cost of hardware purchase necessary to implement the mandated program, or Fixed Assets - Cost of hardware purchases."

Nonetheless, staff recommends adding the following clarifying language, effective November 7, 2017, 22 to Section IV.B.3(a) as indicated in underline:

Submit all required stop data to the system developed by the DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; and (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].) <u>Incar mobile data computers, laptops, tablets, or smartphones may be used to comply with this activity.</u>

¹⁷ Exhibit X, Excerpts from Office of the State Controller, Accounting Standards and Procedures for Counties, 2021 Edition, https://www.sco.ca.gov/Files-ARD-Local/asp_manual_2021_edition.pdf (accessed on December 1, 2022), pages 99, 102, 636, 681. Exhibit X, Government Accounting Standards Board, GASB Code, Section 1400.103.

¹⁸ Exhibit X, Test Claim Decision, *Racial and Identity Profiling*, 18-TC-02, adopted May 22, 2020, page 35 (emphasis added).

¹⁹ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 3-8.

²⁰ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 3-8.

²¹ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 15.

²² This clarifying amendment is effective on the same date as the original Parameters and Guidelines. *Western Security Bank v. Superior Court* (1997) 15 Cal.4th 232, 243.

B. <u>A Citation to Federal Law in Section V.B.</u>, of the Parameters and Guidelines Addressing Indirect Cost Rates Should Be Corrected.

Staff also recommends that the Commission update Section V.B., Indirect Cost Rates, to correct the citation to the federal law on indirect costs from the OMB Circular A-87, which was superseded on December 26, 2013, by the OMB Circular 2 CFR, Chapter I and Chapter II, Part 200 et seq.

The Office of Management and Budget ("OMB") adopted 2 CFR Part 200 on December 26, 2013, which is referred to as the "Super Circular," to supersede and streamline requirements from several previous OMB Circulars, including OMB Circular A-87. The provisions within OMB Circular A-87 existed prior to the establishment of Part 200 of title 2 of the Code of Federal Regulations (CFR), have been incorporated into Part 200 of title 2, and have not substantively changed. Moreover, the Claiming Instructions issued by the State Controller's Office for this program refer to "2 CFR, Chapter I and Chapter II, Part 200, et al." and not OMB Circular A-87. Thus, the amendment simply corrects the citation to this federal law, which has been in place before the period of reimbursement for this program.

The courts have recognized that "a statute that merely clarifies existing law, rather than changes the law, can properly be applied to transactions predating the clarification since the clarification describes what the law has always been."²⁵ Thus, the correction to the citation for indirect costs applies to the entire period of reimbursement, beginning November 7, 2017.²⁶

IV. Conclusion

Staff recommends that the Commission adopt the Proposed Decision and Parameters and Guidelines Amendment to deny the Request for Parameters and Guidelines Amendment, but recommends adding clarifying language, effective November 7, 2017,²⁷ to Section IV.B.3(a) of the Parameters and Guidelines: "In-car mobile data computers, laptops, tablets, or smartphones may be used to comply with this activity." Staff also recommends that the Commission correct the citations to Federal law in Section V.B. of the Parameters and Guidelines addressing Indirect Costs, consistent with the Claiming Instructions for this program, as discussed above.

In addition, staff recommends that the Commission authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

²³ Code of Federal Regulations, title 2, section 1.215.

²⁴ Exhibit X, State Controller's Office, State-Mandated Costs Claiming Instructions No. 2020-03 Racial and Identity Profiling – Program No. 375, Revised October 1, 2022, page 9.

²⁵ Western Security Bank v. Superior Court (1997) 15 Cal.4th 232, 243.

²⁶ Since this amendment does not change the Parameters and Guidelines, but merely clarifies a citation, Government Code section 17557(d)(2)(H), which addresses the period of reimbursement for *changes* to boilerplate language, does not apply.

²⁷ This clarifying amendment is effective on the same date as the original Parameters and Guidelines. *Western Security Bank v. Superior Court* (1997) 15 Cal.4th 232, 243.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES AMENDMENT FOR:

Government Code Section 12525.5; as added or amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229 as added by Register 2017, No. 46.

Filed on December 10, 2021

By the City of Claremont, Requester

Case No.: 21-PGA-01 (18-TC-02)

Racial and Identity Profiling

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

(Adopted March 24, 2023)

DECISION AND PARAMETERS AND GUIDELINES AMENDEMNT

The Commission on State Mandates (Commission) heard and decided this Request for Parameters and Guidelines Amendment (PGA) during a regularly scheduled hearing on March 24, 2023. [Witness list will be included in the adopted decision.]

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 sections 17500 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision and Parameters and Guidelines Amendment by a vote of [vote count will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	
Scott Morgan, Representative of the Director of the Office of Planning and Research	
Sarah Olsen, Public Member	
Renee Nash, School District Board Member	
Shawn Silva, Representative of the State Controller	
Spencer Walker, Representative of the State Treasurer, Vice-Chairperson	

I. Summary of the Mandate

On May 22, 2020, the Commission on State Mandates (Commission) adopted the Test Claim Decision on *Racial and Identity Profiling*, 18-TC-02. The Commission found that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning November 7, 2017, on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting). Specifically, the Commission found that the test claim statutes and regulations imposed a mandate on these local agencies to electronically report to the Attorney General, on an annual basis, data on all "stops" within their own jurisdiction, conducted by the agency's peace officers; and on those city and county law enforcement agencies that contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions. ²⁹

On September 25, 2020, the Commission adopted the Decision and Parameters and Guidelines for claiming costs incurred beginning November 7, 2017.³⁰ Section IV. of the Parameters and Guidelines authorizes reimbursement for, among other activities, local law enforcement to electronically report their collected data to the DOJ:

Submit all required stop data to the system developed by the DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; and (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].)³¹

Additionally, Section IV.A.2. of the adopted Parameters and Guidelines authorizes reimbursement for: "One-time installation and testing of software necessary to comply with the state-mandated requirements for the collection and reporting requirements of data on all applicable stops." 32

Section V.A. of the Parameters and Guidelines identifies the direct costs that may be specifically incurred for the reimbursable activities and are eligible for reimbursement including, as relevant here, the following:

²⁸ Exhibit X, Test Claim Decision, *Racial and Identity Profiling*, 18-TC-02, adopted May 22, 2020, pages 4-9, 59-64

²⁹ Exhibit X, Test Claim Decision, *Racial and Identity Profiling*, 18-TC-02, adopted May 22, 2020, pages 5-8, 60-63.

³⁰ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 3.

³¹ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 18.

³² Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 15.

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

Report the purchase price paid for fixed assets necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset 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.³³

The City of Claremont (requester) seeks to amend the Parameters and Guidelines to authorize reimbursement for purchasing smartphones loaded with Racial and Identity Profiling Act (RIPA) reporting software by adding to Section IV.: "On-Going Activity B: Cost of hardware purchase necessary to implement the mandated program," or "Fixed Assets - Cost of hardware purchases." 34

II. Procedural History

On December 10, 2021, the requester filed the Request for Parameters and Guidelines Amendment.³⁵ The request was issued for comment on December 16, 2021. No comments were filed on the request. Commission staff issued the Draft Proposed Decision and Parameters and Guidelines Amendment on December 15, 2022.³⁶

³³ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 20.

³⁴ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 1, 2.

³⁵ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 1, 2.

³⁶ Exhibit B, Draft Proposed Decision and Parameters and Guidelines Amendment, issued December 15, 2022.

III. Positions of the Parties

A. City of Claremont, Requester

The requester requests that the Commission amend the Parameters and Guidelines to authorize reimbursement for: "On-Going Activity B: Cost of hardware purchase necessary to implement the mandated program," or "Fixed Assets - Cost of hardware purchases." No other proposed parameters and guidelines language is included in the request.

However, in the narrative of the request, the requester more specifically seeks reimbursement to purchase several smartphones *loaded with RIPA data collection software*:

Now that the city has begun exploring how to most efficiently implement this program, it has been determined that the Department will have to purchase equipment (cellular telephones loaded with RIPA data collection software) in order to implement the mandate. This is because the city's motor and bicycle units cannot be equipped with the existing in-car mobile data computers (MDCs).

The city believes that this expenditure on equipment purchase is a reasonably necessary expense necessary to comply with the mandated program and therefore requests that the Commission's Parameters and Guidelines be amended to add in "On-Going Activity B: Cost of hardware purchase necessary to implement the mandated program."

The attached declaration and supporting documentation from Lieutenant Michael Ciszek show the costs that the city will have to incur to allow their motor and bicycle units to input and submit the mandated RIPA data.

We respectfully request the inclusion of "Fixed Assets - Cost of hardware purchases" as an allowable reimbursable component for this mandated program.³⁸

The attached Declaration from Lieutenant Michael Ciszek states that the smartphones are solely for complying with the mandate and makes additional requests that are not included in the proposed language in the request:

- 2) The CPD [Claremont Police Department] has contracted with a software provider to develop our RIPA reporting requirements, which will be conducted through our existing in-car mobile data computers (MDCs).
- 3) However, the CPD has motor officers and bicycle officers which cannot be equipped with an MDC. Since these officers are also mandated to input and submit RIPA data from their contacts, the Department has determined that the most efficient manner of implementing this program for those employees is to purchase several cellular telephones and upload the RIPA reporting software to the cellphones so that the data can be collected to comply with the state mandate.

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³⁷ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 1, 2.

³⁸ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 1-2.

- 4) The CPD has never provided nor paid for cellular equipment or service for any of its sworn patrol employees in the past and would be incurring these costs specifically and only to comply with this new State mandate RIPA program.
- 5) At the time the parameters and guidelines were being considered and approved for this program, the CPD did not know what measures would be necessary to implement the mandated program as the legislation did not require us to implement the program until FY 2021-22. Therefore, we would request that parameters and guidelines and claiming instructions be amended to include provisions to allow the inclusion of equipment (cellphone/hardware) purchases.
- 6) In addition, because ongoing costs for the monthly cellular service would be required as long as the State mandated program is in effect, we also request that these costs be included as a part of the allowable scope of the reimbursable costs of this mandate program.³⁹

No comments were filed on the Request for Parameters and Guidelines Amendment.

IV. Discussion

Government Code section 17557(d) authorizes a local agency, school district, or the state to file a written request with the Commission to amend the parameters or guidelines consistent with the test claim decision for the following reasons:

- (A) Delete any reimbursable activity that has been repealed by statute or executive order after the adoption of the original or last amended parameters and guidelines.
- (B) Update offsetting revenues and offsetting savings that apply to the mandated program and do not require a new legal finding that there are no costs mandated by the state pursuant to subdivision (e) of Section 17556.
- (C) Include a reasonable reimbursement methodology for all or some of the reimbursable activities.
- (D) Clarify what constitutes reimbursable activities.
- (E) Add new reimbursable activities that are reasonably necessary for the performance of the state-mandated program.
- (F) Define what activities are not reimbursable.
- (G) Consolidate the parameters and guidelines for two or more programs.
- (H) Amend the boilerplate language.⁴⁰

As indicated above, the requester seeks to amend Section IV. of the Parameters and Guidelines, to authorize reimbursement for the "Cost of hardware purchase necessary to implement the

³⁹ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, page 3 (Declaration of Lieutenant Michael Ciszek, para. 4.).

⁴⁰ See also California Code of Regulations, title 2, section 1183.17(a).

mandated program," or "Fixed Assets - Cost of hardware purchases." The request, however, is really seeking reimbursement for the costs to comply with the reimbursable activities.

For the reasons below, the Commission finds that the Parameters and Guidelines already authorize reimbursement for the direct costs incurred to comply with the reimbursable activities, including the costs alleged by the requester here. Therefore, the amendment is not necessary and the Request for Parameters and Guidelines Amendment is denied. However, adding the following language to clarify Section IV.B.3(a) is approved: "In-car mobile data computers, laptops, tablets, or smartphones may be used to comply with this activity."

A. Section V.A. of the Parameters and Guidelines Already Authorizes Reimbursement for Materials and Supplies, Fixed Asserts, and Contracted Services to Comply With the Mandated Activity. Therefore, the Request for the Parameters and Guidelines Amendment Is Denied.

This state-mandated program requires county and city law enforcement agencies to electronically report to the DOJ, on an annual basis, data on all "stops" within their own jurisdiction. The requester wants to add a reimbursable activity to purchase hardware and declares that motor and bicycle units, which cannot be equipped with a mobile data computer, are also mandated to input and submit RIPA data from their stops and need to be equipped with cellular telephones to comply with the mandate. 42

The test claim statute and implementing regulations do not expressly mention the form of transportation a peace officer may use when detaining someone and making a reportable stop. ⁴³ The test claim statute, however, applies to "all stops" by all county and city "peace officers" as defined in Penal Code sections 830 et seq. ⁴⁴ who make "stops:"

- (1) As to any offense committed or which there is probable cause to believe has been committed within the political subdivision that employs the peace officer or in which the peace officer serves.
- (2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety

⁴¹ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 1, 2.

⁴² Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, page 3.

⁴³ California Code of Regulations, title 11, section 999.224 et seq.

⁴⁴ Penal Code section 830 states, "Any person who comes within the provisions of this chapter and who otherwise meets all standards imposed by law on a peace officer is a peace officer, and notwithstanding any other provision of law, no person other than those designated in this chapter is a peace officer." And Penal Code section 830.1(a) broadly defines peace officers to include "any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency that performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city" whose "authority extends to any place in the state as follows:

- (g)(1) For purposes of this section, "peace officer," as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting.
- (2) For purposes of this section, "stop" means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.⁴⁵

Based on the broad definitions of "peace officers" and "stops" in the test claim statutes, the requester correctly concludes that city and county peace officers, whether traveling by vehicle, bicycle, or on foot, are mandated by the state to comply with this program when they make a stop. In addition, the Commission's Test Claim Decision cites the DOJ regulatory materials that state that the mandate "may require up-front costs in technology investment to equip officers in the field with a laptop, tablet, or *smartphone*." Thus, the purchase of hardware, including smartphones to the extent necessary to comply with the mandate, is consistent with the Test Claim Decision.

However, as indicated below, the Parameters and Guidelines already authorize reimbursement for the costs to purchase hardware, including smartphones, one-time installation and testing of RIPA software on the smartphones, and contracts for cellular service.

As indicated in Section IV. of the Parameters and Guidelines, cities and counties are mandated by the state to electronically report to the Attorney General data on all "stops" within their jurisdiction. The Request for Parameters and Guidelines Amendment seeks to authorize reimbursement for the "cost of hardware purchase necessary to implement the mandated program," or "Fixed Assets - Cost of hardware purchases." Attached to the Request for

agency, or person authorized by him or her to give consent, if the place is within a city, or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

⁽³⁾ As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense."

⁴⁵ Government Code section 12525.5, as amended by Statutes 2015, chapter 466 (AB 953) and Statutes 2017, chapter 328 (AB 1518). See also Exhibit X, Test Claim Decision, *Racial and Identity Profiling*, 18-TC-02, adopted May 22, 2020, page 16.

⁴⁶ Exhibit X, Test Claim Decision, *Racial and Identity Profiling*, 18-TC-02, adopted May 22, 2020, page 35 (emphasis added).

⁴⁷ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 1, 2.

Parameters and Guidelines Amendment is a price quotation from Verizon dated October 2021 for new activation for six cell phones, totaling \$2,555.94. 48

However, the costs incurred to purchase hardware, such as smartphones, to comply with the mandate is already eligible for reimbursement under Section V. of the Parameters and Guidelines (Direct Costs), and smartphones may be claimed under either Section V.A.2., as "materials and supplies," or Section V.A.4., as "fixed assets," as stated below:

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.

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4. Fixed Assets

Report the purchase price paid for fixed assets necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset 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.⁴⁹

The State Controller's Office Accounting Manual for Counties, as well as Government Accounting Standards both support this interpretation of the Parameters and Guidelines. The State Controller's Accounting Manual for Counties classifies smartphones as "services and supplies." ⁵⁰

⁴⁸ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 4.

⁴⁹ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 20.

⁵⁰ Exhibit X, Excerpts from Office of the State Controller, Accounting Standards and Procedures for Counties, 2021 Edition, https://www.sco.ca.gov/Files-ARD-Local/asp_manual_2021_edition.pdf (accessed on December 1, 2022), page 102. See also Code of Federal Regulations, title 2, section 200.1 that defines "supplies" as: "all tangible personal property other than those described in the definition of equipment in this section. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non–Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life." The same regulation defines computing device as: "machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting and receiving, or storing electronic information."

As an alternative, the Government Accounting Standards Board (GASB) website, which has definitions that also apply to cities, defines "capital asset," (which is synonymous with "fixed asset")⁵¹ broadly enough to encompass smartphones:

As used in this section, the term *capital assets* includes land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, works of art and historical treasures, infrastructure, and all other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period.⁵²

This GASB definition comports with the "capital asset" definition in the State Controller's Accounting Manual for Counties, which also defines capital assets broadly to include "machinery and equipment:"

Capital Assets. Assets including land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, works of art and historical treasures, infrastructure, and all other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period. ⁵³

And the following definition of "machinery and equipment" in the State Controller's Manual is also broad enough to apply to smartphones:

Machinery and Equipment. Property that does not lose its identity when removed from its location and is not changed materially or consumed immediately—within one year—by use.⁵⁴

The State Controller's Manual recognizes: "Many items are coded as both Services and Supplies and Capital Assets. The determination as to the proper account classification should be made by applying the capital asset policy." ⁵⁵

Accordingly, whether claimed under materials and supplies or fixed assets, the pro rata cost of smartphones used directly for the mandate may be claimed under Section V.A. of the Parameters and Guidelines. Therefore, the Request for Parameters and Guidelines Amendment to authorize reimbursement for the "cost of hardware purchase necessary to implement the mandated

⁵¹ Exhibit X, AccountingTools, *Capital Asset Definition*, https://www.accountingtools.com/articles/capital-asset (accessed on October 26, 2022), page 1, stating "A capital asset is also known as a fixed asset or as property, plant and equipment."

⁵² Exhibit X, Government Accounting Standards Board, GASB Code, Section 1400.103.

⁵³ Exhibit X, Office of the State Controller, Accounting Standards and Procedures for Counties, 2021 Edition, https://www.sco.ca.gov/Files-ARD-Local/asp manual 2021 edition.pdf (accessed on December 1, 2022), page 636.

⁵⁴ Exhibit X, Office of the State Controller, Accounting Standards and Procedures for Counties, 2021 Edition, https://www.sco.ca.gov/Files-ARD-Local/asp_manual_2021_edition.pdf (accessed on December 1, 2022), page 681.

⁵⁵ Exhibit X, Office of the State Controller, Accounting Standards and Procedures for Counties, 2021 Edition, https://www.sco.ca.gov/Files-ARD-Local/asp_manual_2021_edition.pdf, page 99.

program," or "Fixed Assets - Cost of hardware purchases," including the purchase of smartphones and service, is denied as unnecessary.

In addition, cellular service is a contracted activity that may be claimed under Section V.A.3. of the Parameters and Guidelines, which states:

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. ⁵⁶

Attached to the declaration is a work order, signed in April 2021, for "Enhancement to SafetyNet Mobile Client to capture data required by Assembly Bill 953 Updates." The work order provides for Development, Installation, Configuration, Testing, Documentation, and Project Management for \$7,500.00." This supports the One-Time Installation and Testing of the RIPA Software already provided for in Section IV.A.2. of the Parameters and Guidelines. However, software development has not been approved as a mandated or reasonably necessary activity in the Test Claim Decision or Parameters and Guidelines.

In sum, the Commission finds that Section V. of the Parameters and Guidelines already authorizes reimbursement for the costs incurred to comply with the reimbursable activities, including the costs for hardware and contracted services to the extent necessary to comply with the mandated activities. Therefore, the requested amendment is not necessary and the request is denied. However, Section IV.B.3(a), is amended to add the following clarifying language: "Incar mobile data computers, laptops, tablets, or smartphones may be used to comply with this activity." As an amendment that merely clarifies the existing Parameters and Guidelines, this amendment is effective beginning November 7, 2017, the original effective date of the Parameters and Guidelines.⁶⁰

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⁵⁶ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 20.

⁵⁷ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 3-8.

⁵⁸ Exhibit A, Request for Parameters and Guidelines Amendment, filed December 10, 2021, pages 3-8.

⁵⁹ Exhibit X, Decision and Parameters and Guidelines, *Racial and Identity Profiling*, 18-TC-02, adopted September 25, 2020, page 15.

⁶⁰ Western Security Bank v. Superior Court (1997) 15 Cal.4th 232, 243.

B. <u>A Citation to Federal Law in Section V.B.</u>, of the Parameters and Guidelines Addressing Indirect Cost Rates, Is Corrected.

The Commission is also updating Section V.B., Indirect Cost Rates, to correct the citation to the Federal law on indirect costs from the OMB Circular A-87, which was superseded on December 26, 2013, by title 2 of the Code of Federal Regulations (CFR), Chapter I and Chapter II, Part 200 et seq., as follows (changes in underline and strikeout):

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 2 Code of Federal Regulations (CFR) part 225 (Office of Management and Budget (OMB) Circular A-87) in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al.. Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al. part 225, appendices A and B (OMB Circular A-87 attachments A & B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200, et al. part 225, appendices A and B (OMB Circular A-87 attachments A & 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 & B-2 CFR, Chapter I and Chapter II, Part 200 et al.) 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 that the total amount of 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 & B-2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) separating a department into groups,

such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

The Office of Management and Budget ("OMB") adopted 2 CFR Part 200 on December 26, 2013, which is referred to as the "Super Circular," to supersede and streamline requirements from several previous OMB Circulars, including OMB Circular A-87. The provisions within OMB Circular A-87 existed prior to the establishment of Part 200 of title 2 of the CFR, have been incorporated into Part 200 of title 2, and have not substantively changed. Moreover, the Claiming Instructions issued by the State Controller's Office for this program refer to "2 CFR, Chapter I and Chapter II, Part 200 et al.", and not to OMB Circular A-87. Thus, the amendment simply corrects the citation to this federal law, which has been in place before the period of reimbursement for this program.

The courts have recognized that "a statute that merely clarifies existing law, rather than changes the law, can properly be applied to transactions predating the clarification since the clarification describes what the law has always been.⁶³ Thus, the correction to the citation for indirect costs applies to the entire period of reimbursement, beginning November 7, 2017.⁶⁴

V. Conclusion

Based on the foregoing analysis, the Commission denies the Request for Parameters and Guidelines Amendment. However, the Commission adds, effective November 7, 2017, the following clarifying language to Section IV.B.3(a) of the Parameters and Guidelines: "In-car mobile data computers, laptops, tablets, or smartphones may be used to comply with this activity." The Commission also corrects the citations to Federal law in Section V.B. of the Parameters and Guidelines, consistent with the Claiming Instructions for this program, as specified above.

PARAMETERS AND GUIDELINES⁶⁵

Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518)

⁶¹ Code of Federal Regulations, title 2, section 1.215.

⁶² Exhibit X, State Controller's Office, State-Mandated Costs Claiming Instructions No. 2020-03 Racial and Identity Profiling – Program No. 375, Revised October 1, 2022, page 9.

⁶³ Western Security Bank v. Superior Court (1997) 15 Cal.4th 232, 243.

⁶⁴ Since this amendment does not change the Parameters and Guidelines, but merely clarifies a citation, Government Code section 17557(d)(2)(H), which addresses the period of reimbursement for *changes* to boilerplate language, does not apply.

⁶⁵ Please note that the Decision and Parameters and Guidelines is a single document and must be read as a whole. It is not intended to be separated and should be read in its entirety.

California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229 as added by Register 2017, No. 46⁶⁶

Racial and Identity Profiling 18-TC-02

Reimbursement for this program begins November 7, 2017.

I. SUMMARY OF THE MANDATE

On May 22, 2020, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning November 7, 2017, on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) to electronically report to the Attorney General, on an annual basis, data on all "stops" within their own jurisdiction, conducted by the agency's peace officers; and on those city and county law enforcement agencies that contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.

II. ELIGIBLE CLAIMANTS

Any city, county, city and county is eligible to claim reimbursement for increased costs incurred as a result of this mandate for the city or county's law enforcement agencies that meet the following criteria:

- Employ peace officers (other than probation officers and officers in a custodial setting) to perform the requirements of the test claim statute and regulations for stops within their own jurisdictions; *or*
- Contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.

K-12 school districts and community college districts are not eligible to claim for this program. Cities and counties may not claim the costs of their peace officer employees that are incurred while they are assigned out to work for other government or private entities based on a contract or memorandum of understanding.

PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The claimant filed the Test Claim on June 14, 2019, establishing eligibility for reimbursement for the 2017-2018 fiscal year, beginning July 1, 2017. However, the regulations adopted by DOJ to implement section 12525.5 (Cal. Code Regs., tit. 11, §§ 999.224 through

⁶⁶ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

999.229, Register 2017, No. 46) became operative and effective on November 7, 2017,⁶⁷ establishing the period of reimbursement beginning November 7, 2017.

Reimbursement for state-mandated costs may be claimed as follows:

- 1. Actual costs for one fiscal year shall be included in each claim.
- 2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
- 3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- 4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
- 5. 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(a).
- 6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

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

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

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

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⁶⁷ The Legislature, in Government Code section 12525.5(a)(2) and (e), delayed local agency compliance with the program to a date after the regulations were required to be adopted.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

A. One-Time Activities

- 1. One-time training per peace officer employee and supervisor assigned to perform the reimbursable activities listed in Section IV.B. of these Parameters and Guidelines.
- 2. One-time installation and testing of software necessary to comply with the statemandated requirements for the collection and reporting of data on all applicable stops.

B. Ongoing Activities

- 1. Identification of the peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number.
 - a. On January 1 of each year until the agency begins reporting data to the DOJ, each reporting agency shall count the number of peace officers it employs who are required to report stops to determine the date that agency must start collecting stop data and reporting to the DOJ pursuant to Government Code section 12525.5(a)(1)(2). (Cal. Code Regs, tit. 11, § 999.227(a)(8) [Register 2017, No. 46].)
 - b. Reporting agencies shall create the Officer's I.D. Number for each officer required to report stops. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)
 - c. Reporting agencies shall maintain a system to match an individual officer required to report stops to his or her Officer's I.D. Number. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)
- 2. Collection and reporting data on all stops, as defined, ⁶⁸ conducted by that agency's peace officers for the preceding calendar year in accordance with sections 999.226(a) and 999.227 of the regulations.
 - a. Begin collecting and reporting data on all stops on or before the following dates (Gov. Code, § 12525.5(a)(2), Stats. 2017, ch. 328):
 - (1) An agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019.
 - (2) An agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020.

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⁶⁸ See Government Code section 12525.5(g)(2) (Stats.2015, ch.466) and California Code of Regulations, title 11, section 999.224(a)(14) (Register 2017, No. 46), which define a "stop" as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control;" section 999.227(b) and (c) for interactions that are not reportable as "stops;" and section 999.227(d) for peace officer interactions that are reportable only if the officer takes additional specified actions.

- (3) An agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022.
- (4) An agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

The following are **not** reportable:

- Data elements described in section 999.226(a) for passengers in vehicles subject to a stop who have not been observed or suspected of violating the law, or who have not been subjected to the officer's actions listed in section 999.226(a)(12)(A), excluding "Vehicle impounded" and "None." 69
- Stops made during public safety mass evacuations. 70
- Stops during an active shooter incident. 71
- Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal detector screenings, including any secondary searches that result from the screening.⁷²
- The following interactions are *not* reportable unless a person is detained based upon individualized suspicion or personal characteristics, or the officer engages in the actions described in the data values in section 999.226(a)(12)(A)(1)-(22): Interactions during: traffic control of vehicles due to a traffic accident or emergency situation that requires that vehicles are stopped for public safety purposes; any type of crowd control in which pedestrians are made to remain in a location or routed to a different location for public safety purposes; interactions during which persons are detained at a residence so that the officer may check for proof of age for purposes of investigating underage drinking; and checkpoints and roadblocks in which an officer detains a person as the result of a blanket regulatory activity or neutral formula that is not based on individualized suspicion or personal characteristics.⁷³
- Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition.⁷⁴

⁶⁹ California Code of Regulations, title 11, section 999.227(b) (Register 2017, No. 46).

⁷⁰ California Code of Regulations, title 11, section 999.227(c)(1) (Register 2017, No. 46).

⁷¹ California Code of Regulations, title 11, section 999.227(c)(2) (Register 2017, No. 46).

⁷² California Code of Regulations, title 11, section 999.227(c)(3) (Register 2017, No. 46).

⁷³ California Code of Regulations, title 11, section 999.227(d)(1).

⁷⁴ California Code of Regulations, title 11, section 999.227(d)(2) (Register 2017, No. 46).

- Interactions that take place with a person in his or her residence who is the subject of home detention or house arrest while an officer is on home detention or house arrest assignment.⁷⁵
- Stops in a custodial setting.⁷⁶
- Stops that occur while the officer is off-duty.⁷⁷
- b. The agency's peace officers shall collect the following required categories of stop data, and all applicable "data elements," "data values," and narrative explanatory fields described in section 999.226(a) for every person stopped, and in accordance with section 999.227(a)(4)-(6), (b) and (d) of the regulations, and complete all stop reports for stops made during the officer's shift by the end of the officer's shift, or if exigent circumstances preclude doing so, as soon as practicable: (Gov. Code, §12525.5(b), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, §§999.226(a), 999.227(a)(1)(2)(4)(5)(6)(9), (b) and (d) [Register 2017, No. 46].)
 - (1) "ORI number," which is "the data element that refers to the reporting agency's Originating Agency Identifier, a unique identification code number assigned by the Federal Bureau of Investigation." (Cal Code Regs., tit. 11, § 999. 226(a)(1) [Register 2017, No. 46].)
 - (2) "Date, Time, and Duration of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(2) [Register 2017, No. 46].)
 - (3) "Location of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(3) [Register 2017, No. 46].)
 - (4) "Perceived Race or Ethnicity of Person Stopped." (Gov. Code, § 12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(4) [Register 2017, No. 46].)
 - (5) "Perceived Gender of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(5) [Register 2017, No. 46].)
 - (6) "Person Stopped Perceived to be LGBT." (Cal Code Regs., tit. 11, § 999.226(a)(6) [Register 2017, No. 46].)
 - (7) "Perceived Age of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(7) [Register 2017, No. 46].)

⁷⁵ California Code of Regulations, title 11, section 999.227(d)(3) (Register 2017, No. 46).

⁷⁶ California Code of Regulations, title 11, section 999.225(c) (Register 2017, No. 46).

⁷⁷ Exhibit A, Test Claim Decision, page 6; Exhibit F, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, pages 12-13, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf (accessed on November 8, 2019).

- (8) "Person Stopped Has Limited or No English Fluency." (Cal Code Regs, tit. 11, § 999.226(a)(8) [Register 2017, No. 46].)
- (9) "Perceived or Known Disability of Person Stopped." (Cal Code Regs., tit. 11, § 999.226(a)(9) [Register 2017, No. 46].)
- (10) "Reason for Stop." (Gov. Code, §12525.5(b)(2), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(10) [Register 2017, No. 46].)
- "Stop Made in Response to a Call for Service." (Cal Code Regs., tit. 11, § 999.226(a)(11) [Register 2017, No. 46].)
- (12) "Actions Taken by Officer During Stop." (Gov. Code, §12525.5(b)(7), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(12) [Register 2017, No. 46].)
- (13) "Result of Stop." (Gov. Code, §12525.5(b)(3)(4)(5), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(13) [Register 2017, No. 46].)
- (14) "Officer's Identification (I.D.) Number." (Cal Code Regs., tit. 11, § 999.226(a)(14) [Register 2017, No. 46].)
- (15) "Officer's Years of Experience." (Cal Code Regs., tit. 11, § 999.226(a)(15) [Register 2017, No. 46].)
- (16) "Type of Assignment of Officer." (Cal Code Regs., tit. 11, § 999.226(a)(16) [Register 2017, No. 46].)
- c. The following additional data values shall be reported for stops (as defined in section 999.227(e)(3) of the regulations) at a K-12 school: the name of the school where the stop took place; indicate if the stop is of a student, whether there is a perceived disability related to hyperactivity or impulsive behavior of the student, the possible conduct warranting discipline under the Education Code, whether there was an admission or written statement obtained from the student, whether the student is suspected of violating school policy, and whether the student was referred to a school administrator or counselor. (Cal Code Regs., tit. 11, § 999.227(e)(3)(4) [Register 2017, No. 46].)
- 3. Electronic submission of data to DOJ and retention of stop data collected
 - a. Submit all required stop data to the system developed by the DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; and (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].) In-car mobile data computers, laptops, tablets, or smartphones may be used to comply with this activity.
 - b. Authorize and remove users to the system as necessary. Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release. (Cal Code Regs., tit. 11, § 999.228(e) [Register 2017, No. 46].)
 - c. Each reporting agency, *except* those agencies that report stop data via the DOJ webbrowser based application, shall keep a record of its source data for three years and to

make it available for inspection by DOJ. (Cal Code Regs., tit. 11, § 999.228(h) [Register 2017, No. 46].)

4. Audits and validation of data collected

- a. Ensure that the technical specifications for data values are consistent with the regulations and follow the data dictionary prepared by DOJ. (Cal Code Regs., tit. 11, § 999.224(a)(5) [Register 2017, No. 46].)
- b. Ensure that all data elements, data values, and narrative explanatory fields conform to the regulations and correct any errors in the data submission process through the DOJ's error resolution process. (Cal Code Regs., tit. 11, § 999.229(b) [Register 2017, No. 46].)
- c. Agencies submitting records via the system-to-system web service or the secure file transfer protocol shall include a unique stop record number for each stop, so that DOJ can use the record number to relay information on errors when necessary. (Cal Code Regs., tit. 11, § 999.229(c) [Register 2017, No. 46].)
- 5. For stop data collected, ensure that the name, address, social security number, or other unique personally identifiable information of the individual stopped, searched, or subjected to property seizure, and the badge number or other unique identifying information of the peace officer involved, is not transmitted to the Attorney General in an open text field. (Gov. Code, § 12525.5, Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.228(d) [Register 2017, No. 46].)

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets

Report the purchase price paid for fixed assets necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the prorata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. 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 2 Code of Federal Regulations (CFR) part 225 (Office of Management and Budget (OMB) Circular A-87) in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al.. Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al. part 225, appendices A and B (OMB Circular A-87 attachments A & B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200, et al. part 225, appendices A and B (OMB Circular A-87 attachments A & 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 & B-2 CFR, Chapter I and Chapter II, Part 200 et al.) 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 that the total amount of 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 & B-2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter ⁷⁸ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited

⁷⁸ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

to, service fees collected, federal funds, and other applicable state funds, shall be identified and deducted from any claim submitted for reimbursement.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

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

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the 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(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

DECLARATION OF SERVICE BY EMAIL

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.

On December 15, 2022, I served the:

• Draft Proposed Decision and Parameters and Guidelines Amendment, Schedule for Comments, and Notice of Hearing issued December 15, 2022

Racial and Identity Profiling, 21-PGA-01 Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46¹ City of Claremont, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 15, 2022 at Sacramento, California.

Jill L. Magee

Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814

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(916) 323-3562

¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

12/15/22, 3:40 PM Mailing List

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/10/22 Claim Number: 21-PGA-01

Matter: Racial and Identity Profiling

Requester: City of Claremont

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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Cost Recovery Systems, Inc.

RECEIVED
January 04, 2023
Commission on
State Mandates

January 4, 2023

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

Response to Draft Proposed Decision and Parameters and Guidelines Amendment, Racial and Identity Profiling, 21-PGA-01

Dear Ms. Halsey,

The City of Claremont appreciate the Commission staff's review and clarification of the Parameters and Guidelines and believes the slightly modified language addresses our concerns.

Thank you again for your time and efforts on this request.

Sincerely,

Annette S. Chinn

President, Cost Recovery Systems, Inc.

Consultant representative to the City of Claremont

DECLARATION OF SERVICE BY EMAIL

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.

On January 4, 2023, I served the:

• Requester's Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment filed January 4, 2023

Racial and Identity Profiling, 21-PGA-01
Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46¹
City of Claremont, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 4, 2023 at Sacramento, California.

Jill L. Magee

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¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

1/4/23, 3:35 PM Mailing List

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/3/23

Claim Number: 21-PGA-01

Matter: Racial and Identity Profiling

Requester: City of Claremont

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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RECEIVED
January 05, 2023
Commission on
State Mandates

January 5, 2023

Heather Halsey Executive Director Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814

SUBJECT: Draft Proposed Decision and Parameters and Guidelines Amendment, Schedule for Comments, and Notice of Hearing

Racial and Identity Profiling, 21-PGA-01 Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46. City of Claremont, Requester

Dear Heather Halsey:

The State Controller's Office reviewed and concurs with the Commission's decision to deny the Request for Parameters and Guidelines Amendment along with changes to the following:

- Add the clarifying language: "<u>In-car mobile data computers, laptops, tablets, or smartphones may be used to comply with this activity.</u>" to Section IV.B.3(a) of the Parameters and Guidelines.
- Correct the citations to Federal law in Section V.B. of the Parameters and Guidelines, consistent with the Claiming Instructions for this program.

Heather Halsey January 5, 2023 Page 2

If you have any questions, please contact Tin Bui of the Local Reimbursements Section in the Local Government Programs and Services Division at tbui@sco.ca.gov or (916) 323-8137.

Sincerely,



DARRYL MAR Manager Local Reimbursements Section

DECLARATION OF SERVICE BY EMAIL

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.

On January 5, 2023, I served the:

• Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment filed January 5, 2023

Racial and Identity Profiling, 21-PGA-01 Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46¹ City of Claremont, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 5, 2023 at Sacramento, California.

Jill L. Mageee

Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814

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¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

1/4/23, 3:35 PM Mailing List

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/3/23

Claim Number: 21-PGA-01

Matter: Racial and Identity Profiling

Requester: City of Claremont

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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7/7



May 22, 2020

Captain Jeffrey Jordon City of San Diego San Diego Police Department 1401 Broadway San Diego, CA 92101

Ms. Erika Li Department of Finance 915 L Street, 10th Floor Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Decision**

Racial and Identity Profiling, 18-TC-02

Government Code Section 12525.5 and Penal Code Sections 13012 and 13519.4; Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, Register 2017, No. 46, effective November 7, 2017¹

City of San Diego, Claimant

Dear Captain Jordon and Ms. Li:

On May 22, 2020, the Commission on State Mandates adopted the Decision partially approving the Test Claim on the above-captioned matter.

Sincerely,

Heather Halsey **Executive Director**

¹ Although the claimant incorrectly pled Notice Register Number 2016, 50-2 regarding changes to California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229 with a file and effective date of November 7, 2017, the Commission can take judicial notice of Register 2017, No. 46. In this case, Westlaw incorrectly indicates in the history of each of these sections that the update appears in Register 2017, No. 45 when in fact the adoption of these changes appears in Register 2017, No. 46.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM

Government Code Section 12525.5 and Penal Code Sections 13012 and 13519.4; as added or amended by Statutes 2015, Chapter 466 (AB 953) and Statutes 2017 Chapter 328 (AB 1518)

California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228 and 999.229; as added by Register 2017, No. 46¹

Filed on June 14, 2019

City of San Diego, Claimant

Case No.: 18-TC-02

Racial and Identity Profiling

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

(Adopted May 22, 2020)

(Served May 22, 2020)

TEST CLAIM

The Commission on State Mandates adopted the attached Decision on May 22, 2020.

Heather Halsey, Executive Director

¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM

Government Code Section 12525.5 and Penal Code Sections 13012 and 13519.4; as added or amended by Statutes 2015, Chapter 466 (AB 953) and Statutes 2017 Chapter 328 (AB 1518)

California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228 and 999.229; as added by Register 2017, No. 46¹

Filed on June 14, 2019

City of San Diego, Claimant

Case No.: 18-TC-02

Racial and Identity Profiling

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

(Adopted May 22, 2020)

(*Served May 22, 2020*)

DECISION

The Commission in State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on May 22, 2020. Captain Jeffrey Jordon appeared on behalf of the claimant, City of San Diego. Donna Ferebee appeared on behalf of the Department of Finance.

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 sections 17500 et seq., and related case law.

The Commission adopted the Proposed Decision to partially approve the Test Claim by a vote of 7-0, as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Mark Hariri, Representative of the State Treasurer, Vice Chairperson	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Carmen Ramirez, City Council Member	Yes
Jacqueline Wong-Hernandez, Representative of the State Controller	

¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

Summary of the Findings

This Test Claim addresses the Racial and Identity Profiling Act of 2015 and the 2017 amendments thereto (Stats. 2015, ch. 466; Stat. 2017, ch. 46), which added and amended Government Code section 12525.5, and amended Penal Code sections 13012 and 13519.4; and the regulations adopted by the Department of Justice (DOJ) to implement Government Code section 12525.5, California Code of Regulations, title 11, sections 999-224-999.229 (Register 2017, No. 46). The test claim statutes and regulations, with respect to local governments, require that each reporting agency, as defined, that employs peace officers to annually report to the Attorney General data in electronic format on all "stops" conducted by the agency's peace officers. The data required to be reported includes the following: the time, date, and location of the stop; the reason for the stop; the perceived race or ethnicity, gender, LGBT status, and approximate age and English fluency of the person stopped; the actions taken by the officer during the stop; and the result of the stop. Also required to be reported are the officer's identification number, years of experience, and type of assignment.

The Commission finds that Test Claim is timely filed pursuant to Government Code section 17551(c).

The Commission further finds that Penal Code sections 13012 and 13519.4, as amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, do not impose any activities on local government, and thus, do not constitute a reimbursable state-mandated program within the meaning of article XIII B, Section 6 of the California Constitution.

The Commission also finds that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and Title 11, California Code of Regulations sections 999-224-999.229 (Register 2017, No. 46), constitute a state-mandated new program or higher level of service, and impose costs mandated by the state, beginning November 7, 2017, *only* on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) who perform the requirements of the test claim statute and regulations for stops within their own jurisdictions, and cities and counties that contract for officers from other city or county reporting agencies in order to carry out their basic and essential function of providing police protection services in their jurisdictions, for the following mandated stop data collection and reporting activities:

- 1. Identification of the peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number.
 - a. On January 1 of each year until the agency begins reporting data to the DOJ, each reporting agency shall count the number of peace officers it employs who are required to report stops to determine the date that agency must start collecting stop data and reporting to the DOJ pursuant to Government Code section 12525.5(a)(1)(2). (Cal. Code Regs, tit. 11, § 999.227(a)(8) [Register 2017, No. 46].)
 - b. Reporting agencies shall create the Officer's I.D. Number for each officer required to report stops. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)

- c. Reporting agencies shall maintain a system to match an individual officer required to report stops to his or her Officer's I.D. Number. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)
- 2. Collection and reporting data on all stops, as defined,² conducted by that agency's peace officers for the preceding calendar year in accordance with sections 999.226(a) and 999.227 of the regulations.
 - a. Begin collecting and reporting data on all stops on or before the following dates:
 - (1) An agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019.
 - (2) An agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020.
 - (3) An agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022.
 - (4) An agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

(Gov. Code, § 12525.5(a)(2), Stats. 2017, ch. 328).

The following are <u>not</u> reportable:

- Data elements described in section 999.226(a) for passengers in vehicles subject to a stop who have not been observed or suspected of violating the law, or who have not been subjected to the actions listed in section 999.226(a)(12)(A), excluding "Vehicle impounded" and "None."
- Stops made during public safety mass evacuations,⁴ and
- Stops during an active shooter incident.⁵

² Government Code section 12525.5(g)(2) (Stats. 2015, ch. 466); see also, California Code of Regulations, title 11, section 999.224(a)(14), which defines a "stop" as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control."

³ California Code of Regulations, title 11, section 999.227(b), Register 2017, No. 46.

⁴ California Code of Regulations, title 11, section 999.227(c)(1), Register 2017, No. 46.

⁵ California Code of Regulations, title 11, section 999.227(c)(2), Register 2017, No. 46.

- Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal detector screenings, including any secondary searches that result from the screening.⁶
- The following interactions are *not* reportable unless a person is detained based upon individualized suspicion or personal characteristics, or the officer engages in the actions described in the data values in section 999.226(a)(12)(A)(1)-(22): Interactions during traffic control of vehicles due to a traffic accident or emergency situation that requires that vehicles are stopped for public safety purposes; any type of crowd control in which pedestrians are made to remain in a location or routed to a different location for public safety purposes; interactions during which persons are detained at a residence so that the officer may check for proof of age for purposes of investigating underage drinking; and checkpoints and roadblocks in which an officer detains a person as the result of a blanket regulatory activity or neutral formula that is not based on individualized suspicion or personal characteristics.⁷
- Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition.⁸
- Interactions that take place with a person in his or her residence who is the subject of home detention or house arrest while an officer is on home detention or house arrest assignment.⁹
- Stops in a custodial setting. 10
- Stops that occur while the officer is off-duty. 11
- b. The agency's peace officers shall collect the following required categories of stop data, and all applicable "data elements," "data values," and narrative explanatory fields described in section 999.226(a) for every person stopped, and in accordance with section 999.227(a)(4)-(6), (b) and (d) of the regulations, and complete all stop reports for stops made during the officer's shift by the end of the officer's shift, or if exigent circumstances preclude doing so, as soon as practicable. (Gov. Code, §12525.5(b), Stats. 2015, ch.

⁶ California Code of Regulations, title 11, section 999.227(c)(3), Register 2017, No. 46.

⁷ California Code of Regulations, title 11, section 999.227(d)(1).

⁸ California Code of Regulations, title 11, section 999.227(d)(2), Register 2017, No. 46.

⁹ California Code of Regulations, title 11, section 999.227(d)(3), Register 2017, No. 46.

¹⁰ California Code of Regulations, title 11, section 999.225(c), Register 2017, No. 46.

¹¹ Exhibit I, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, pages 12-13, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf (accessed on November 8, 2019).

- 466; Cal Code Regs., tit. 11, §§999.226(a), 999.227(a)(1)(2)(4)(5)(6)(9), (b) and (d) [Register 2017, No. 46].)
- (1) "ORI number," which is "the data element that refers to the reporting agency's Originating Agency Identifier, a unique identification code number assigned by the Federal Bureau of Investigation." (Cal Code Regs., tit. 11, § 999. 226(a)(1) [Register 2017, No. 46].)
- (2) "Date, Time, and Duration of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(2) [Register 2017, No. 46].)
- (3) "Location of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(3) [Register 2017, No. 46].)
- (4) "Perceived Race or Ethnicity of Person Stopped." (Gov. Code, § 12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(4) [Register 2017, No. 46].)
- (5) "Perceived Gender of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(5) [Register 2017, No. 46].)
- (6) "Person Stopped Perceived to be LGBT." (Cal Code Regs., tit. 11, § 999.226(a)(6) [Register 2017, No. 46].)
- (7) "Perceived Age of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(7) [Register 2017, No. 46].)
- (8) "Person Stopped Has Limited or No English Fluency." (Cal Code Regs, tit. 11, § 999.226(a)(8) [Register 2017, No. 46].)
- (9) "Perceived or Known Disability of Person Stopped." (Cal Code Regs., tit. 11, § 999.226(a)(9) [Register 2017, No. 46].)
- (10) "Reason for Stop." (Gov. Code, §12525.5(b)(2), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(10) [Register 2017, No. 46].)
- (11) "Stop Made in Response to a Call for Service." (Cal Code Regs., tit. 11, § 999.226(a)(11) [Register 2017, No. 46].)
- (12) "Actions Taken by Officer During Stop." (Gov. Code, §12525.5(b)(7), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(12) [Register 2017, No. 46].)
- (13) "Result of Stop." (Gov. Code, §12525.5(b)(3)(4)(5), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(13) [Register 2017, No. 46].)
- (14) "Officer's Identification (I.D.) Number." (Cal Code Regs., tit. 11, § 999.226(a)(14) [Register 2017, No. 46].)

- (15) "Officer's Years of Experience." (Cal Code Regs., tit. 11, § 999.226(a)(15) [Register 2017, No. 46].)
- (16) "Type of Assignment of Officer." (Cal Code Regs., tit. 11, § 999.226(a)(16) [Register 2017, No. 46].)
- c. The following additional data values shall be reported for stops (as defined in section 999.227(e)(3) of the regulations) at a K-12 school: the name of the school where the stop took place; indicate if the stop is of a student, whether there is a perceived disability related to hyperactivity or impulsive behavior of the student, the possible conduct warranting discipline under the Education Code, whether there was an admission or written statement obtained from the student, whether the student is suspected of violating school policy, and whether the student was referred to a school administrator or counselor. (Cal Code Regs., tit. 11, § 999.227(e)(3)(4) [Register 2017, No. 46].)
- 3. Electronic submission of data to DOJ and retention of stop data collected
 - a. Submit all required stop data to the system developed by DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; or (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].)
 - b. Authorize and remove users to the system as necessary. Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release. (Cal Code Regs., tit. 11, § 999.228(e) [Register 2017, No. 46].)
 - c. Each reporting agency, *except* those agencies that report stop data via the DOJ web-browser based application, shall keep a record of its source data for three years and to make it available for inspection by DOJ. (Cal Code Regs., tit. 11, § 999.228(h) [Register 2017, No. 46].)
- Audits and validation of data collected
 - a. Ensure that the technical specifications for data values are consistent with the regulations and follow the data dictionary prepared by DOJ. (Cal Code Regs., tit. 11, § 999.224(a)(5) [Register 2017, No. 46].)
 - b. Ensure that all data elements, data values, and narrative explanatory fields conform to the regulations and correct any errors in the data submission process through the DOJ's error resolution process. (Cal Code Regs., tit. 11, § 999.229(b) [Register 2017, No. 46].)
 - c. Agencies submitting records via the system-to-system web service or the secure file transfer protocol shall include a unique stop record number for each stop, so that DOJ can use the record number to relay information on errors when necessary. (Cal Code Regs., tit. 11, § 999.229(c) [Register 2017, No. 46].)

5. For stop data collected, ensure that the name, address, social security number, or other unique personally identifiable information of the individual stopped, searched, or subjected to property seizure, and the badge number or other unique identifying information of the peace officer involved, is not transmitted to the Attorney General in an open text field. (Gov. Code, § 12525.5, Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.228(d) [Register 2017, No. 46].)

The test claim statutes and regulations do not impose a state-mandated program for K-12 school districts or community college districts that are authorized, but not required, to employ peace officers, and for which the provision of police protection services is not an essential and basic function. Thus, K-12 school districts or community college districts are not eligible for reimbursement.¹²

In addition, the test claim statutes and regulations do not impose a state-mandated program when a city or county assigns their peace officer employees *out* to work for other government or private entities based on a contract or memorandum of understanding. The courts have made it clear that activities required by state law, but triggered by a local discretionary decision, do not result in a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. There is no requirement in law that a city of county contract *out* their law enforcement officers and any costs resulting from the discretionary decision to do so are not mandated by the State.

Accordingly, the Commission partially approves this Test Claim.

COMMISSION FINDINGS

I. Chronology

01/01/2016	Effective date of Statutes 2015, chapter 466.
11/17/2017	Effective date of California Code of Regulations, Title 11, sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229 as added by Register 2017, No. 46.
01/01/2018	Effective date of Statutes 2017, chapter 328.
06/15/2018	The date that claimant alleges that it first incurred costs to implement the test claim statutes and regulations. 14
06/14/2019	The claimant filed the Test Claim. 15

 $^{^{12}}$ Department of Finance v. Commission on State Mandates (POBRA) (2009) 170 Cal. App.4th 1355, 1357-1367.

¹³ City of Merced v. State of California (1984) 153 Cal.App.3d 777, 783; Department of Finance v. Commission on State Mandates (Kern High School Dist.) (2003) 30 Cal.4th 727, 742.

¹⁴ Exhibit A, Test Claim, page 20 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

¹⁵ Exhibit A, Test Claim.

08/20/2019	Commission staff issued the Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date.
09/19/2019	The Department of Finance (Finance) filed comments on the Test Claim. ¹⁶
09/19/2019	The San Bernardino County Sheriff's Department filed comments on the Test Claim. 17
09/19/2019	The Riverside County Sheriff's Department filed comments on the Test Claim. 18
09/20/2019	The Peace Officers' Research Association of California (PORAC) filed late comments on the Test Claim. 19
09/27/2019	The San Diego County Sheriff's Department filed late comments on the Test Claim. ²⁰
10/16/2019	The claimant filed rebuttal comments. ²¹
12/31/2019	Commission staff issued the Draft Proposed Decision. ²²
03/12/2020	Commission staff issued the Proposed Decision, setting the matter for the March 27, 2020 Commission meeting. ²³

II. Background

This Test Claim addresses the Racial and Identity Profiling Act of 2015 and the 2017 amendments thereto (Stats. 2015, ch. 466; Stats. 2017. ch. 328), which added and amended Government Code section 12525.5, and amended Penal Code sections 13012 and 13519.4; and title 11, California Code of Regulations sections 999-224-999.229 (Register 2017, No. 46), adopted by the Department of Justice (DOJ) that implement Government Code section 12525.5. The Act and implementing regulations require, with respect to local government, each reporting agency, as defined, that employs peace officers to annually report to the Attorney General data in electronic format on all "stops" conducted by the agency's peace officers.²⁴ The data required to

¹⁶ Exhibit B, Finance's Comments on the Test Claim.

¹⁷ Exhibit C, San Bernardino County Sheriff's Department's Comments on the Test Claim.

¹⁸ Exhibit D, Riverside County Sheriff's Department's Comments on the Test Claim.

¹⁹ Exhibit E, PORAC's Comments on the Test Claim.

²⁰ Exhibit F, San Diego County Sheriff's Department's Late Comments on the Test Claim.

²¹ Exhibit G, Claimant's Rebuttal Comments.

²² Exhibit H, Draft Proposed Decision.

²³ The March 27, 2020 Commission meeting was postponed to May 22, 2020 due to scheduling conflicts.

²⁴ For purposes of local government, agencies required to report stop data include any city or county law enforcement agency that employs peace officers and the police departments of all California Community colleges established pursuant to Education Code section 72330 and K-12

be reported includes the following: the time, date, and location of the stop; the reason for the stop; the perceived race or ethnicity, gender, LGBT status, approximate age and English fluency of the person stopped; the actions taken by the officer during the stop; and the result of the stop. Also required to be reported are the officer's identification number, years of experience, and type of assignment.

A. Prior law

Since 1955, Penal Code section 13010(g) has required DOJ to present to the Governor an annual report containing the criminal statistics of the preceding calendar year. The contents of the annual report are described in Penal Code section 13012, which requires the report to contain statistics showing the amount and type of offenses known to the public authorities; the personal and social characteristics of criminals and delinquents; the administrative actions taken by law enforcement; and the number of citizen complaints received. State and local law enforcement agencies are required to report statistical data to DOJ at those times and in the manner that the Attorney General prescribes. In addition, the Legislature has required local law enforcement agencies to report to the Attorney General certain specified information, including demographic information (age, gender, race, and ethnic background) about the victim and the person charged with homicide; Information that may be required relative to hate crimes; and profiles by race, age, gender, and ethnicity of any person charged with a felony or misdemeanor for carrying a concealed firearm or carrying a loaded firearm in a public place.

In 1999, the Legislature approved Senate Bill 78, which directed the California Highway Patrol (CHP) and local law enforcement agencies to begin collecting data on the race and ethnicity of all motorists stopped for traffic enforcement or investigation, and required DOJ to include in its annual report on criminal justice statistics specified information regarding all motorists stopped by law enforcement officers. The Governor vetoed the bill, but directed CHP to begin collecting race, gender, and age data from all traffic stops made by its officers from 2000 through 2002 and to submit its findings to the Governor and the Legislature in three annual reports.³¹

school districts that employ peace officers pursuant to the authority provided by Education Code section 38000. (California Code of Regulations, Title 11, Section 999.224(a)(11), Register 2017, No. 46.) Special districts are not included.

²⁵ Statutes 1955, chapter 1128.

²⁶ As last amended by Statutes 2001, chapter 468.

²⁷ Penal Code section 13020, as last amended by Statutes 1996, chapter 872.

²⁸ Penal Code section 13014, as last amended by Statutes 2004, chapter 405.

²⁹ Penal Code section 13023, as last amended by Statutes 2004, chapter 700.

³⁰ Penal Code sections 12025 and 12031, as amended by Statutes 1999, chapter 571.

³¹ Exhibit I, Governor's Veto Message (SB 78, 1999-2000 Reg. Sess.) http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb 0051-0100/sb 78 vt 19990928.html (accessed on December 6, 2019); Exhibit A, Test Claim, page 59 (Senate Committee on Appropriations Analysis of SB 953, 2015-2016 Reg. Sess., as amended August 27, 2015).

Statutes 2000, chapter 684 amended Penal Code section 13519.4 to prohibit law enforcement officers from engaging in racial profiling and to require every law enforcement officer in the state to participate in expanded mandatory training approved by the Commission on Peace Officer Standards and Training (POST) that examines the patterns, practices, and protocols that prevent racial profiling.³² "Racial profiling" was defined by Statutes 2000, chapter 684 as "the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped."33 This legislation was enacted based on findings that racial profiling is a practice that presents a great danger to the fundamental principles of a democratic society, is abhorrent and cannot be tolerated.³⁴ The Legislature further found that motorists who have been stopped by the police for no reason other than the color of their skin or their apparent nationality or ethnicity are the victims of discriminatory practices.³⁵ POST developed a five-hour approved curriculum to meet the initial racial profiling training required by Penal Code section 13519.4, as amended by Statutes 2000, chapter 684, for peace officer applicants through the Basic Training Course, and for incumbent officers as well. A refresher racial profiling course for all officers was then required every five years.³⁶

In fiscal year 2000-2001, the Legislature established a \$5 million grant program for local law enforcement agencies to collect racial composition data with respect to their public contacts. Many local law enforcement agencies participated in the program in order to determine whether their officers engaged in racial profiling.³⁷ The Legislature, in former Penal Code section 13519.4(j), also charged the Legislative Analyst's Office (LAO) with analyzing the data collected through these volunteer efforts and with preparing a report to the Legislature with recommendations.³⁸

The Legislative Analyst shall conduct a study of the data being voluntarily collected by those jurisdictions that have instituted a program of data collection

³² Penal Code section 13519.4(e), (f), and (h) (Stats. 2000, ch. 684).

³³ Penal Code section 13519.4(d) (Stats. 2000, ch. 684).

³⁴ Penal Code section 13519.4(c)(1) (Stats. 2000, ch. 684).

³⁵ Penal Code section 13519.4(c)(2) (Stats. 2000, ch. 684).

³⁶ Penal Code section 13519.4(i) (Stats. 2000, ch. 684).

³⁷ According to the LAO Report "To provide an incentive for local law enforcement agencies to collect racial composition data on their public contacts, the Legislature established a grant program in 2000-01. Funds were provided to local agencies to cover their costs of data collection. The 2000-01 budget provided a \$5 million appropriation for this purpose. Agencies were eligible for grants between \$5,000 and \$75,000, depending on their number of sworn officers, as well as supplemental allocations. . . In total, 16 sheriffs, 75 police departments, and 1 community college district were collecting data as of 2001." (Exhibit I, LAO Report, *An Evaluation of Racial Profiling Data Collection and Training* (2002), page 9, https://lao.ca.gov/2002/racial_profiling/8-02_racial_profiling.html (accessed on October 22, 2019)).

³⁸ Penal Code section 13519.4(j) (Stats. 2000, ch. 684).

with regard to racial profiling, including, but not limited to, the California Highway Patrol, the City of San Jose, and the City of San Diego, both to ascertain the incidence of racial profiling and whether data collection serves to address and prevent such practices, as well as to assess the value and efficacy of the training prescribed with respect to preventing local profiling; and required the Legislative Analyst to provide to the Legislature a report and recommendations with regard to racial profiling by July 1, 2002.³⁹

On August 27, 2002, LAO released its report, titled "An Evaluation of Racial Profiling Data Collection and Training," concluding that even though nearly 100 law enforcement agencies were collecting stop data, "the manner in which the data are gathered and analyzed remains fragmented." As relevant here, LAO recommended that the Legislature take the following actions:

- Revisit the definition of racial profiling and develop one which more explicitly defines what activities are acceptable under state law.
- Require all participating agencies to use the same standard format and definitions (for example, what racial categories to use and what constitutes a search) for the data collection.
- For any future program, select a state department better equipped to collect and analyze the data in a standardized manner.⁴¹

B. Prior Test Claims

Several test claims relating to this prior law have been filed with the Commission. In 2006, the Commission adopted its Decision in *Racial Profiling: Law Enforcement Training*, 01-TC-01, finding that Penal Code section 13519.4, as amended by Statutes 2000 chapter 684, imposed a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution with respect to the initial racial profiling training for incumbent law enforcement officers, as specified in the decision. The Commission denied reimbursement for the training in the Basic Training Course and for refresher training every five years on the ground that such costs did not result in costs mandated by the state.⁴²

In 2008, the Commission adopted its Test Claim Decision for *Crime Statistics Reports for the Department of Justice*, 02-TC-04 and 02-TC-11, finding that the following statutes imposed a reimbursable state-mandated program:

³⁹ Penal Code section 13519.4(j) (Stats. 2000, ch. 684).

⁴⁰ Exhibit I, LAO Report, *An Evaluation of Profiling Data Collection and Training* (2002), available at https://lao.ca.gov/2002/racial_profiling/8-02_racial_profiling.html (accessed on October 22, 2019).

⁴¹ Exhibit I, LAO Report, *An Evaluation of Profiling Data Collection and Training* (2002), available at https://lao.ca.gov/2002/racial_profiling/8-02_racial_profiling.html (accessed on October 22, 2019).

⁴² Exhibit I, Commission on State Mandates, Test Claim Decision, *Racial Profiling: Law Enforcement Training*, 01-TC-01, https://csm.ca.gov/decisions/01tc01sod.pdf.

- A local government entity responsible for the investigation and prosecution of a
 homicide case to provide DOJ with demographic information about the victim
 and the person or persons charged with the crime, including the victim's and
 person's age, gender, race, and ethnic background. (Pen. Code, §13014, Stats.
 1992, ch. 1338.)
- Local law enforcement agencies to report, in a manner to be prescribed by the
 Attorney General, any information that may be required relative to any criminal
 acts or attempted criminal acts to cause physical injury, emotional suffering, or
 property damage where there is a reasonable cause to believe that the crime was
 motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual
 orientation, or physical or mental disability, or gender or national origin. (Pen.
 Code, §13023, Stats. 1989, ch. 1172.)
- For district attorneys to report annually on or before June 30, to the Attorney General, on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information. The Commission finds that this is a reimbursable mandate from July 1, 2001 (the beginning of the reimbursement period for this test claim) until January 1, 2005. (Pen. Code, §§ 12025(h)(1) & (h)(3) & 12031(m)(1) & (m)(3), Stats. 1999, ch. 571.)
- For local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report (Pen. Code, § 13730(a), Stats. 1993, ch. 1230). 43

In 2009, the Commission adopted its Test Claim Decision for *Crime Statistics Reports for the Department of Justice*, 07-TC-10, finding that Penal Code section 13023 (Stats. 2004, ch. 700) imposes a reimbursable state-mandated program, within the meaning of article XIII B, section 6 of the California Constitution, on local law enforcement agencies beginning January 1, 2004, to report the following in a manner to be prescribed by the Attorney General:

- Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of the following perceived characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.
- Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of association with a person or group with one or more of the following actual or

⁴³ Exhibit I, Commission on State Mandates, Test Claim Decision, *Crime Statistics Reports for the Department of Justice*, 02-TC-04 and 02-TC-11, https://csm.ca.gov/matters/02-TC-04/doc1.pdf.

perceived characteristics: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.⁴⁴

C. Test Claim Statutes and Regulations

The Legislature enacted Statutes 2015, chapter 466 (AB 953), the Racial and Identity Profiling Act of 2015, to: "1) modify the definition of 'racial profiling;' 2) require local law enforcement agencies to report specified information on stops to the Attorney General's office; and, 3) establish the Racial and Identity Profiling Advisory Board (RIPA)."⁴⁵

The Senate Floor analysis of the bill states:

Although racial profiling is prohibited, studies show that racial profiling by law enforcement does occur. For example, according to a report by the Oakland Police Department, African-Americans, who compose 28 percent of Oakland's population, accounted for 62 percent of police stops from last April to November. The figures also showed that stops of African-Americans were more likely to result in felony arrests. And, while African-Americans were more likely to be searched after being stopped, police were no more likely to find contraband from searching African-Americans than members of other racial groups.⁴⁶

The Senate Public Safety Committee analysis, quoting the author of the bill, states:

AB 953 will help eliminate the harmful and unjust practice of racial and identity profiling, and improve the relationship between law enforcement and the communities they serve. AB 953 promotes equal protection and prevents unreasonable searches and seizures.

$$[\P] \dots [\P]$$

AB 953 would prevent profiling by, among other things, clarifying and modernizing California's current prohibition against profiling to better account for the ways in which profiling occurs, establishing a uniform system for collecting and analyzing data on law enforcement-community interactions, and establishing

⁴⁴ Exhibit I, Commission on State Mandates, Test Claim Decision, *Crime Statistics Reports for the Department of Justice*, 07-TC-10, https://csm.ca.gov/matters/02-TC-04/doc2.pdf. (Emphasis in original.) The Corrected Statement of Decision was issued on April 12, 2010, to correct the operative and effective date of the test claim statute. (Exhibit I, Notice of Corrected Statement of Decision, *Crime Statistics Reports for the Department of Justice (Amendment to 02-TC-04 and 02-TC-11*), 07-TC-10, https://csm.ca.gov/matters/02-TC-04/07-tc-10correctedsodtrans041210.pdf.)

⁴⁵ Exhibit I, Senate Committee on Public Safety Analysis of AB 953 (2015-2016 Reg. Sess.) as amended June 30, 2015, page 2.

⁴⁶ Exhibit I, Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of AB 953 (2015-2016 Reg. Sess.), as amended August 31, 2015, page 5.

an advisory board that investigates profiling patterns and practices and provides recommendations on how to curb its harmful impact.⁴⁷

Accordingly, the Act added section 12525.5 to the Government Code and amended Penal Code sections 13012 and 13519.4. Subsequent amendments were made by Statutes 2017, chapter 328 to Government Code section 12525.5 and Penal Code section 13012. In addition, DOJ adopted regulations to implement the Act (Cal. Code Regs., tit. 11, §§ 999.224 - 999.228, Register 2017, No. 46), which became effective on November 7, 2017. These code sections and regulations are described below.

1. Penal Code section 13519.4, as amended by Statutes 2015, chapter 466

Penal Code section 13519.4 was amended by the 2015 Act to declare:

- (1) The working men and women in California law enforcement risk their lives every day. The people of California greatly appreciate the hard work and dedication of peace officers in protecting public safety. The good name of these officers should not be tarnished by the actions of those few who commit discriminatory practices.
- (2) Racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society. It is abhorrent and cannot be tolerated.
- (3) Racial or identity profiling alienates people from law enforcement, hinders community policing efforts, and causes law enforcement to lose credibility and trust among the people whom law enforcement is sworn to protect and serve.
- (4) Pedestrians, users of public transportation, and vehicular occupants who have been stopped, searched, interrogated, and subjected to a property seizure by a peace officer for no reason other than the color of their skin, national origin, religion, gender identity or expression, housing status, sexual orientation, or mental or physical disability are the victims of discriminatory practices.⁴⁸

The Legislature renamed "racial profiling" as "racial or identity profiling" and redefined it in Penal Code section 13519.4(e) as:

... the consideration of or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope and substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as, asking questions, frisks, consensual and nonconsensual searches of a person or

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 $^{^{47}}$ Exhibit I, Senate Committee on Public Safety Analysis of AB 953 (2015-2016 Reg. Sess.), as amended June 30, 2015, page 7.

⁴⁸ Penal Code section 13519.4(d) (Stats. 2015, ch. 466).

any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.⁴⁹

In addition, Statutes 2015, chapter 466 amended Penal Code section 13519.4(j) to require the Attorney General to establish the Racial and Identity Profiling Advisory Board (RIPA) beginning July 1, 2016, for the purpose of eliminating racial and identity profiling, and improving diversity and racial sensitivity in law enforcement.⁵⁰ The members of RIPA include the Attorney General; the President of the California Public Defenders Association; the President of the California Police Chiefs Association; the President of the California State Sheriff's Association; the President of the Peace Officers Research Association of California; the Commissioner of the CHP; a university professor who specializes in policing and racial and identify profiling; two representatives of human or civil rights tax exempt organizations; two representatives of community organizations who specialize in civil or human rights and criminal justice and work with victims of racial and identity profiling; two religious clergy members; and appointees of the Governor, the President Pro Tempore of the Senate, and the Speaker of the Assembly.⁵¹

RIPA is directed to analyze the racial and identity data provided under Government Code section 12525.5 (racial and identity stop data reported to the Attorney General by state and local agencies that employ peace officers) and Penal Code section 13012 (DOJ's annual report to the Governor), and issue an annual report that includes detailed findings and policy recommendations for eliminating racial and identify profiling.⁵²

Penal Code section 13519.4(h) was also amended to require that POST training for peace officers on racial profiling prescribe evidence-based patterns, practices, and protocols that prevent racial and identity profiling, and directed POST to consult with RIPA in developing that training.⁵³

2. Penal Code section 13012, as amended by Statutes 2015, chapter 466, and Statutes 2017, chapter 328

Penal Code section 13012 was amended by Statutes 2015, chapter 466, to expand the content of the DOJ annual report to the Governor on criminal statistics to include citizen complaints alleging racial or identity profiling. These statistics are required to be disaggregated by the specific type of racial or identity profiling alleged.⁵⁴ In addition, section 13012(c) was added to require RIPA to analyze the statistics reported by DOJ.⁵⁵

Section 13012 was further amended by Statutes 2016, chapter 99 and Statutes 2016, chapter 418, neither of which have been pled in this Test Claim, to require that criminal

⁴⁹ Penal Code section 13519.4(e) (Stats. 2015, ch. 466).

⁵⁰ Penal Code section 13519.4(j) (Stats. 2015, ch. 466).

⁵¹ Penal Code section 13519.4(j)(2) (Stats. 2015, ch. 466).

⁵² Penal Code section 13519.4(j)(3) (Stats. 2015, ch. 466).

⁵³ Penal Code section 13519.4(h) (Stats. 2015, ch. 466).

⁵⁴ Penal Code section 13012(a)(5)(iii) (Stats. 2015, ch. 466).

⁵⁵ Penal Code section 13012(c) (Stats. 2015, ch. 466).

statistics collected by DOJ and the RIPA's annual report be made available to the public through the DOJ's OpenJustice Web portal.

Finally, section 13012 was again amended by Statutes 2017, chapter 328 to delete references to "*citizen*" complaints and instead include reference to "*civilian*" complaints, and to make several minor changes.

3. Government Code section 12525.5, as added by Statutes 2015, chapter 466, and amended by Statutes 2017, chapter 328

Statutes 2015, chapter 466 added section 12525.5 to the Government Code to require the CHP, city or county law enforcement agencies, and California state or university educational institutions that employ peace officers to annually report to the Attorney General data on all stops by peace officers for the preceding calendar year. Each agency that employs 1,000 or more peace officers shall issue its first round of reports on or before April 1, 2019. Each agency that employs 667 or more but less than 1,000 peace officers shall issue its first round of reports on or before April 1, 2020. Each agency that employs 334 or more but less than 667 peace officers shall issue its first round of reports on or before April 1, 2022. And each agency that employs one or more but less than 334 peace officers shall issue its first round of reports on or before April 1, 2023. The state of the CHP, city of the CHP

Section 12525.5(g) defines a "stop" as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control."⁵⁸ Peace officers subject to these requirements include "members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions," but "does not include probation officers and officers in a custodial setting."⁵⁹

The reporting shall include, at a minimum, the following information for each stop:

- (1) The time, date, and location of the stop.
- (2) The reason for the stop.
- (3) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.
- (4) If a warning or citation was issued, the warning provided or violation cited.
- (5) If an arrest was made, the offense charged.
- (6) The perceived race or ethnicity, gender, and approximate age of the person stopped.
- (7) Actions taken by the peace officer during the stop, including, whether the peace officer asked for consent to search the person, and, if so, whether

⁵⁶ Government Code section 12525.5(a)(1), (g)(1) (Stats. 2015, ch. 466).

⁵⁷ Government Code section 12525.5(a)(2) (Stats. 2015, ch. 466).

⁵⁸ Government Code section 12525.5(g)(2) (Stats.2015, ch.466).

⁵⁹ Government Code section 12525.5(g)(1) (Stats.2015, ch.466).

consent was provided, whether the officer searched the person or any property, and whether any property was seized and the basis for seizing the property.⁶⁰

Section 12525.5(f) further provides that all data and records required by the code section are public records. However, subdivision (d) states that law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure.⁶¹

Finally, section 12525.5(e) requires the Attorney General, in consultation with RIPA and other stakeholders, to issue regulations for the collection and reporting of data required by section 12525.5. The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies. To the best extent possible, the regulations should be compatible with any similar federal data collection or reporting program. ⁶²

Statutes 2017, chapter 328 amended section 12525.5 (e) to extend the date by which the Attorney General is required to issue regulations for the collection and reporting of data to January 1, 2018, and to identify the dates in section 12525.5(a)(2) for law enforcement agencies to begin collecting data after the regulations are adopted as follows (amendments are indicated in underline and strikeout):

Each agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019. Each agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020. Each agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022. Each agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

In addition, Statutes 2017, chapter 328 amended Section 12525.5(d) to clarify that law enforcement agencies are solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure is not transmitted to the Attorney General in an open text field, as follows:

State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved, which shall be released to the public only to the extent the

⁶⁰ Government Code section 12525.5(b) (Stats. 2015, ch. 466).

⁶¹ Government Code section 12525.5(d)(f) (Stats. 2015, ch. 466).

⁶² Government Code section 12525.5(e) (Stats. 2015, ch. 466).

release is permissible under state law. Law enforcement agencies are solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure pursuant to this section is not transmitted to the Attorney General in an open text field.

The Senate Floor Analysis for AB 953, Statutes 2017, chapter 328, indicates an expectation that the statute may result in reimbursable state-mandated costs as follows:

Data collection, reporting, retention, and training: Major future one-time and ongoing costs, potentially in the millions to tens of millions of dollars annually, once fully phased in, to local law enforcement agencies for data collection, reporting, and retention requirements specified in the bill. Additional costs for training on the process would likely be required. There are currently 482 cities and 58 counties in California. To the extent local agency expenditures qualify as a reimbursable state mandate, agencies could claim reimbursement of those costs (General Fund). While costs could vary widely, for context, the Commission on State Mandates' statewide cost estimate for Crime Statistics Reports for the DOJ reflects eligible reimbursement of over \$13.6 million per year for slightly over 50 percent of local agencies reporting.⁶³

4. Regulations adopted by DOJ (Cal. Code Regs., tit. 11, §§ 999.224 through 999.229, Register 2017, No. 46)

As required by Government Code section 12525.5(e), DOJ adopted regulations for the collection and reporting of racial and identity data, which became effective and operative on November 7, 2017.⁶⁴ These regulations define the scope of the collection and reporting requirements and generally do the following:

- Define the reporting agencies required to comply with the Act.
- Identify the "stop data," which consists of specified "data elements" and "data values," required to be collected by peace officers during a stop and reported to DOJ.
- Provide standards, definitions, and technical specifications for collection and reporting of stop data.
- Require the electronic submission of the data to DOJ.
- Require data validation, retention, and audits.

In the Final Statement of Reasons for these regulations, DOJ made the following determination with respect to whether the regulations impose a reimbursable state-mandated program:

The Department has determined that the proposed regulations do impose a reimbursable mandate on local government. City and county law enforcement

⁶³ Exhibit I, Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of AB 953, (2015-2016), as amended August 31, 2015, page 5.

⁶⁴ California Code of Regulations, title 11, sections 999.224 through 999.229 (Register 2017, No. 46).

agencies subject to the reporting requirements of Government Code section 12525.5 shall provide officers with the means to collect the additional data elements and data values set forth in these proposed regulations (in addition to the requirements set forth in Government Code section 12525.5 itself). They shall also obtain the necessary personnel and/or technology to report the required stop data to the Department as provided in proposed Section 999.228, subdivisions (a) and (b).

These provisions may require additional investments in technology and/or personnel time, as detailed in the Revised STD 399 and STD 399 Addendum. 65

III. Positions of the Parties and Interested Persons

A. Claimant, City of San Diego

The claimant states that it pled Penal Code sections 13012 and 13519.4, as amended by the test claim statutes, for "informational purposes only." The claimant asserts, however, that Government Code section 12525.5 (Stats. 2015, ch. 466; Stats. 2017, ch. 328) and Title 11, Sections 999.224-999.229 (Register 2017, No. 46) constitute a reimbursable state-mandated program for the following new activities: 67

- 1. Training, and Updating Policies and Procedures. The claimant alleges that, in order to comply with the test claim statutes, it is necessary for local agencies that employ peace officers to update their policies and procedures, and provide training related to data collection and reporting. The claimant states that all sworn members of the San Diego Police Department were required to receive at least 15 minutes of training via an online PowerPoint presentation related to new stop data items to be collected and submitted, while supervisors were required to receive an additional hour of training to ensure officers assigned to them were accurately collecting and submitting the data pursuant to the alleged mandate. 68
- 2. Data Collection. Law enforcement personnel are now required to document and submit information on every stop they make.⁶⁹
- 3. Information Technology. Costs were incurred to obtain, test, process, and validate the collected data through hardware and software applications. Different contingency methods, such as paper data collection, also have to be in place in case of computer system failures. The claimant states that information technology costs were relatively minor for the San Diego Police

⁶⁵ Exhibit I, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, page 4, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf (accessed on November 8, 2019).

⁶⁶ Exhibit A, Test Claim, page 7.

⁶⁷ Exhibit A, Test Claim, pages 7-9.

⁶⁸ Exhibit A, Test Claim, page 8.

⁶⁹ Exhibit A, Test Claim, page 8.

Department, because the San Diego Sheriff's Department provided it with substantial technical support and assistance. Specifically, the Sheriff's Department provided its custom data collection application and submission tools free of charge, as well as to other law enforcement agencies required to collect data under the statutory mandate. The data collection application was loaded by Data Systems members onto the San Diego Police Department's desktop and mobile computers so officers could use it to submit the data they collected. Additional testing was done to make sure the software worked properly.⁷⁰

- 4. Reporting to DOJ. Reporting to DOJ is required by Government Code section 12525.5. However, before data can be reported, it must be reviewed and validated. Also, that data has to be accurate and free of personal identifying information (PII). It took the claimant's personnel approximately 240 hours to ensure collected stop data was reported correctly to DOJ.⁷¹
- 5. Data Storage and Release. The claimant alleges that the data collected under the test claim statutes and regulations is constantly being requested through the California Public Records Act. The claimant is not requesting reimbursement for the costs related to storing stop data locally or releasing it publicly, but the claimant alleges that these activities will undoubtedly be performed by local agencies and costs will be incurred as a result of Government Code section 12525.5. Claimant states that data storage can possibly be mitigated by the type of application used to collect and submit data; for instance if data is submitted directly to DOJ, instead of being stored at a local law enforcement agency first to allow for validation and review.⁷²

The claimant alleges that it first incurred costs on June 15, 2018, when it began providing training to its peace officers on stop data collection requirements.⁷³ The claimant began collecting data on June 27, 2018 "to test the functionality of its data collection application, as well as to ensure it would be in compliance with the alleged statutory mandate GC 12525.5(a)(1) by July 1, 2018."⁷⁴

The total increased costs alleged by the claimant in a declaration filed under penalty of perjury by Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, for the 2017-2018 fiscal year amounted to \$97,367.95, including the costs for training, software update and testing, and collection of stop data.⁷⁵ Lieutenant Jordan's declaration further states that total costs for the

⁷⁰ Exhibit A, Test Claim, page 9.

⁷¹ Exhibit A, Test Claim, page 9.

⁷² Exhibit A, Test Claim, page 9.

⁷³ Exhibit A, Test Claim, pages 2, 20 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

⁷⁴ Exhibit A, Test Claim, page 12.

⁷⁵ Exhibit A, Test Claim, pages 11, 16, 20-21 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

2018-2019 fiscal year amounted to \$871,675.56, including the costs for training, compliance, reporting, management, and collection of stop data. The majority of the fiscal year 2018-2019 costs (\$744,005.98) were for officers collecting stop data. The claimant notes that there could be some potential grants and funding sources to partially offset the cost of complying with the mandate; for example, for purchasing equipment to facilitate data collection. However, the claimant "is not aware of any current State, Federal, or other non-local agency funds to pay for its substantial costs already incurred and those anticipated going forward from the alleged statutory mandate in Government Code 12525.5(a)(1), which was enacted by AB 953." The claimant report that there could be some potential grants and funding sources to partially offset the cost of complying with the mandate; for example, for purchasing equipment to facilitate data collection. However, the claimant "is not aware of any current State, Federal, or other non-local agency funds to pay for its substantial costs already incurred and those anticipated going forward from the alleged statutory mandate in Government Code 12525.5(a)(1), which was enacted by AB 953."

The claimant filed rebuttal comments on October 16, 2019, in response to Finance's argument that "the training provided by the SDPD to its sworn personnel in 2017-2018 and 2018-2019 was not required under the relevant statutes, and the associated costs are not reimbursable." The claimant states that:

... training members of SDPD on the 22 pages of regulations developed by the DOJ to implement AB 953 and its alleged mandates, along with updating its orders, procedures and training materials to reflect them, is a standard and expected practice for law enforcement agencies. It should also be considered a very reasonable method of implementing this alleged mandate. ⁸⁰

The claimant did not file comments on the Draft Proposed Decision.

B. Department of Finance

Finance does not dispute that the test claim statutes and implementing regulations require local law enforcement agencies to collect data and annually report to DOJ data on all stops conducted by the agency's peace officers for the preceding calendar year. Finance, however, argues that the training provided by the claimant's police department "was not required under the relevant statutes, and the associated costs are therefore not reimbursable." According to Finance, the law enforcement agencies made a discretionary decision to provide training, and should therefore absorb the associated costs. Sa

Finance did not file comments on the Draft Proposed Decision.

⁷⁶ Exhibit A, Test Claim, pages 14, 16, 20-21 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

⁷⁷ Exhibit A, Test Claim, page 20 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

⁷⁸ Exhibit A, Test Claim, page 17.

⁷⁹ Exhibit G, Claimant's Rebuttal Comments, page 2.

⁸⁰ Exhibit G, Claimant's Rebuttal Comments, page 2.

⁸¹ Exhibit B, Finance's Comments on the Test Claim, page 1.

⁸² Exhibit B, Finance's Comments on the Test Claim, page 2.

⁸³ Exhibit B, Finance's Comments on the Test Claim, page 2.

C. Interested Persons

The San Bernardino County Sheriff's Department expresses support for the Test Claim and states that "all the affected first wave law enforcement agencies in California, including the San Bernardino County Sheriff's Department, have incurred similar one-time and reoccurring costs as well." The Department asserts that the test claim statute mandates the following activities:

In addition to the time spent by each officer filling out RIPA forms (lost **FTE** productivity), this mandate also requires ongoing training of sworn personnel, Information Technology equipment and support, administrative oversight, manual auditing of the data to ensure compliance before final submission to the Department of Justice, and considerable project management time. These required functions are staff intensive and have created increased workload demands for both safety and professional staff throughout the organization. ⁸⁵

The Riverside County Sheriff's Department asserts that AB 953, which enacted the Racial and Identity Profiling Act of 2015, "contains a statutory mandate that requires local agencies that employ peace officers to provide an enhanced-level of service by performing new activities related to the collection and reporting of stop data," and requests that the Commission approve the Test Claim filed by the [City] of San Diego. The Department states that to implement the mandate it incurred \$79,828 in fiscal year 2018-2019; and estimates that its costs will exceed \$80,000 in fiscal year 2019-2020. The Department estimates that it incurred "approximately \$31,000 in associated training and information technology related costs." The Department filed documents evidencing its costs, including a declaration of Zachary Hall, Captain for the Riverside County Sheriff's Department, which details the costs and describes the activities performed to implement the mandate. With respect to training activities, the declaration states that "the regulations created per 12525.5(e) consist of 22 pages of information and instruction on how to meet the mandated requirements. It would not be possible to accurately collect stop data and report it to the Attorney General, per the legislative mandate without formal training."

⁸⁴ Exhibit C, San Bernardino County Sheriff's Department's Comments on the Test Claim, page 1.

⁸⁵ Exhibit C, San Bernardino County Sheriff's Department's Comments on the Test Claim, page 1.

⁸⁶ Exhibit D, Riverside County Sheriff's Department's Comments on the Test Claim, page 1.

⁸⁷ Exhibit D, Riverside County Sheriff's Department's Comments on the Test Claim, page 1.

⁸⁸ Exhibit D, Riverside County Sheriff's Department's Comments on the Test Claim, pages 3-8.

⁸⁹ Exhibit D, Riverside County Sheriff's Department's Comments on the Test Claim, pages 3-4 (Declaration of Zachary Hall, Captain for the Riverside County Sheriff's Department, September 19, 2019).

The San Diego County Sheriff's Department expresses support for the Test Claim and requests that the Commission approve the claim. ⁹⁰ The Department asserts that the Racial and Identity Profiling Act (AB 953) constitutes a mandate which resulted in "both one-time and reoccurring costs" for the Department:

In addition to the time spent by each deputy/officer filling out RIPA forms, which currently is about 7422 hours of time spent by San Diego County Sheriff's Deputies, the state mandate also requires departments to provide ongoing training of personnel, computer hardware and software, along with ongoing administrative oversight, auditing and review of the data before submission to the Attorney General's Office. All of these tasks require reassigning and/ or additional staffing and funding. ⁹¹

The Peace Officers' Research Association of California (PORAC) represents 75,000 public safety members and 930 public safety associations, and supports the Test Claim, stating that:

Under AB 953 by Assemblywoman Shirley Weber (D-San Diego) in 2015, the state mandated each local agency that employs peace officers to perform a new set of activities that consisted of the collection and reporting of stop data. The new activities required additional training of all officers to comply with the stop date requirements and additional training in the area of reporting and submission of that data. Furthermore, the time spent in acquiring the data created additional costs for the department, and was tracked by a software application. To fulfill the mandate presented in AB 953, the City of San Diego and the SDPD also incurred costs with the information technology implementation and testing, as well as reporting, and data storage and release. 92

No comments have been filed by any of the interested persons on the Draft Proposed Decision.

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

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 such local government for the costs of such programs or increased level of service...

The purpose of article XIII B, section 6 is to "preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that

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⁹⁰ Exhibit F, San Diego County Sheriff's Department's Late Comments on the Test Claim, page 1.

⁹¹ Exhibit F, San Diego County Sheriff's Department's Late Comments on the Test Claim, page 1.

⁹² Exhibit E, PORAC's Late Comments on the Test Claim, page 1.

articles XIII A and XIII B impose." Thus, the subvention requirement of section 6 is "directed to state-mandated increases in the services provided by [local government] ..." ⁹⁴

Reimbursement under article XIII B, section 6 is required when the following elements are met:

- 1. A state statute or executive order requires or "mandates" local agencies or school districts to perform an activity. 95
- 2. The mandated activity constitutes a "program" that either:
 - a. Carries out the governmental function of providing a service to the public; or
 - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state. 96
- 3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.⁹⁷
- 4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.⁹⁸

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution. The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law. In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities." In the commission of the California Constitution, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."

⁹³ County of San Diego v. State of California (1997) 15 Cal.4th 68, 81.

⁹⁴ County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 56.

⁹⁵ San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859, 874.

⁹⁶ San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in County of Los Angeles (1987) 43 Cal.3d 46, 56).

⁹⁷ San Diego Unified School Dist. (2004) 33 Cal.4th 859, 874-875, 878; Lucia Mar Unified School District v. Honig (1988) 44 Cal3d 830, 835.

⁹⁸ 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; Government Code sections 17514 and 17556.

⁹⁹ Kinlaw v. State of California (1991) 53 Cal.3d 482, 487.

 $^{^{100}}$ County of San Diego v. State of California (1997) 15 Cal.4th 68, 109.

¹⁰¹ County of Sonoma v. Commission on State Mandates (2000) 84 Cal.App.4th 1265, 1280 [citing City of San Jose v. State of California (1996) 45 Cal.App.4th 1802, 1817].

A. This Test Claim Was Timely Filed Pursuant to Government Code Section 17551.

Government Code section 17551(c) provides that test claims "shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later." los Section 1183.1(c) of the Commission's regulations defines "12 months" as 365 days. los

This Test Claim was filed on June 14, 2019, with a declaration signed under penalty of perjury by Lieutenant Jordan, the program manager overseeing the claimant's implementation of the test claim statutes, which states that the claimant first incurred costs as a result of the test claim statutes and regulations on June 15, 2018, when initial training was provided to the claimant's officers. Pursuant to Government Code section 12525.5(a)(2), as amended by Statutes 2017, chapter 328, the claimant, as an agency that employees 1,000 or more peace officers, was required to begin collecting data on or before July 1, 2018. There is no evidence rebutting Lieutenant Jordan's declaration.

Since the Test Claim was filed on June 14, 2019, within 12 months of first incurring costs, the Test Claim is timely filed pursuant to the second prong of Government Code section 17551(c).

B. The Potential Period of Reimbursement Begins November 7, 2017.

Government Code section 17557(e) establishes the period of reimbursement for an approved test claim based on when the test claim is filed; "[a] test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year." Based on the filing date of June 14, 2019 for this Test Claim, the potential period of reimbursement, pursuant to Government Code section 17557(e), would begin July 1, 2017. However, as indicated in this Decision, the Commission partially approves this Test Claim *only* for the activities mandated by Government Code section 12525.5 and the regulations adopted by DOJ to implement section 12525.5 (Cal. Code Regs., tit. 11, §§ 999.224 through 999.229, Register 2017, No. 46). These regulations became operative and effective on November 7, 2017. The Legislature, in Government Code section 12525.5(a)(2) and (e), delayed local agency compliance with the program to a date after the regulations were required to be adopted. Accordingly, the period of reimbursement for this Test Claim begins November 7, 2017.

¹⁰² Government Code section 17551(c) (Stats. 2007, ch. 329).

 $^{^{103}}$ California Code of Regulations, title 2, section 1183.1(c), Register 2018, No. 18 (eff. April 1, 2018).

¹⁰⁴ Exhibit A, Test Claim, page 20 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

¹⁰⁵ Exhibit A, Test Claim, page 7.

C. Penal Code Sections 13012 and 13519.4 as Amended by Statutes 2015, Chapter 466 and Statutes 2017, Chapter 328, Do Not Impose Any Activities on Local Government, and Thus, Do Not Constitute a Reimbursable State-Mandated Program Within the Meaning of Article XIII B, Section 6 of the California Constitution.

The claimant states that Penal Code sections 13012 and 13519.4 were included in the Test Claim because they "provide additional details regarding who is required to analyze the data, the frequency of that analysis, and the manner in which the collected data shall be reported and published. An explanation of these [P]enal [C]odes is being provided for informational purposes only." ¹⁰⁶

Penal Code sections 13012 and 13519.4, as amended by the test claim statutes, impose requirements on state agencies and RIPA (whose membership does not include local government). Penal Code sections 13012 and 13519.4, however, do not impose any activities on local government and, thus, do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

Penal Code section 13012 was amended by Statutes 2015, chapter 466, to expand the content of the DOJ annual report to the Governor on criminal statistics to include citizen complaints alleging racial or identity profiling. In addition, Statutes 2015, chapter 466 added subdivision (c) to section 13012 to require RIPA to analyze the statistics reported by DOJ. Section 13012 was again amended by Statutes 2017, chapter 328 to delete references to "citizen" complaints and instead include reference to "civilian" complaints, and to make several non-substantive changes that do not require local government to do anything.

Similarly, Penal Code section 13519.4 was amended by Statutes 2015, chapter 466, to define "racial or identity profiling"; ¹¹⁰ require the Attorney General to establish RIPA for the purpose of eliminating racial and identity profiling, and improving diversity and racial sensitivity in law enforcement; ¹¹¹ direct RIPA to analyze the racial and identity data provided under Government Code section 12525.5 (racial and identity stop data reported to the Attorney General by state and local agencies that employ peace officers) and Penal Code section 13012 (DOJ's annual report to the Governor), and issue an annual report that includes detailed findings and policy recommendations for eliminating racial and identify profiling; ¹¹² and require POST to consult

¹⁰⁶ Exhibit A, Test Claim, page 7.

¹⁰⁷ Penal Code section 13519.4(j)(2) (Stats. 2015, ch. 466).

¹⁰⁸ Penal Code section 13012(a)(5)(iii) (Stats. 2015, ch. 466).

¹⁰⁹ Penal Code section 13012(c) (Stats. 2015, ch. 466).

¹¹⁰ Penal Code section 13519.4(e) (Stats. 2015, ch. 466).

¹¹¹ Penal Code section 13519.4(j) (Stats. 2015, ch. 466).

¹¹² Penal Code section 13519.4(j)(3) (Stats. 2015, ch. 466).

with RIPA in developing an updated racial profiling training for peace officers that prescribes evidence-based patterns, practices, and protocols that prevent racial and identity profiling.¹¹³

Penal Code sections 13012 and 13519.4, as amended by the test claim statutes, do not impose any activities on local government and, thus, do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

D. Government Code Section 12525.5, as Added and Amended by Statutes 2015, Chapter 466 and Statutes 2017, Chapter 328, and California Code of Regulations, Title 11, Sections 999-224-999.229 (Register 2017, No. 46) Impose a Reimbursable State-Mandated Program on Cities and Counties.

As described below, the Commission finds that Government Code section 12525.5, as added and amended by the test claim statutes (Stats. 2015, ch 466 and Stats. 2017, ch. 328), and California Code of Regulations, title 11, sections 999.224-999.229 (Register 2017, No. 46), impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on cities and counties, as specified below.

1. Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, Title 11, sections 999-224-999.229 (Register 2017, No. 46) impose requirements on local governments.

Government Code section 12525.5(a)(1),(g)(1), as added and amended by the test claim statutes, requires city and county law enforcement agencies, and the California Highway Patrol and California state and university educational institutions that employ peace officers to annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year. Section 12525.5 and the test claim regulations describe how to comply with this reporting requirement and the scope of the requirement, as described below.

a. <u>Identify the peace officers required to report stops, and maintain a system to</u> match individual officers to their Officer I.D. Number

California Code of Regulations, title 11, section 999.227(a)(8) requires that "[o]n January 1 of each year until the agency begins reporting to the Department, each reporting agency shall count the number of peace officers it employs who are subject to this chapter to determine the date that agency must start collecting stop data and reporting to the Department pursuant to Government Code section 12525.5, subdivisions (a)(1) and (a)(2)."

Section 999.227(a)(11) then requires the reporting agencies to "create the Officer's I.D. Number . . . for each officer required to report stops" "Officer I.D. Number" is defined in section 999.226(a)(14), as "a permanent identification number assigned by the reporting agency to the reporting officer, which shall be used for all reporting to the Department . . ." and "shall be considered Unique Identifying Information." The stop reports submitted to DOJ "shall"

¹¹³ Penal Code section 13519.4(h) (Stats. 2015, ch. 466).

¹¹⁴ California Code of Regulations, title 11, section 999.227(a)(11).

¹¹⁵ California Code of Regulations, title 11, section 999.226(a)(14). "Unique Identifying Information" is defined in section 999.224(a)(17) to mean "personally identifying information, the release of which, either alone or in combination with other data reported, is reasonably likely

include the Officer's I.D. Number, but shall not include the officer's name or badge number. However, each reporting agency "shall maintain a system to match an individual officer to his or her Officer's I.D. Number." 117

b. Collect and report stop data.

Government Code section 12525.5(g) defines a "stop" as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control."¹¹⁸

Agencies are required to begin collecting and reporting data on all stops on or before the following dates:

- (1) An agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019.
- (2) An agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020.
- (3) An agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022.
- (4) An agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.¹¹⁹

to reveal the identity of the individual officer who collected the stop data information. It does not include the minimum information that is specified in Government Code section 12525.5, subdivision (b)."

¹¹⁶ California Code of Regulations, title 11, section 999.227(a)(11).

¹¹⁷ California Code of Regulations, title 11, section 999.227(a)(11).

¹¹⁸ Government Code section 12525.5(g)(2) (Stats.2015, ch.466); see also, California Code of Regulations, title 11, section 999.224(a)(14).

¹¹⁹ Government Code section 12525.5(a)(2) (Stats. 2017, ch. 328).

The minimum "data elements" ¹²⁰ required to be collected and reported are described in Government Code section 12525.5(b), and sections 999.226(a)(1)-(16) and 999.227(a)(2) of the regulations as follows: ¹²¹

- (1) "ORI number," which is "the data element that refers to the reporting agency's Originating Agency Identifier, a unique identification code number assigned by the Federal Bureau of Investigation." ¹²²
- (2) "Date, Time, and Duration of Stop." 123
- (3) "Location of Stop" 124
- (4) "Perceived Race or Ethnicity of Person Stopped" 125
- (5) "Perceived Gender of Person Stopped" 126
- (6) "Person Stopped Perceived to be LGBT" 127
- (7) "Perceived Age of Person Stopped" 128
- (8) "Person Stopped Has Limited or No English Fluency" 129
- (9) "Perceived or Known Disability of Person Stopped" 130

¹²⁰ "Data element" is defined as "a category of information the peace officer must report regarding a stop. For example, "perceived gender of person stopped" is a data element that must be collected under Government Code section 12525.5." (Cal. Code Regs., tit. 11, § 999.224(a)(4).)

¹²¹ Section 999.227(a)(2) of the regulations states that "[t]he data elements described in section 999.226, subdivision (a) are the minimum that a reporting agency shall collect and report. Nothing in this section prohibits a reporting agency from voluntarily collecting additional data."

¹²² California Code of Regulations, title 11, section 999.226(a)(1).

¹²³ Government Code section 12525.5(b)(1) (Stats. 2015, ch. 466); California Code of Regulations, title 11, section 999.226(a)(2).

¹²⁴ Government Code section 12525.5(b)(1) (Stats. 2015, ch. 466); California Code of Regulations, title 11, section 999.226(a)(3).

¹²⁵ Government Code section 12525.5(b)(6) (Stats. 2015, ch. 466); California Code of Regulations, title 11, section 999.226(a)(4).

¹²⁶ Government Code section 12525.5(b)(6) (Stats. 2015, ch. 466); California Code of Regulations, title 11, section 999.226(a)(5).

¹²⁷ California Code of Regulations, title 11, section 999.226(a)(6).

¹²⁸ Government Code section 12525.5(b)(6) (Stats. 2015, ch. 466); California Code of Regulations, title 11, section 999.226(a)(7).

¹²⁹ California Code of Regulations, title 11, section 999.226(a)(8).

¹³⁰ California Code of Regulations, title 11, section 999.226(a)(9).

- (10) "Reason for Stop" 131
- (11) "Stop Made in Response to a Call for Service." 132
- (12) "Actions Taken by Officer During Stop" 133
- (13) "Result of Stop" 134
- (14) "Officer's Identification (I.D.) Number" 135
- (15) "Officer's Years of Experience" 136
- (16) "Type of Assignment of Officer" ¹³⁷

For each "data element" the officer must select all applicable "data values" in accordance with the instructions provided in section 999.226 of the regulations. ¹³⁸ For example, for data element "Location of Stop" the officer "shall report one of the following options, which are provided in order of preference:

- 1. Block number and street name;
- 2. Closest intersection; or
- 3. Highway and closest highway exit.
- 4. If none of these options are applicable, the officer may report a road marker, landmark, or other description, except that the officer shall not provide a street address if the location is a residence."¹³⁹

Reporting some of the data elements requires multiple steps. For example, when reporting data element "(10) 'Reason for Stop,'" the officer must do all of the following:

¹³¹ Government Code section 12525.5(b)(2) (Stats. 2015, ch. 466); California Code of Regulations, title 11, section 999.226(a)(10).

¹³² California Code of Regulations, title 11, section 999.226(a)(11).

¹³³ Government Code section 12525.5(b)(7) (Stats. 2015, ch. 466); California Code of Regulations, title 11, section 999.226(a)(12).

¹³⁴ Government Code section 12525.5(b)(3) (Stats. 2015, ch. 466); California Code of Regulations, title 11, section 999.226(a)(13).

¹³⁵ California Code of Regulations, title 11, section 999.226(a)(14).

¹³⁶ California Code of Regulations, title 11, section 999.226(a)(15).

¹³⁷ California Code of Regulations, title 11, section 999.226(a)(16).

¹³⁸ "Data value" defined as "a component or characteristic of a data element to be used in reporting each data element. For example, "male," "female," "transgender man/boy," "transgender woman/girl," and "gender nonconforming" are each data values to use in reporting the data element "perceived gender of person stopped." (Cal. Code Regs., tit. 11, § 999.224(a)(5).)

¹³⁹ California Code of Regulations, title 11, section 999.226(a)(3)(A).

- a. Report the primary reason for stopping a person and select one applicable data value from the list of six possible reasons for stop; for example, "2. Reasonable suspicion that the person was engaged in criminal activity"; 140
- b. Select all applicable circumstances that gave rise to the officer's reasonable suspicion from the list provided;¹⁴¹
- c. "[U]sing the Department's standard CJIS Offense Table, the officer shall identify the primary code section and subdivision of the suspected violation of law that formed the basis for the stop, if known to the officer"; 142 and
- d. "[T]he officer shall also provide a brief explanation (250-character maximum) regarding the reason for the stop. This explanation shall include additional detail beyond the general data values selected for the 'Reason for Stop.'"¹⁴³

In addition, data element "(12) 'Actions Taken by Officer During Stop" includes several additional reportable data elements, which are triggered when corresponding data values are selected. For example, to report this data element the officer must select all applicable data values from the list of twenty three values describing the officer's actions during the stop, such as, "1. Person removed from vehicle by order" and "8. Firearm pointed at person." If during the stop the officer's actions included a search of the person, the person's property, or both, the officer is also required to report the "Basis for Search," by selecting all applicable data values that describe the reason for the search from the list of twelve data values; and, in addition, "provide a brief explanation (250-character maximum) regarding the basis for the search. This explanation shall include additional detail beyond the general data values selected for 'Basis for Search." Search."

Similarly, if the officer's actions included action "21. Property was seized," the officer is further required to report the "Basis for Property Seizure" by selecting all applicable data values that describe the basis for the property seizure from the list of five data values; for example "a. Safekeeping as allowed by law/statute" or "c. Evidence"; and to report the type of property seized by selecting all of the data values that apply from the provided list of eleven types of property, such as "a. Firearm(s)" or "k. Other contraband or evidence." 147

In addition to the data elements and corresponding data values set forth in section 999.226(a), section 999.227(e) specifies additional data that must be collected for reportable peace officer

¹⁴⁰ California Code of Regulations, title 11, section 999.226(a)(10)(A).

¹⁴¹ California Code of Regulations, title 11, section 999.226(a)(10)(A)(2).

¹⁴² California Code of Regulations, title 11, section 999.226(a)(10)(A)(2).

¹⁴³ California Code of Regulations, title 11, section 999.226(a)(10)(B).

¹⁴⁴ California Code of Regulations, title 11, section 999.226(a)(12).

¹⁴⁵ California Code of Regulations, title 11, section 999.226(a)(12)(A).

¹⁴⁶ California Code of Regulations, title 11, section 999.226(a)(12)(B).

¹⁴⁷ California Code of Regulations, title 11, section 999.226(a)(12)(D).

interactions with students at a K-12 public school. Under these circumstances, the following situations constitute a reportable stop:

- a. Any interaction that results in a temporary custody under Welfare and Institutions Code section 625, citation, arrest, permanent seizure of property as evidence of a criminal offense, or referral to a school administrator because of suspected criminal activity.
- b. Any interaction in which the student is questioned for the purpose of investigating whether the student committed a violation of law, including violations of Education Code sections 48900, 48900.2, 48000.4, and 48000.7 (addressing the suspension and expulsion of students), or to determine whether the student is truant.
- c. Any interaction in which an officer engages in one or more data values identified in section 999.226(a), excluding "none." However, this does not include a detention or search that is conducted of all persons as part of a neutrally applied formula that is not based upon personal characteristics (such as searches conducted at the entries and exits of school facilities by screening devices). 148

The following additional data values shall be reported for stops at a K-12 school: the name of the school where the stop took place, whether the stop is of a student, whether there is a perceived disability related to hyperactivity or impulsive behavior of the student, the possible conduct warranting discipline under the Education Code, whether there was an admission or written statement obtained from the student, whether the student is suspected of violating school policy, and whether the student was referred to a school administrator or counselor.

c. Scope of reporting requirements

Section 999.227(a)(4) explains that when two or more reporting agencies are involved in a stop, only the primary agency shall submit the report. The primary agency is the agency with investigative jurisdiction based on local, county, or state law or interagency agreement or memoranda of understanding. If there is uncertainty as to the primary agency, the agencies shall agree on which agency is the primary agency for reporting purposes. If, however, a stop is done in conjunction with a reporting agency and an agency that is not subject to the reporting requirements, the reporting agency is required to submit data on the stop even if it is not the primary agency responsible for the stop.

Section 999.227(a)(5) states that if more than one peace officer of the agency conducts the stop, the officer with the highest level of engagement with the person stopped shall submit the full report.

Section 999.227(a)(6) states that if multiple persons are stopped during one incident, the stop data shall be submitted for each person within a single report.

¹⁴⁸ California Code of Regulations, title 11, section 999.227(e)(3).

And section 999.227(a)(9) requires peace officers to complete their stop data report by the end of their shift, unless exigent circumstances preclude doing so. In such circumstances, the data shall be completed as soon as practicable.

In addition, section 999.227(a)(1) requires peace officers to submit the data elements described in section 999.226(a) for every person stopped by the officer, *except* as provided in subdivisions (b), (c), (d) and (e) of this section. Accordingly, reports are not required to be submitted in the following circumstances described in section 999.227(b) and (c):

- (1) Peace officers shall not submit data elements for passengers in vehicles to a stop, unless the passenger is observed or suspected of violating the law or the passenger is subjected to any of the actions identified as data values in section 999.226(a)(12), "Actions Taken by Officer During Stop, excluding "Vehicle impounded" and "None." 149
- (2) Peace officers shall not submit data elements for stops during public safety mass evacuations, active shooter incidents, or routine security screenings of all persons entering a building or special event.¹⁵⁰

In addition, section 999.227(d) states there are some peace officer interactions that are reportable only if the officer takes certain actions:

- (1) Interactions that take place during the following circumstances shall only be reported if the person is detained based upon individualized suspicion or personal characteristics or the officer engages in the actions described in the data values in section 999.226(a)(12)(A)(1)-(22): Interactions during: traffic control of vehicles due to a traffic accident or emergency situation that requires that vehicles are stopped for public safety purposes; any type of crowd control in which pedestrians are made to remain in a location or routed to a different location for public safety purposes; interactions during which persons are detained at a residence so that the officers may check for proof of age for purposes of investigating underage drinking; and checkpoints and roadblocks in which an officer detains a person as the result of a blanket regulatory activity or neutral formula that is not based on individualized suspicion or personal characteristics.¹⁵¹
- (2) Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition is not subject to the reporting requirements. However, a peace officer shall report any interactions with persons in the home who are not the subject of a warrant or search condition if the officer handcuffs the person; arrests the person; points a firearm at the person; discharges or uses a

¹⁴⁹ California Code of Regulations, title 11, section 999.227(b).

¹⁵⁰ California Code of Regulations, title 11, section 999.227(c).

¹⁵¹ California Code of Regulations, title 11, section 999.227(d)(1).

- firearm, electronic control device, impact projectile, baton or other impact weapon, or chemical spray on the person; or if a canine bit or held the person.¹⁵²
- (3) Interactions that take place with a person in his or her residence who is the subject of home detention or house arrest while an officer is on home detention or house arrest assignment are not subject to the reporting requirements. However, the officer shall report any interactions with person in the home who are not under home detention or house arrest if the officer takes the following actions: the officer handcuffs the person; arrests the person; points a firearm at the person; discharges or uses a firearm, electronic control device, impact projectile, baton or other impact weapon, or chemical spray on the person; or if a canine bit or held the person. ¹⁵³

Finally, section 999.225(d) states that peace officers shall not report stops that occur in a custodial setting. 154

d. Electronically submit data to DOJ and retain stop data.

California Code of Regulations, title 11, section 999.228 requires, that all stop data be transmitted to the DOJ electronically. Section 999.228(a) specifically states that "[t]he system developed by the Department *shall require the electronic submission of data from reporting agencies.*" The Addendum to Initial Statement of Reasons for the regulations states that the intent of this provision is "to require electronic versus paper submission of data in order to ensure data is both accurate and accessible," as follows:

E. Article 5. Section 999.228 (Technical Specifications and Uniform Reporting Practices)

999.228, subd. (a). Electronic System. Subdivision (a) was amended nonsubstantively to replace the term "automated" with "electronic." This change is intended to conform to the original intent of the provision, which was to require electronic versus paper submission of data in order to ensure data is both accurate and accessible (consistent with the intent of Government Code section 12525.5) and to make clear that agencies can use any form of electronic data submission—

¹⁵² California Code of Regulations, title 11, section 999.227(d)(2).

¹⁵³ California Code of Regulations, title 11, section 999.227(d)(3).

¹⁵⁴ California Code of Regulations, title 11, section 999.225(c). "Custodial setting" means correctional institutions, juvenile detention facilities, and jails, including parking lots and grounds within the perimeter of these enumerated facilities. "Custodial setting" does not include home detention or any circumstances where persons are under house arrest outside of correctional institutions, juvenile detention facilities, or jails. (California Code of Regulations, title 11, section 999.224(a)(3)).

including secure file transfer of spreadsheets or other common file formats—to comply with the reporting requirements. ¹⁵⁵

Section 999.228(b) then provides for three permissible methods of electronic data transmission of stop data to the DOJ, as follows:

Submission of Data. Agencies shall be provided with the following options to submit their stop data to the Department: (1) a web-browser based application, which shall include mobile capabilities for agencies that choose to use the Department's developed and hosted solution to submit stop data; (2) a system-to-system web service for agencies that elect to collect the data in a local system and then submit the data to the Department; and (3) a secured file transfer protocol for agencies that elect to collect the data in a local repository and then submit the data to the Department. Agencies that select option 3 shall be permitted to submit batch uploads of stop data in Excel spreadsheets and other delimited text formats of electronic documentation that complies with the Department's interface specifications. ¹⁵⁶

The Addendum to Initial Statement of Reasons for the regulations explains that "...DOJ will accept data in any electronic format that complies with the Department's interface specifications." The "interface specifications" are not included with the implementing regulations. Instead, section 999.228(f) of the regulations states that the DOJ shall publish a data dictionary and interface specifications for submission of stop data, as follows:

Data Standards. The Department shall publish a data dictionary and interface specifications to ensure uniform and complete reporting of stop data. These documents will define each required data element and acceptable data values. These data standards shall be consistent with the definitions and technical specifications set forth in this chapter. ¹⁵⁸

According to DOJ, each method of submission carries costs and benefits from a fiscal perspective, as follows:

• **DOJ-hosted application** may require up-front costs in technology investment to equip officers in the field with a laptop, tablet, or smartphone (although many departments already provide some or all of their officers with such tools), but it eliminates the need for data input services, paper publication, and data storage costs.

¹⁵⁵ Exhibit I, Addendum to Initial Statement of Reasons (OAL File No. Z-2016-1129-03), pages 30-31, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/isor-addendum-08012017.pdf (accessed on November 8, 2019).

¹⁵⁶ California Code of Regulations, title 11, section 999.228(b).

¹⁵⁷ Exhibit I, Addendum to Initial Statement of Reasons (OAL File No. Z-2016-1129-03), pages 30-31, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/isor-addendum-08012017.pdf (accessed on November 8, 2019).

¹⁵⁸ California Code of Regulations, title 11, section 999.228(f).

- Paper-based collection will require few upfront costs but significant ongoing resources to produce paper forms and to input the data. It will also require some minimal costs to store the data.
- **Relay-to-dispatch** eliminates the need for paper forms but requires similar costs for data input. It will also require some minimal costs to store the data.
- Modifying an existing agency-hosted data collection process to accommodate the statutory and regulatory requirements-or acquiring such a system-may result in significant upfront costs for technology, as well as ongoing vendor costs to maintain and support the system, but may streamline the data collection process by syncing with other agency data collection requirements. It may be especially challenging and costly for some law enforcement agencies with older record management systems to modify these systems to allow for the collection of stop data. Some agencies are using systems that are 20+ years old. If agencies are unable to make modifications to their existing systems due to the age or other limitations, an alternative would be to use the DOJ AB 953 application or other acceptable submission methods. 159

Thus, while the regulations provide for a choice of data submission methods, all reporting agencies are required to ensure that their electronic stop data submission is compatible with the DOJ interface specifications.

Section 999.228(e) of the regulations further requires that the reporting agencies authorize and remove users from the system developed by the DOJ as necessary, and that automated systems handling the stop data shall be secure from unauthorized access, alteration, deletion, or release:

(e) System Security. The Department shall design its system to be easily accessible for authorized users, confidential, and accurate. The system will provide role-based authorization services. Reporting agencies will be required to authorize and remove users to the system as necessary. Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release.

Finally, section 999.228(h) states "[e]ach reporting agency shall keep a record of its source data for a minimum of three years, and shall make this data available for inspection by the Department should any issues arise regarding the transfer of data to the Department." However, the last sentence of this section provides that for agencies that report stop data via DOJ webbrowser based application, the DOJ "shall host the data for the agency for the requisite retention period," which would result in no costs to the local agency for stop-data retention. The

¹⁵⁹ Exhibit A, Test Claim, page 105 (AB 953 Stop Data Reporting Regulations, Addendum to Form 399).

¹⁶⁰ Exhibit I, California Department of Justice Economic and Fiscal Impact Statement (STD 399), AB 953 Stop Data Reporting Regulations to Implement Gov. Code Section 12525.5, page 17, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-std399-signed-110817.pdf (accessed on November 8, 2019).

rulemaking materials for Section 999.228 indicate that the DOJ will assume responsibility for the three-year retention period for the agencies that use the DOJ web-browser based application to collect stop data where the DOJ retains sole possession of the transmitted stop data. ¹⁶¹ In the alternative, "at the agency's election" the DOJ will transfer this data back to the agency. ¹⁶² Thus, if an agency uses DOJ's web-browser based application, it is not required by state law to store and retain the data because DOJ will host the data for the agency for the retention period. If the agency elects to store and retain the data under these circumstances, however, any costs incurred for storage and retention are triggered by the agency's own discretion. ¹⁶³ Therefore, section 999.228(h) authorizes, but does not require, storage and retention of the stop data by the reporting agencies that use the DOJ web-browser based application to report stop data.

e. Audit and validation requirements

California Code of Regulations, title 11, section 999.229(b) states that DOJ shall perform data validation on stop data submitted to ensure data integrity and quality assurance. Each reporting agency, therefore, "is responsible for ensuring that all data elements, data values, and narrative explanatory fields conform to these regulations and for correcting any errors in the data submission process, and shall do so through the Department's error resolution process." Section 999.227(a)(10) makes clear that "[o]nce stop data is submitted to the Department . . . an agency can only revise stop data through the Department's error resolution process." Although the regulations do not define "error resolution process," the Final Statement of Reasons for these regulations explains that it is a term of art in database management and that this process will be used to ensure compliance with the technical requirements of the database system and to obtain missing data:

As used here, "error resolution process" is a term of art in database management, which refers to a common technical process imposed by the database manager to impose a uniform, standard mechanism for correction of submitted data to ensure compliance with the technical requirements of the database system; it does not refer to a substantive or qualitative review of the reported data. It will be used simply to obtain missing data. Law enforcement agencies are familiar with error resolution processes in place for a variety of databases maintained by the Department of Justice that require the submission of data. For example, an error resolution process would apply if an agency attempted to batch upload 6 months of data into the Department's system, but neglected to include one of the required data fields. In that case, the agency's database manager would receive an electronic notice of the error, and the data will be sent back for the agency to

¹⁶¹ Exhibit I, California Department of Justice Economic and Fiscal Impact Statement (STD 399), AB 953 Stop Data Reporting Regulations to Implement Gov. Code Section 12525.5, page 17, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-std399-signed-110817.pdf (accessed on November 8, 2019).

¹⁶² California Code of Regulations, title 11, section 999.228(h).

¹⁶³ Department of Finance v. Commission on State Mandates (Kern High School District) (2003) 30 Cal.4th 727, 743.

resolve and resubmit the corrected data as required by AB 953 and its implementing regulations. ¹⁶⁴

Section 999.224(a)(5) similarly requires reporting agencies to "ensure that the technical specifications for data values are consistent with these regulations and in doing so shall follow the data dictionary prepared by the Department. In this respect, the Addendum to the Initial Statement of Reasons for the regulation package adopting California Code of Regulations, title 11, sections 999.224-999.229 states the following:

999.224, subds. (a)(4)-(5). "Data element" and "Data Value."

 $[\P] \dots [\P]$

... [T]he following language was added to the definition of "data value": "[r]eporting agencies shall ensure that the technical specifications for data values are consistent with these regulations and in doing so shall follow the data dictionary prepared by the Department." This amendment is intended to provide guidance to law enforcement agencies so that agencies develop technical specifications for their computer systems that are consistent with the requirements of the regulations. To assist agencies in this objective, the regulations also reference the data dictionary that the Department shall prepare, as required by section 999.228, subdivision (f). As subdivision (f) makes clear, this data dictionary is designed to provide technical specifications regarding the requirements in these regulations and must be consistent with those requirements. 165

In addition, section 999.229(c) requires each reporting agency "submitting records via the system-to-system web service or the secure file transfer protocol . . . [to] include a unique stop record number for each stop," so that DOJ can use the record number to relay information on errors when necessary.

f. Ensuring that personally identifiable information of the individual stopped or any other information exempt from disclosure is not transmitted to the Attorney General

Government Code section 12525.5(f) states that all data and reports under the Act are public records within the meaning of Government Code section 6252(e), and are open to public inspection. However, section 12525.5(d) states that local law enforcement agencies "shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to property seizure. . . ." and not report

¹⁶⁴ Exhibit I, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, page 3, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf (accessed on November 8, 2019).

¹⁶⁵ Exhibit I, Addendum to Initial Statement of Reasons (OAL File No. Z-2016-1129-03), page 2, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/isor-addendum-08012017.pdf (accessed on November 8, 2019).

"the badge number or other unique identifying information of the peace officer involved." Section 12525.5(d) and section 999.228(d) of the test claim regulations further state that the law enforcement agencies are "solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure" pursuant to this section is not transmitted to the Attorney General in an open text field.

The Addendum to the Initial Statement of Reasons for the test claim regulations explains that this provision is "intended to make clear that the reporting agencies are responsible to ensure-through training, supervisory review, or any other methodology-that these fields do not contain information that is exempt from public disclosure," and notes that the earlier version "provided that law enforcement agencies must redact any personally identifiable information with respect to the person stopped and officer, except for the Officer's Unique Identifier, prior to transmission of stop data." ¹⁶⁷

g. Summary of required activities

Accordingly, the following activities are required by Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999-224-999.229 (Register 2017, No. 46):

- 1. Identification of the peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number
 - a. On January 1 of each year until the agency begins reporting data to the DOJ, each reporting agency shall count the number of peace officers it employs who are required to report stops to determine the date that agency must start collecting stop data and reporting to the DOJ pursuant to Government Code section 12525.5(a)(1)(2). (Cal. Code Regs, tit. 11, § 999.227(a)(8) [Register 2017, No. 46].)
 - b. Reporting agencies shall create the Officer's I.D. Number for each officer required to report stops. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)
 - c. Reporting agencies shall maintain a system to match an individual officer required to report stops to his or her Officer's I.D. Number. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)

¹⁶⁶ The term "Unique Identifying Information" is defined in section 999.224(a)(17) of the title 11 regulations to mean "personally identifying information, the release of which, either alone or in combination with other data reported, is reasonably likely to reveal the identity of the individual officer who collected the stop data information. It does not include the minimum information that is specified in Government Code section 12525.5, subdivision (b)."

¹⁶⁷ Exhibit I, Addendum to Initial Statement of Reasons (OAL File No. Z-2016-1129-03), page 31, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/isor-addendum-08012017.pdf (accessed on November 8, 2019).

- 2. Collection and reporting data on all stops, as defined, ¹⁶⁸ conducted by that agency's peace officers for the preceding calendar year in accordance with sections 999.226(a) and 999.227 of the regulations.
 - a. Begin collecting and reporting data on all stops on or before the following dates:
 - (1) An agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019.
 - (2) An agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020.
 - (3) An agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022.
 - (4) An agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

(Gov. Code, § 12525.5(a)(2), Stats. 2017, ch. 328).

The following are <u>not</u> reportable:

- Data elements described in section 999.226(a) for passengers in vehicles subject to a stop who have not been observed or suspected of violating the law, or who have not been subjected to the officer's actions listed in section 999.226(a)(12)(A) excluding "Vehicle impounded" and "None). 169
- Stops made during public safety mass evacuations. 170
- Stops during an active shooter incident.¹⁷¹
- Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal

¹⁶⁸ Government Code section 12525.5(g)(2) (Stats.2015, ch.466); see also, California Code of Regulations, title 11, section 999.224(a)(14) (Register 2017, No. 46), which defines a "stop" as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control;" section 999.227(b) and (c) for interactions that are not reportable as "stops;" and section 999.227(d) for peace officer interactions that are reportable only if the officer takes additional specified actions.

¹⁶⁹ California Code of Regulations, title 11, section 999.227(b), Register 2017, No. 46.

¹⁷⁰ California Code of Regulations, title 11, section 999.227(c)(1), Register 2017, No. 46.

¹⁷¹ California Code of Regulations, title 11, section 999.227(c)(2), Register 2017, No. 46.

- detector screenings, including any secondary searches that result from the screening. 172
- The following interactions are *not* reportable unless a person is detained based upon individualized suspicion or personal characteristics, or the officer engages in the actions described in the data values in section 999.226(a)(12)(A)(1)-(22): Interactions during traffic control of vehicles due to a traffic accident or emergency situation that requires that vehicles are stopped for public safety purposes; any type of crowd control in which pedestrians are made to remain in a location or routed to a different location for public safety purposes; interactions during which persons are detained at a residence so that the officer may check for proof of age for purposes of investigating underage drinking; and checkpoints and roadblocks in which an officer detains a person as the result of a blanket regulatory activity or neutral formula that is not based on individualized suspicion or personal characteristics. ¹⁷³
- Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition. 174
- Interactions that take place with a person in his or her residence who is the subject of home detention or house arrest while an officer is on home detention or house arrest assignment.¹⁷⁵
- Stops in a custodial setting. 176
- Stops that occur while the officer is off-duty. 177
- b. The agency's peace officers shall collect the following minimum required categories of stop data, and all applicable "data elements," "data values," and narrative explanatory fields described in section 999.226(a) for every person stopped, and in accordance with section 999.227(a)(4)-(6), (b) and (d) of the regulations, and complete all stop reports for stops made during the officer's shift by the end of the officer's shift, or if exigent circumstances preclude doing so, as soon as practicable: (Gov. Code, §12525.5(b), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, §§999.226(a), 999.227(a)(1)(2)(4)(5)(6)(9),(b) and (d) [Register 2017, No. 46].)

¹⁷² California Code of Regulations, title 11, section 999.227(c)(3), Register 2017, No. 46.

¹⁷³ California Code of Regulations, title 11, section 999.227(d)(1).

¹⁷⁴ California Code of Regulations, title 11, section 999.227(d)(2), Register 2017, No. 46.

¹⁷⁵ California Code of Regulations, title 11, section 999.227(d)(3), Register 2017, No. 46.

¹⁷⁶ California Code of Regulations, title 11, section 999.225(c), Register 2017, No. 46.

¹⁷⁷ Exhibit I, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, pages 12-13, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf (accessed on November 8, 2019).

- (1) "ORI number," which is "the data element that refers to the reporting agency's Originating Agency Identifier, a unique identification code number assigned by the Federal Bureau of Investigation." (Cal Code Regs., tit. 11, § 999. 226(a)(1) [Register 2017, No. 46].)
- (2) "Date, Time, and Duration of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(2) [Register 2017, No. 46].)
- (3) "Location of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(3) [Register 2017, No. 46].)
- (4) "Perceived Race or Ethnicity of Person Stopped" (Gov. Code, § 12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(4) [Register 2017, No. 46].)
- (5) "Perceived Gender of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(5) [Register 2017, No. 46].)
- (6) "Person Stopped Perceived to be LGBT." (Cal Code Regs., tit. 11, § 999.226(a)(6) [Register 2017, No. 46].)
- (7) "Perceived Age of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(7) [Register 2017, No. 46].)
- (8) "Person Stopped Has Limited or No English Fluency." (Cal Code Regs, tit. 11, § 999.226(a)(8) [Register 2017, No. 46].)
- (9) "Perceived or Known Disability of Person Stopped." (Cal Code Regs., tit. 11, § 999.226(a)(9) [Register 2017, No. 46].)
- (10) "Reason for Stop." (Gov. Code, §12525.5(b)(2), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(10) [Register 2017, No. 46].)
- "Stop Made in Response to a Call for Service." (Cal Code Regs., tit. 11, § 999.226(a)(11) [Register 2017, No. 46].)
- (12) "Actions Taken by Officer During Stop." (Gov. Code, §12525.5(b)(7), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(12) [Register 2017, No. 46].)
- (13) "Result of Stop." (Gov. Code, §12525.5(b)(3)(4)(5), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(13) [Register 2017, No. 46].)
- (14) "Officer's Identification (I.D.) Number." (Cal Code Regs., tit. 11, § 999.226(a)(14) [Register 2017, No. 46].)
- (15) "Officer's Years of Experience." (Cal Code Regs., tit. 11, § 999.226(a)(15) [Register 2017, No. 46].)

- (16) "Type of Assignment of Officer." (Cal Code Regs., tit. 11, § 999.226(a)(16) [Register 2017, No. 46].)
- c. The following additional data values shall be reported for stops (as defined in section 999.227(e)(3) of the regulations) at a K-12 school: the name of the school where the stop took place; indicate if the stop is of a student, whether there is a perceived disability related to hyperactivity or impulsive behavior of the student, the possible conduct warranting discipline under the Education Code, whether there was an admission or written statement obtained from the student, whether the student is suspected of violating school policy, and whether the student was referred to a school administrator or counselor. (Cal Code Regs., tit. 11, § 999.227(e)(3)(4) [Register 2017, No. 46].)
- 3. Electronic submission of data to DOJ and retention of stop data collected
 - a. Submit all required stop data to the system developed by the DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; and (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].)
 - b. Authorize and remove users to the system as necessary. Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release. (Cal Code Regs., tit. 11, § 999.228(e) [Register 2017, No. 46].)
 - c. Each reporting agency, *except* those agencies that report stop data via the DOJ web-browser based application, shall keep a record of its source data for three years and to make it available for inspection by DOJ. (Cal Code Regs., tit. 11, § 999.228(h) [Register 2017, No. 46].)
- 4. Audits and validation of data collected
 - a. Ensure that the technical specifications for data values are consistent with the regulations and follow the data dictionary prepared by DOJ. (Cal Code Regs., tit. 11, § 999.224(a)(5) [Register 2017, No. 46].)
 - b. Ensure that all data elements, data values, and narrative explanatory fields conform to the regulations and correct any errors in the data submission process through the DOJ's error resolution process. (Cal Code Regs., tit. 11, § 999.229(b) [Register 2017, No. 46].)
 - c. Agencies submitting records via the system-to-system web service or the secure file transfer protocol shall include a unique stop record number for each stop, so that DOJ can use the record number to relay information on errors when necessary. (Cal Code Regs., tit. 11, § 999.229(c) [Register 2017, No. 46].)
- 5. For stop data collected, ensure that the name, address, social security number, or other unique personally identifiable information of the individual stopped, searched, or subjected to property seizure, and the badge number or other unique

identifying information of the peace officer involved, is not transmitted to the Attorney General in an open text field. (Gov. Code, § 12525.5, Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.228(d) [Register 2017, No. 46].)

In addition, the claimant requests reimbursement for the costs of training, updating policies and procedures, supervisory review, and for installation and testing of software. Although the legislative history of the test claim statute and rulemaking materials acknowledge that the mandate would result in local agencies incurring costs for training and technology, and the claimant has filed evidence supporting such costs, these activities and costs are not required by the plain language of the test claim statutes and regulations. Nevertheless, these activities and costs may be proposed by claimant for inclusion in the Parameters and Guidelines if they are supported by evidence in the record showing they are "reasonably necessary for the performance of the state-mandated program" in accordance with Government Code section 17557(a), and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5.

2. Government Code section 12525.5 and the test claim regulations impose a state-mandated program on counties and cities only.

The activities addressed above are required of agencies identified in Government Code section 12525.5(a)(1) and (g)(1) as "each state or local agency that employs peace officers," as "defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code," "limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions." Section 12525.5(g)(1) further states that "peace officer" does not include probation officers and officers in a custodial setting. Thus, section 12525.5 imposes the requirements on city and county law enforcement agencies and law

https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf (accessed on November 8, 2019).)

¹⁷⁸ Exhibit A, Test Claim, pages 8-9.

¹⁷⁹ Exhibit I, Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of AB 953, (2015-2016 Reg. Sess.), as amended August 31, 2015, page 5.

¹⁸⁰ Exhibit I, California Department of Justice Economic and Fiscal Impact Statement (STD 399), AB 953 Stop Data Reporting Regulations to Implement Government Code section 12525.5, pages 15-20, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-std399-signed-110817.pdf (accessed on November 8, 2019).

¹⁸¹ Exhibit A, Test Claim, pages 20-21 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

¹⁸² DOJ's interpretation of Government Code section 12525.5(a)(1) and (g)(1) is stated as follows: "Government Code section 12525.5, subdivision (a) provides that the reporting requirements apply only to those state and local agencies that employ "peace officers," a term that Government Code section 12525.5, subdivision (g)(1) limits for purposes of reporting agencies "to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions," excluding "probation officers and officers in a custodial setting." (Exhibit I, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, page 8,

enforcement agencies of California state or university educational institutions that employ persons, other than probation and custodial officers, who have been designated by statute to have peace officer powers and duties. ¹⁸³

California Code of Regulations, title 11, section 999.224(a)(11) refers to agencies required to collect and report stop data as "reporting agencies". And, section 999.224(a)(11) defines reporting agency, for purposes of local government, as any city or county law enforcement agency that employs peace officers, including those who are contracted to work at other government agencies or private entities (such as housing or transit agencies and state educational institutions) and the law enforcement agencies of any California state or university educational institutions. California Code of Regulations, title 11, section 999.224(a)(11) then defines "California state or university educational institutions," as used in the statute, rather broadly to include K-12 school districts that employ peace officers pursuant to the authority provided by Education Code section 38000; and community college districts that employ peace officers pursuant to the authority provided by Education Code section 72300. Section 999.224(a)(11) states the following:

- (11) "Reporting agency" means:
 - (A) Any city or county law enforcement agency that employs peace officers.
 - "Reporting agency" includes any city or county law enforcement agency that employs peace officers, including officers who are contracted to work at other government agencies or private entities. This includes, but is not limited to, peace officers assigned to work in cities or other jurisdictions that are not within the original jurisdiction of the city or county law enforcement agency; peace officers of city or county law enforcement agencies assigned to or contracted to work at housing or transit agencies; and school resource officers assigned to work in California state educational institutions.
 - (B) The California Highway Patrol.
 - (C) The law enforcement agencies of any California state or university educational institutions.
 - 1. "California state educational institution" means any public elementary or secondary school; the governing board of a school district; or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.
 - a. "The law enforcement agencies of California state educational institutions" refers to any police department established by a public school district pursuant to Education Code section 38000, subdivision (b).

¹⁸³ The Legislature enacted chapter 4.5 of the Penal Code to "define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers and duties." (*County of Santa Clara v. Deputy Sheriffs*' *Ass'n. of Santa Clara County, Inc.* (1992) 3 Cal.4th 873, 879; see also, *People v. Pennington* (2017) 3 Cal.5th 786, 792-793.)

- 2. "California university educational institution" means the University of California, the California State University, and any college of the California Community Colleges.
 - a. "The law enforcement agencies of California university educational institutions" refers to the following:
 - (1) Police departments of all campuses of the California State University established pursuant to Education Code section 89560;
 - (2) Police departments of all campuses of the University of California established pursuant to Education Code section 92600; and
 - (3) Police departments of all California community colleges established pursuant to Education Code section 72330. 184

California Code of Regulations, title 11, section 999.225(d) further explains that "all peace officers employed by a reporting agency, except for probation officers [and officers in a custodial setting], are subject to this chapter even if the officer makes a stop while assigned or contracted to work for another governmental agency or a private entity pursuant to a contract or memorandum of understanding between the reporting agency and the government agency or private entity." Section 999.225(d)(1),(2) describes the following examples:

- (1) Example: A peace officer of a reporting agency who is also a member of a federal task force is subject to this chapter when stopping a person while the officer is performing duties as part of the task force, regardless of whether the officer must also comply with federal data collection policies, if any.
- (2) Example: A peace officer of a reporting agency assigned to work as a school resource officer in a K-12 Public School pursuant to a memorandum of understanding or other contractual relationship is subject to this chapter when stopping a person while on that assignment.

The Final Statement of Reasons for the DOJ regulations further makes clear that off-duty officers are not required to collect and report stop data, as follows:

... the Department has modified proposed Section 999.225, subdivision (d) to *delete* the provision that these reporting requirements apply to off-duty officers and to delete the examples pertaining to off-duty officers. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. As explained in the ISOR Addendum: "This amendment was made upon further review of the regulations because of the infrequent nature of such stops and the practical and logistical complications that may arise regarding the reporting by an officer who is off-duty. For example, an officer who is off-duty will be unable to complete the reporting requirement by the end of his or her shift, and my not have access to mobile or

¹⁸⁴ California Code of Regulations, title 11, section 999.224(a)(11), Register 2017, No. 46.

electronic devices, or other means of reporting the data electronically, as he or she would if on-duty." 185

Thus, the local government reporting agencies required to comply with Government Code section 12525.5 and the test claim regulations are limited to city and county law enforcement agencies that employ peace officers (other than probationary and custodial officers) assigned to work in the city or county jurisdiction and those city and county peace officer employees assigned by contract to provide services for other government and private entities; and to K-12 and community college districts that have established police departments and employ peace officers. As described below, however, the test claim statutes and regulations do not impose a state-mandated program in all of these circumstances.

a. The test claim statutes and regulations do **not** impose a state-mandated program on K-12 school districts and community college districts.

The courts have made clear that activities required by state law, but triggered by a local discretionary decision (that is, action undertaken without any legal compulsion from the state or threat of penalty for nonparticipation) do not result in a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. In Department of Finance v. Commission on State Mandates (POBRA), the court addressed legislation that provided procedural protections to peace officers employed by counties, cities, and school districts when a peace officer employee is subject to an interrogation by the employer, is facing punitive action, or receives an adverse comment in his or her personnel file. The court specifically held that "school districts... that are permitted by statute [i.e., Education Code sections 38000 and 72330], but not required, to employ peace officers who supplement the general law enforcement units of cities and counties" are not eligible to claim reimbursement under article XIII B, section 6 for the new activities required by the state because school districts and community college districts are not legally or practically compelled by state law to comply. The court reasoned that unlike cities and counties, school districts and community college districts do

¹⁸⁵ Exhibit I, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, pages 12-13, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf (accessed on November 8, 2019).

¹⁸⁶ City of Merced v. State of California (1984) 153 Cal.App.3d 777, 783; Department of Finance v. Commission on State Mandates (Kern High School Dist.) (2003) 30 Cal.4th 727, 742; Department of Finance v. Commission on State Mandates (POBRA) (2009) 170 Cal.App.4th 1355, 1363.

¹⁸⁷ Department of Finance v. Commission on State Mandates (POBRA) (2009) 170 Cal.App.4th 1355, 1357-1367.

¹⁸⁸ Article XI of the California Constitution provides for the formation of cities and counties. Section 1, Counties, states that the Legislature shall provide for an elected county sheriff. Section 5, City charter provision, specifies that "It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: (1) the constitution, regulation, and government of the city police force " Government Code section 36501 further provides that "[t]he government of a general law city is vested in: . . . (d) A chief of police."

not have the provision of police protection as an essential and basic function, and instead make a discretionary decision to form a police department and employ peace officers pursuant to statutory authority:

The Commission notes that *Carmel Valley Fire Protection Dist. v. State* characterizes police protection as one of "the most essential and basic functions of local government." [Citation omitted.] However, that characterization is in the context of cities, counties, and districts that have as an ordinary, principal, and mandatory duty the provision of policing services within their territorial jurisdiction. A fire protection district perforce must hire firefighters to supply that protection.

Thus, as to cities, counties, and such districts, new statutory duties that increase the costs of such services are prima facie reimbursable. This is true, notwithstanding a potential argument that such a local government's discretionary decision is voluntary in part, as to the number of personnel it hires. (See *San Diego Unified School Dist., supra*, 33 Cal.4th at p. 888. . . .) A school district, for example, has an analogous basic and mandatory duty to educate students. In the course of carrying out that duty, some "discretionary" expulsions will necessarily occur. [Citation to *San Diego Unified School Dist.* omitted.] Accordingly, San Diego Unified School Dist. suggests additional costs of "discretionary" expulsions should not be considered voluntary. Where, as a practical matter, it is inevitable that certain actions will occur in the administration of a mandatory program, costs attendant to those actions cannot fairly and reasonably be characterized as voluntary under the rationale of *City of Merced*. [Citation to *San Diego Unified School Dist.* omitted.]

However, the districts in issue are authorized, but not required, to provide their own peace officers and do not have provision of police protection as an essential and basic function. It is not essential unless there is a showing that, as a practical matter, exercising the authority to hire peace officers is the only reasonable means to carry out their core mandatory functions. ¹⁸⁹

In this case, section 999.224(a)(11) states that "any police department established by a public school district pursuant to Education Code section 38000, subdivision (b)" and "police departments of all California community colleges established pursuant to Education Code section 72330" are required to comply with Government Code section 12525.5 and the test claim regulations. Education Code section 38000(b) states that "The governing board of a school district *may* establish a school police department under the supervision of a school chief of police and, in accordance with Chapter 5 (commencing with a Section 45100) of Part 25, may employ peace officers, as defined in subdivision (b) of Section 830.32 of the Penal Code, to ensure the safety of school district personnel and pupils, and the security of the real and personal property of the school district."

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 $^{^{189}}$ Department of Finance v. Commission on State Mandates (POBRA) (2009) 170 Cal. App. 4th 1355, 1367-1368.

Similarly, Education Code section 72330(a) states that "The governing board of a community college district *may* establish a community college police department under the supervision of a community college chief of police and, in accordance with Chapter 4 (commencing with Section 88000) of Part 51, may employ personnel as necessary to enforce the law on or near the campus of the community college and on or near other grounds or properties owned, operated, controlled, or administered by the community college or by the state acting on behalf of the community college."

Thus, as recognized by the court in *Department of Finance (POBRA)*, K-12 school districts and community college districts are authorized, but not mandated by state law, to have police departments and employ peace officers. Police protection is not a basic or essential function of K-12 school districts and community college districts. Thus, K-12 school districts and community college districts are not legally compelled to comply with the activities required by Government Code section 12525.5 and the test claim regulations. Nor is there any evidence in the record that, as a practical matter, exercising the authority to hire peace officers is the only reasonable means to carry out their core mandatory function to provide educational services.

Accordingly, the Commission finds that the test claim statutes and regulations do not impose a state-mandated program on K-12 school districts and community college districts and, thus, K-12 school districts and community college districts are not eligible to claim reimbursement for this program.

b. The test claim statutes and regulations, do **not** impose a state-mandated program when a city or county assigns their peace officer employees out to work for other government or private entities based on a contract or memorandum of understanding.

As indicated above, California Code of Regulations, title 11, section 999.224(a)(11) states that "[a]ny city or county law enforcement agency that employs peace officers, *including officers* who are contracted to work at other government agencies or private entities" is a reporting agency and is required to comply with Government Code section 12525.5 and the test claim regulations. This includes,

- Peace officers assigned to work in cities or other jurisdictions that are not within the original jurisdiction of the city or county law enforcement agency.
- Peace officers of city or county law enforcement agencies assigned to or contracted to work at housing or transit agencies.
- School resource officers assigned to work in California state educational institutions.

Section 999.225(d) similarly provides that the peace officers assigned by the reporting agency (i.e., a city or county) to work for other governmental agencies under contractual arrangements (such as a federal task force) are "subject to this chapter" and must comply with the reporting requirements of the test claim statute and regulations.

Thus, the activities required by the test claim statutes and regulations apply when a county or city peace officer is assigned to work for other government (such as other cities or counties, housing or transit agencies, schools as their resource officer, or a federal task force) or private entities based on a contract or memorandum of understanding entered into by the county or city employer.

The Commission finds, however, that the test claim statutes and regulations do *not* impose a state-mandated program on city or county law enforcement agencies when the city or county assigns their peace officer employees out to work for other government entities (such as other cities or counties, housing or transit agencies, schools as their resource officer, or a federal task force) or private entities based on a contract or memorandum of understanding. In such cases, any costs incurred by the county or city to comply with Government Code section 12525.5, as added or amended by the test claim statutes, and California Code of Regulations, title 11, sections 999.224- 999.229 (Reg. 2017, No. 46) are triggered by the local discretionary decision to enter into the contract with the other entity, and are not mandated by the state. As indicated by the court in Department of Finance v. Commission on State Mandates (POBRA), cities and counties have as an ordinary, principal, and mandatory duty the provision of policing services within their territorial jurisdiction. 190 There is no duty to provide services by contract to other entities. Government Code section 53069.8 authorizes a county or city to enter into contract on behalf of the sheriff or chief of police to provide supplemental services to private entities. And Government Code section 51301 provides that "[a] board of supervisors may contract with a city, governed under general laws or charter, within the county, and the city legislative body may contract with the county for the performance by its appropriate officers and employees, of city functions."

The court in *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* made it clear that activities required by state law, but triggered by a local discretionary decision, do not result in a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. ¹⁹¹

Thus, the test claim statutes and regulations do not impose a state-mandated program when a city or county assigns their peace officer employees out to work for other government or private entities based on a contract or memorandum of understanding.

c. Government Code section 12525.5 and California Code of Regulations, title 11, sections 999.224-999.229, as added or amended by the test claim statutes and regulations, constitute a state-mandated program on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) who perform the requirements of the test claim statute and regulations in their own jurisdictions, and cities and counties that contract for officers from other city or county reporting agencies in order to carry out their basic and essential function of providing police protection services in their own jurisdictions.

Section 999.224(a)(11) states that "[a]ny city or county law enforcement agency that employs peace officers" other than probation officers and officers in a custodial setting, is a reporting agency and is required to comply with Government Code section 12525.5 and the test claim regulations. As indicated by the court in *Department of Finance v. Commission on State*

¹⁹⁰ Department of Finance v. Commission on State Mandates (POBRA) (2009) 170 Cal.App.4th 1355, 1367, emphasis added.

¹⁹¹ See also, City of Merced v. State of California (1984) 153 Cal.App.3d 777, 783; Department of Finance v. Commission on State Mandates (POBRA) (2009) 170 Cal.App.4th 1355, 1363.

Mandates (*POBRA*), cities and counties have as an ordinary, principal, and mandatory duty the provision of policing services within their territorial jurisdiction and, thus, new statutory duties that increase the costs of such services are "prima facie reimbursable," notwithstanding the number of personnel it hires. ¹⁹² Thus, Government Code section 12525.5 and California Code of Regulations, title 11, sections 999.224-999.229, as added or amended by the test claim statutes and regulations, impose a state-mandated program on city and county law enforcement agencies that employ peace officers to perform the requirements of the test claim statute and regulations in their own jurisdictions.

In addition, however, there are many cities that, by law, provide police protection services within their jurisdictions, ¹⁹³ but contract with the county sheriff's department for those services within the city. It is estimated that nearly 30 percent of the cities in California contract with the county for police protection services. ¹⁹⁴ Similarly, city or county law enforcement agencies that employ peace officers have the authority to enter into contracts with other city and county law enforcement agencies for additional police protection services in their jurisdictions, and may

For example, the Sheriff of Stanislaus County "provides contractual law enforcement services for the cities of Riverbank, Patterson, Waterford and Hughson. The contract funds police services and all general law enforcement services as specified in the respective contract with each city. Each city government, in partnership with the Sheriff's Department, establishes the level of service to be provided. Law enforcement services are based upon a philosophy of community-oriented policing which is the foundation to ensure and maintain a safe community for the residents of and visitors to Stanislaus County." (Exhibit I, Stanislaus County Sheriff's Department, Contract Cities, https://www.scsdonline.com/ops/contract-cities.html (accessed on December 5, 2019)).

In addition, the Los Angeles Sheriff's Department provides contractual law enforcement services for forty cities in Los Angeles County. (Exhibit I, Excerpt from the L. Baca, Contract Law Enforcement Services, Los Angeles Sheriff's Department, Contract Law Enforcement Bureau (revised January 2009), page 3,

https://www.sheriffs.org/sites/default/files/uploads/CLESDocument.pdf (accessed on October 14, 2019).

¹⁹² Department of Finance v. Commission on State Mandates (POBRA) (2009) 170 Cal.App.4th 1355, 1367-1368.

¹⁹³ Article XI, section 5 of the California Constitution specifies that "It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: (1) the constitution, regulation, and government of the city police force . . . " Government Code section 36501 further provides that "[t]he government of a general law city is vested in: . . . (d) A chief of police."

¹⁹⁴ See Exhibit I, Abstract of the Peter J. Nelligan & William Bourns, Municipal Contracting With County Sheriffs for Police Services in California: Comparison of Cost and Effectiveness, 14 Police Q. 70 (2011), SAGE Journals, https://journals.sagepub.com/doi/abs/10.1177/1098611110393133 (accessed on October 14, 2019).

need these supplemental services from time to time. ¹⁹⁵ Under these circumstances, the Commission finds that Government Code section 12525.5 and California Code of Regulations, title 11, sections 999.224-999.229, as added or amended by the test claim statutes and regulations, constitute a state-mandated program on city and county law enforcement agencies that contract *for* officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their own jurisdictions.

Although section 999.224(a)(11) defines reporting agencies as city or county law enforcement agencies that "employ" peace officers, the regulation defines peace officers required to comply with the collection and reporting activities broadly to include those city or county employees assigned to work in cities or other jurisdictions based on contract or memorandum of understanding. As indicated by the court in *Department of Finance v. Commission on State Mandates (POBRA)*, cities and counties have as an ordinary, principal, and mandatory duty the provision of policing services *within their* territorial jurisdiction. And in *San Diego Unified*, the court recognized that reimbursement under article XIII B, section 6 should not be foreclosed under the *City of Merced* and *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* cases based on local decisions, such as the number of people to hire for example, in order to carry out the agency's core government function:

Upon reflection, we agree with the District and amici curiae that there is reason to question an extension of the holding of City of Merced so as to preclude reimbursement under article XIII B, section 6 of the state Constitution and Government Code section 17514, whenever an entity makes an initial discretionary decision that in turn triggers mandated costs. Indeed, it would appear that under a strict application of the language in City of Merced, public entities would be denied reimbursement for state-mandated costs in apparent contravention of the intent underlying article XIII B, section 6 of the state Constitution and Government Code section 17514 and contrary to past decisions in which it has been established that reimbursement was in fact proper. For example, as explained above, in *Carmel Valley* [citation omitted], an executive order requiring that county firefighters be provided with protection clothing and safety equipment was found to create a reimbursable state mandated for the added costs of such clothing and equipment. [Citation omitted.] The court in Carmel Valley apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ – and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected. Yet, under a strict application of the rule gleaned from City of Merced [citation omitted], such costs would not be reimbursable for the simple reason that the local agency's

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¹⁹⁵ Government Code section 51301 provides that "A board of supervisors may contract with a city, governed under general laws or charter, within the county, and the city legislative body may contract with the county for the performance by its appropriate officers and employees, of city functions."

¹⁹⁶ Department of Finance v. Commission on State Mandates (POBRA) (2009) 170 Cal.App.4th 1355, 1367, emphasis added.

decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc. We find it doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result, and hence we are reluctant to endorse, in this case, an application of the rule of *City of Merced* that might lead to such a result. ¹⁹⁷

Thus, the application of the rule in *City of Merced* and *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* [that activities triggered by a local discretionary decision do not result in a state-mandated program] should not foreclose reimbursement based on a decision to employ peace officers or to contract with other cities or counties for peace officers to provide the police protection services in their jurisdictions.

Accordingly, the Commission finds that Government Code section 12525.5 and California Code of Regulations, title 11, sections 999.224-999.229, as added and amended by the test claim statutes and regulations, constitute a state-mandated program on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) who perform the requirements of the test claim statute and regulations in their own jurisdictions, and on cities and counties that contract *for* officers from other city or county reporting agencies in order to carry out their basic and essential function of providing police protection services in their own jurisdictions.

3. The activities mandated by Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999-224-999.229 (Register 2017, No. 46) constitute a new program or higher level of service.

State mandate reimbursement is not required for any and all costs that might be incurred by local government as an incident of a change in law or regulation. Alleged costs must be *mandated by the state*, and must constitute a *new program or higher level of service*, within the meaning of article XIII B, section 6. The California Supreme Court explained in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46:

Looking at the language of section 6 then, it seems clear that by itself the term "higher level of service" is meaningless. It must be read in conjunction with the predecessor phrase "new program" to give it meaning. Thus read, 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." But the term "program" itself is not defined in article XIII B. What programs then did the electorate have in mind when section 6 was adopted? We conclude that the drafters and the electorate had in mind the commonly understood meanings of the term – programs that carry out the governmental function of providing services to the public, or laws which, to implement a state

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¹⁹⁷ San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859, 888.

policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. 198

Here, the activities mandated by the state are new. Prior law prohibited peace officers from engaging in racial profiling; ¹⁹⁹ required every law enforcement officer in the state to participate in racial profiling training approved by POST; ²⁰⁰ required submission of certain criminal statistics requested by the Attorney General, including in some cases, the person's age, gender, race, and ethnic background; ²⁰¹ and required the Legislative Analyst's Office to conduct a study of the racial profiling data that was voluntarily collected by some law enforcement agencies. However, prior law did not require the collection and reporting of the specific stop data or the manner of electronic reporting mandated by the test claim statutes and regulations. ²⁰² And, though some local agencies were voluntarily collecting limited data on traffic stops before the enactment of the test claim statute, they were not mandated by state law to do so. The claimant describes its prior stop data collection activities as follows:

[T]he Department already collected data on approximately ten elements related to a traffic stop -primarily on paper forms prior to AB 953 and Government Code it enacted that produced the alleged mandate 12525.5 (a) (1). SDPD's collection of data could be accomplished in a matter of seconds by sworn officers in the field and later entered by data entry personnel without significantly increasing out of service time for sworn officers. Prior to AB 953, SDPD officers could also use their mobile computer to enter stop data, but since SDPD collected very limited stop data elements it could be collected and entered almost instantaneously. This SDPD practice was not mandated by any local, state or federal statutes, and conducted voluntarily by the Department. 203

Government Code section 17565 states "[i]f a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate." No prior state law required local agencies to collect and submit an additional report on racial and identity profiling data for all stops made by their peace officers. Thus, the mandated activities with respect to collecting and reporting stop data to the DOJ are new.

In addition, the activities mandated by Government Code section 12525.5 and California Code of Regulations, title 11, sections 999.224- 999.229, as added or amended by the test claim statutes and regulations, are unique to government as by the plain language of the statutes and regulations the requirements are only applicable to governmental entities. Moreover, the activities provide a peculiarly governmental service to the public – police protection is one of the most essential and

¹⁹⁸ County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 56, emphasis added.

¹⁹⁹ Penal Code section 13519.4(e) (Stats. 2000, ch. 684).

²⁰⁰ Penal Code section 13519.4(f)(h) (Stats. 2000, ch. 684).

²⁰¹ Penal Code sections 13014 (Stats., ch. 1992, ch. 1338), 13023 (Stats. 1989, ch. 1172).

²⁰² Penal Code section 13519.4(j) (Stats. 2000, ch. 684).

²⁰³ Exhibit A, Test Claim, page 10.

basic functions of local government.²⁰⁴ The legislative history of statutes 2015, chapter 466 indicated that by enacting this statute the Legislature "seeks to facilitate the development of evidence-based policing by establishing a system of collecting and reporting information on law enforcement stops" ²⁰⁵ and intends that the activities required "will help eliminate the harmful and unjust practice of racial and identity profiling, and improve the relationship between law enforcement and the communities they serve." ²⁰⁶

Accordingly, Government Code section 12525.5, as added and amended by the test claim statutes, and California Code of Regulations, title 11, sections 999.224- 999.229 impose a new program or higher level of service.

4. Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46) impose increased costs mandated by the state for counties and cities within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

For the mandated activities to constitute reimbursable state-mandated activities under article XIII B, section 6 of the California Constitution, they must result in local agencies incurring increased costs mandated by the state. Government Code section 17514 defines "costs mandated by the state" as any increased cost that a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) further requires that no claim shall be made nor shall any payment be made unless the claim exceeds \$1,000. In addition, a finding of costs mandated by the state means that none of the exceptions in Government Code section 17556 apply to deny the claim.

Here, the claimant alleges that it has incurred increased costs of \$97,367.95 to comply with the mandate in fiscal year 2017-2018. This amount includes costs for initial training, information technology staff costs for software update and testing, labor costs for stop data collection, and program manager labor costs. The claimant supports these assertions with a declaration from Jeffrey Jordon, Lieutenant for the City of San Diego Police Department. The claimant identifies the following actual costs incurred in fiscal year 2017-2018 with respect to stop data collection and reporting: 210

²⁰⁴ Carmel Valley Fire Protection Dist. v. State of California (1987) 190 Cal.App.3d 521, 537.

²⁰⁵ Exhibit A, Test Claim, page 56 (Senate Committee on Appropriations Analysis of AB 953 (2015-2016 Reg. Sess.), as amended August 27, 2015).

²⁰⁶ Exhibit I, Senate Committee on Public Safety Analysis of AB 953, (2015-2016 Reg. Sess.), as amended June 30, 2015, page 7.

²⁰⁷ Exhibit A, Test Claim, page 14.

²⁰⁸ Exhibit A, Test Claim, pages 11-14.

²⁰⁹ Exhibit A, Test Claim, pages 20-21 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

²¹⁰ Exhibit A, Test Claim, page 20 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

FY2017-2018 is the fiscal year the alleged mandate in GC 12525.5(a)(1) was implemented.

Activity	Date(s) Performed	Description	Cost
1) Initial Training	6/15/2018-6/26/2018	Online PowerPoint	\$56,476.35
2) IT Activity	6/20/2018-6/27/2018	Software Update/Testing	\$5,754.50
3) Data Collection	6/27/2018-6/30/2018	Officers Collecting Stop Data	\$10,048.70
4) Program Manager	6/15/2018-6/30/2018	Implement Training	\$25,088.40
Total			\$97,367.95

The total costs alleged for the 2018-2019 fiscal year, and supported by the Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, amounted to \$871,675.56, including the \$744,005.98 in labor costs for stop data collection, \$62,080.60 in supervisor training costs, \$40,500.58 in information technology staff costs for DOJ compliance and reporting, and \$25,088.40 in program manager labor costs. ²¹¹

The claimant also estimated the statewide cost to implement the mandated activities at \$18,000,000 for fiscal year 2018-2019. 212

Finance argues that costs for the training provided by the claimant's police department to its sworn personnel in 2017-2018 and 2018-2019 "was not required under the relevant statutes, and the associated costs are therefore not reimbursable." According to Finance, the police department made a discretionary decision to provide training, and should therefore absorb the associated costs. As indicated earlier in this Decision, training is not required by the plain language of the Government Code section 12525.5 or California Code of Regulations, title 11, sections 999.224- 999.229, as added or amended by the test claim statutes and regulations. However, training costs may be proposed by the claimant for consideration in the Parameters and Guidelines as a reasonably necessary activity. Even without the training costs, the record contains substantial evidence, which has not been disputed, that the claimant's costs to comply with the mandate in fiscal year 2017-2018 exceeded \$1,000.

Additionally, no law or facts in the record support a finding that the exceptions specified in Government Code section 17556 apply to this claim. There is, for example, no law or evidence in the record that additional funds have been made available for the new state-mandated activities, or that there is any fee authority specifically intended to pay the costs of the alleged mandate. Although claimant noted that "[t]here could be *potentially* some grants and funding sources to partially pay for the mandated regulations associated with AB 953 and the DOJ has

²¹¹ Exhibit A, Test Claim, pages 15-16 and page 20 (Declaration of Jeffrey Jordon, Lieutenant for the City of San Diego Police Department, July 30, 2019).

²¹² Exhibit A, Test Claim, pages 3, 16-17.

²¹³ Exhibit B, Finance's Comments on the Test Claim, page 2.

²¹⁴ Exhibit B, Finance's Comments on the Test Claim, page 2.

²¹⁵ See Government Code section 17556(d-e).

spoken to SDPD about limited grant monies to assist purchasing equipment to facilitate data collection," the claimant states that it "is not aware of any *current* State, Federal, or other non-local agency funds to pay for its substantial costs already incurred and those anticipated going forward from the alleged statutory mandate." ²¹⁶

Based on the foregoing, the Commission finds that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328 and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46), impose increased costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514.

V. Conclusion

Based on the forgoing analysis, the Commission partially approves this Test Claim, with a reimbursement period beginning November 7, 2017, and finds that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution *only* on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) to perform the requirements of the test claim statute and regulations for stops within their own jurisdictions, and city and county law enforcement agencies that contract for officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions, for the following activities:

- 1. Identification of the peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number
 - a. On January 1 of each year until the agency begins reporting data to the DOJ, each reporting agency shall count the number of peace officers it employs who are required to report stops to determine the date that agency must start collecting stop data and reporting to the DOJ pursuant to Government Code section 12525.5(a)(1)(2). (Cal. Code Regs, tit. 11, § 999.227(a)(8) [Register 2017, No. 46].)
 - b. Reporting agencies shall create the Officer's I.D. Number for each officer required to report stops (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)
 - c. Reporting agencies shall maintain a system to match an individual officer required to report stops to his or her Officer's I.D. Number. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)

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²¹⁶ Exhibit A, Test Claim, page 17, emphasis added.

- 2. Collection and reporting data on all stops, as defined,²¹⁷ conducted by that agency's peace officers for the preceding calendar year in accordance with sections 999.226(a) and 999.227 of the regulations.
 - a. Begin collecting and reporting data on all stops on or before the following dates:
 - (1) An agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019.
 - (2) An agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020.
 - (3) An agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022.
 - (4) An agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

(Gov. Code, § 12525.5(a)(2), Stats. 2017, ch. 328).

The following are **not** reportable:

- Data elements described in section 999.226(a) for passengers in vehicles subject to a stop who have not been observed or suspected of violating the law, or who have not been subjected to the officer's actions listed in section 999.226(a)(12)(A), excluding "Vehicle impounded" and "None".²¹⁸
- Stops made during public safety mass evacuations. ²¹⁹
- Stops during an active shooter incident. 220
- Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal

²¹⁷ Government Code section 12525.5(g)(2) (Stats.2015, ch.466); see also, California Code of Regulations, title 11, section 999.224(a)(14) (Register 2017, No. 46), which defines a "stop" as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control;" section 999.227(b) and (c) for interactions that are not reportable as "stops;" and section 999.227(d) for peace officer interactions that are reportable only if the officer takes additional specified actions.

²¹⁸ California Code of Regulations, title 11, section 999.227(b) (Register 2017, No. 46).

²¹⁹ California Code of Regulations, title 11, section 999.227(c)(1) (Register 2017, No. 46).

²²⁰ California Code of Regulations, title 11, section 999.227(c)(2) (Register 2017, No. 46).

- detector screenings, including any secondary searches that result from the screening. ²²¹
- The following interactions are *not* reportable unless a person is detained based upon individualized suspicion or personal characteristics, or the officer engages in the actions described in the data values in section 999.226(a)(12)(A)(1)-(22): Interactions during: traffic control of vehicles due to a traffic accident or emergency situation that requires that vehicles are stopped for public safety purposes; any type of crowd control in which pedestrians are made to remain in a location or routed to a different location for public safety purposes; interactions during which persons are detained at a residence so that the officer may check for proof of age for purposes of investigating underage drinking; and checkpoints and roadblocks in which an officer detains a person as the result of a blanket regulatory activity or neutral formula that is not based on individualized suspicion or personal characteristics. ²²²
- Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition. ²²³
- Interactions that take place with a person in his or her residence who is the subject of home detention or house arrest while an officer is on home detention or house arrest assignment.²²⁴
- Stops in a custodial setting. 225
- Stops that occur while the officer is off-duty. 226
- b. The agency's peace officers shall collect the following required categories of stop data, and all applicable "data elements," "data values," and narrative explanatory fields described in section 999.226(a) for every person stopped, and in accordance with section 999.227(a)(4)-(6), (b) and (d) of the regulations, and complete all stop reports for stops made during the officer's shift by the end of the officer's shift, or if exigent circumstances preclude doing so, as soon as practicable: (Gov. Code, §12525.5(b), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, §§999.226(a), 999.227(a)(1)(2)(4)(5)(6)(9), (b) and (d) [Register 2017, No. 46].)

²²¹ California Code of Regulations, title 11, section 999.227(c)(3) (Register 2017, No. 46).

²²² California Code of Regulations, title 11, section 999.227(d)(1).

²²³ California Code of Regulations, title 11, section 999.227(d)(2) (Register 2017, No. 46).

²²⁴ California Code of Regulations, title 11, section 999.227(d)(3) (Register 2017, No. 46).

²²⁵ California Code of Regulations, title 11, section 999.225(c) (Register 2017, No. 46).

²²⁶ Exhibit I, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, pages 12-13, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf (accessed on November 8, 2019).

- (1) "ORI number," which is "the data element that refers to the reporting agency's Originating Agency Identifier, a unique identification code number assigned by the Federal Bureau of Investigation." (Cal Code Regs., tit. 11, § 999. 226(a)(1) [Register 2017, No. 46].)
- (2) "Date, Time, and Duration of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(2) [Register 2017, No. 46].)
- (3) "Location of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(3) [Register 2017, No. 46].)
- (4) "Perceived Race or Ethnicity of Person Stopped." (Gov. Code, § 12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(4) [Register 2017, No. 46].)
- (5) "Perceived Gender of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(5) [Register 2017, No. 46].)
- (6) "Person Stopped Perceived to be LGBT." (Cal Code Regs., tit. 11, § 999.226(a)(6) [Register 2017, No. 46].)
- (7) "Perceived Age of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(7) [Register 2017, No. 46].)
- (8) "Person Stopped Has Limited or No English Fluency." (Cal Code Regs, tit. 11, § 999.226(a)(8) [Register 2017, No. 46].)
- (9) "Perceived or Known Disability of Person Stopped." (Cal Code Regs., tit. 11, § 999.226(a)(9) [Register 2017, No. 46].)
- (10) "Reason for Stop." (Gov. Code, §12525.5(b)(2), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(10) [Register 2017, No. 46].)
- "Stop Made in Response to a Call for Service." (Cal Code Regs., tit. 11, § 999.226(a)(11) [Register 2017, No. 46].)
- (12) "Actions Taken by Officer During Stop." (Gov. Code, §12525.5(b)(7), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(12) [Register 2017, No. 46].)
- (13) "Result of Stop." (Gov. Code, §12525.5(b)(3)(4)(5), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(13) [Register 2017, No. 46].)
- (14) "Officer's Identification (I.D.) Number." (Cal Code Regs., tit. 11, § 999.226(a)(14) [Register 2017, No. 46].)
- (15) "Officer's Years of Experience." (Cal Code Regs., tit. 11, § 999.226(a)(15) [Register 2017, No. 46].)

- (16) "Type of Assignment of Officer." (Cal Code Regs., tit. 11, § 999.226(a)(16) [Register 2017, No. 46].)
- c. The following additional data values shall be reported for stops (as defined in section 999.227(e)(3) of the regulations) at a K-12 school: the name of the school where the stop took place; indicate if the stop is of a student, whether there is a perceived disability related to hyperactivity or impulsive behavior of the student, the possible conduct warranting discipline under the Education Code, whether there was an admission or written statement obtained from the student, whether the student is suspected of violating school policy, and whether the student was referred to a school administrator or counselor. (Cal Code Regs., tit. 11, § 999.227(e)(3)(4) [Register 2017, No. 46].)
- 3. Electronic submission of data to DOJ and retention of stop data collected
 - a. Submit all required stop data to the system developed by the DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; and (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].)
 - b. Authorize and remove users to the system as necessary. Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release. (Cal Code Regs., tit. 11, § 999.228(e) [Register 2017, No. 46].)
 - c. Each reporting agency, *except* those agencies that report stop data via the DOJ web-browser based application, shall keep a record of its source data for three years and to make it available for inspection by DOJ. (Cal Code Regs., tit. 11, § 999.228(h) [Register 2017, No. 46].)
- 4. Audits and validation of data collected
 - a. Ensure that the technical specifications for data values are consistent with the regulations and follow the data dictionary prepared by DOJ. (Cal Code Regs., tit. 11, § 999.224(a)(5) [Register 2017, No. 46].)
 - b. Ensure that all data elements, data values, and narrative explanatory fields conform to the regulations and correct any errors in the data submission process through the DOJ's error resolution process. (Cal Code Regs., tit. 11, § 999.229(b) [Register 2017, No. 46].)
 - c. Agencies submitting records via the system-to-system web service or the secure file transfer protocol shall include a unique stop record number for each stop, so that DOJ can use the record number to relay information on errors when necessary. (Cal Code Regs., tit. 11, § 999.229(c) [Register 2017, No. 46].)
- 5. For stop data collected, ensure that the name, address, social security number, or other unique personally identifiable information of the individual stopped, searched, or subjected to property seizure, and the badge number or other unique

identifying information of the peace officer involved, is not transmitted to the Attorney General in an open text field. (Gov. Code, § 12525.5, Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.228(d) [Register 2017, No. 46].)

The test claim statutes and regulations do not impose a state-mandated program for K-12 school districts or community college districts and, thus, these entities are not eligible for reimbursement. In addition, the test claim statutes and regulations do not impose a state-mandated program when a city or county assigns their peace officer employees *out* to work for other government or private entities based on a contract or memorandum of understanding. There is no requirement in law that a city of county contract out their law enforcement officers and any costs resulting from the discretionary decision to do so are not mandated by the State.

Moreover, Penal Code sections 13012 and 13519.4, as amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, do not impose any activities on local government, and thus, do not constitute a reimbursable state-mandated program within the meaning of article XIII B, Section 6 of the California Constitution.

All other activities and costs alleged in the Test Claim are not mandated by the plain language of the test claim statute, but may be proposed by claimant for inclusion in the Parameters and Guidelines, and must be supported with evidence, pursuant to Government Code section 17557(a), and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5.

DECLARATION OF SERVICE BY EMAIL

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.

On May 22, 2020, I served the:

- Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Hearing issued May 22, 2020
- Decision adopted May 22, 2020

Racial and Identity Profiling, 18-TC-02 Government Code Section 12525.5 and Penal Code Sections 13012 and 13519.4; Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, Register 2017, No. 46, effective November 7, 2017¹ City of San Diego, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 May 22, 2020 at Sacramento, California.

Jill L. Magee

Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814

(916) 323-3562

adoption of these changes appears in Register 2017, No. 46.

¹ Although the claimant incorrectly pled Notice Register Number 2016, 50-2 regarding changes to California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229 with a file and effective date of November 7, 2017, the Commission can take judicial notice of Register 2017, No. 46. In this case, Westlaw incorrectly indicates in the history of each of these sections that the update appears in Register 2017, No. 45 when in fact the

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/22/20 Claim Number: 18-TC-02

Matter: Racial and Identity Profiling

Claimant: City of San Diego

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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September 29, 2020

Captain Jeffrey Jordon City of San Diego San Diego Police Department 1401 Broadway San Diego, CA 92101 Ms. Natalie Sidarous State Controller's Office Local Government Programs and Services Division 3301 C Street, Suite 740 Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Decision and Parameters and Guidelines

Racial and Identity Profiling, 18-TC-02

Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46¹

City of San Diego, Claimant

Dear Captain Jordon and Ms. Sidarous:

On September 25, 2020 the Commission on State Mandates adopted the Decision and Parameters and Guidelines on the above-captioned matter.

Please keep Decision and Parameters and Guidelines together as one document, as it together constitutes the entire decision of the Commission and the "Decision" portion informs the interpretation of the "Parameters and Guidelines." It is hoped that by providing the entire Decision and Parameters and Guidelines with the claiming instructions that claimants will be better equipped to correctly claim reimbursement, resulting in fewer reductions upon audit and fewer incorrect reduction claims.

Sincerely,

Heather Halsey Executive Director

¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

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BEFORE THE

COMMISSION ON STATE MANDATES STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES FOR:

Government Code Section 12525.5 as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017 Chapter 328 (AB 1518)

California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229; as added by Register 2017, No. 46¹

The period of reimbursement begins November 7, 2017.

Case No.: 18-TC-02

Racial and Identity Profiling

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

(Adopted September 25, 2020)

(Served September 29, 2020)

PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached Decision and Parameters and Guidelines on September 25, 2020.

Heather Halsey, Executive Director

¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES FOR:

Government Code Section 12525.5 as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017 Chapter 328 (AB 1518)

California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229; as added by Register 2017, No. 46¹

The period of reimbursement begins November 7, 2017.

Case No.: 18-TC-02

Racial and Identity Profiling

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

(Adopted September 25, 2020)

(Served September 29, 2020)

DECISION

The Commission on State Mandates (Commission) heard and decided the Decision and Parameters and Guidelines during a regularly scheduled hearing on September 25, 2020. Captain Jeffrey Jordon of the City of San Diego Police Department appeared on behalf of the City of San Diego (claimant). Chris Hill and Brittany Thompson appeared on behalf of the Department of Finance (Finance).

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 sections 17500 et seq., and related case law.

The Commission adopted the Proposed Decision and Parameters and Guidelines by a vote of 7-0, as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Carmen Ramirez, City Council Member	Yes
Andre Rivera, Representative of the State Treasurer, Vice Chairperson	Yes

¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

I. Summary of the Mandate

On May 22, 2020, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning November 7, 2017. Specifically, the Commission found that the mandate was imposed on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) to electronically report to the Attorney General, on an annual basis, data on all "stops" within their own jurisdiction, conducted by the agency's peace officers; and on those city and county law enforcement agencies that contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.

II. <u>Procedural History</u>

On May 22, 2020, the Commission adopted the Test Claim Decision.² On May 22, 2020, Commission staff issued the Draft Expedited Parameters and Guidelines.³ On June 12, 2020, the claimant filed comments on the Draft Expedited Parameters and Guidelines.⁴ On July 6, 2020, Commission staff issued the Draft Proposed Decision and Parameters and Guidelines.⁵ On July 23, 2020, the claimant filed comments on the Draft Proposed Decision and Parameters and Guidelines stating that it had no additional comments to offer.⁶

III. Positions of the Parties

A. City of San Diego

The claimant has requested that the Commission add several activities, which it asserts are reasonably necessary to comply with the mandated program. Claimant asserts that it is necessary that local agencies update their policies and procedures to provide a sufficient level of explanation to its peace officers that must perform the functions of Government Code section 12525.5. The claimant also states that updating information technology, specifically adopting and testing software, which allows local agencies to comply with state-mandated activities is reasonable and necessary. To that end, the claimant requests that Section IV. of the Draft

² Exhibit A, Test Claim Decision.

³ Exhibit B, Draft Expedited Parameters and Guidelines.

⁴ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines.

⁵ Exhibit D, Draft Proposed Decision and Parameters and Guidelines.

⁶ Exhibit E, Claimant's Comments on the Draft Proposed Decision and Parameters and Guidelines.

⁷ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

⁸ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

Expedited Parameters and Guidelines be amended to provide for reimbursement of one-time activities to include: update policies and procedures to incorporate the requirements of the test claim statute; train staff (peace officers) assigned to perform the reimbursable activities listed in Section IV. of the Parameters and Guidelines; and install and test the software necessary to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops. The claimant also requests that Section IV. of the Draft Expedited Parameters and Guidelines authorize ongoing reimbursement for updated training to meet any new requirements made by the Legislature or the Racial and Identity Profiling Act (RIPA) Board; and update software, as necessary, to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops. Specifically, the claimant requests that the following activities be added to the Parameters and Guidelines:

One-time activities:

- a. Update policies and procedures to incorporate the requirements of the Test Claim Statute.
- b. Train staff (peace officers) assigned to perform the reimbursable activities listed in section IV of these Parameters and Guidelines (one-time for each employee).
- c. Installation and testing of software necessary to comply with the statemandated requirements for the collection and reporting of data on all applicable stops.

Ongoing activities:

- a. As modifications are made to the Test Claim Statute provide for updated training to meet any new requirements made by the legislature or the Racial and Identity Profiling Act Board.
- b. Update software, as necessary, to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops. ¹⁰

The claimant has also filed a Declaration of Captain Jeffrey Jordon, San Diego Police Department, to support these requests. 11

B. Department of Finance

The Department of Finance (Finance) has not filed any comments on the Draft Expedited Parameters and Guidelines.

IV. Discussion

A. Eligible Claimants (Section II. of Parameters and Guidelines)

⁹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

¹⁰ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

¹¹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), pages 3-6.

In the Test Claim Decision, the Commission found that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and Title 11, California Code of Regulations sections 999-224-999.229 (Register 2017, No. 46), constitutes a state-mandated new program or higher level of service, and imposes costs mandated by the state, *only* on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) who perform the requirements of the test claim statute and regulations for stops within their own jurisdictions, and cities and counties that contract for officers from other city or county reporting agencies in order to carry out their basic and essential function of providing police protection services in their jurisdictions. The Commission also found that the test claim statutes did not impose a state-mandated program on K-12 school districts and community college districts; and on cities and counties when they assign their peace offices out to work for other government or private entities based on a contract or memorandum of understanding. ¹³

Section II. of the Proposed Parameters and Guidelines therefore states the following:

Any city, county, city and county is eligible to claim reimbursement for increased costs incurred as a result of this mandate for the city or county's law enforcement agencies that meet the following criteria:

- Employ peace officers (other than probation officers and officers in a custodial setting) to perform the requirements of the test claim statute and regulations for stops within their own jurisdictions; *or*
- Contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.

K-12 school districts and community college districts are not eligible to claim for this program. Cities and counties may not claim the costs of their peace officer employees that are incurred while they are assigned out to work for other government or private entities based on a contract or memorandum of understanding.

B. Period of Reimbursement (Section III. of Parameters and Guidelines)

Government Code section 17557(e) establishes the period of reimbursement for an approved test claim based on when the test claim is filed; "[a] test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year." Based on the filing date of June 14, 2019 for this Test Claim, the potential period of reimbursement, pursuant to Government Code section 17557(e), would begin July 1, 2017. However, as indicated in the Commission's Test Claim Decision, the Commission partially approved the claim *only* for the activities mandated by Government Code section 12525.5 and the regulations adopted by DOJ to implement section 12525.5 (Cal. Code Regs., tit. 11, §§

¹² Exhibit A, Test Claim Decision, pages 4, 53.

¹³ Exhibit A, Test Claim Decision, page 9.

¹⁴ Exhibit A, Test Claim Decision, page 25.

999.224 through 999.229, Register 2017, No. 46). These regulations became operative and effective on November 7, 2017. The Legislature, in Government Code section 12525.5(a)(2) and (e), delayed local agency compliance with the program to a date after the regulations were required to be adopted.

Accordingly, Section III. of the Parameters and Guidelines states that the period of reimbursement begins November 7, 2017. 17

C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

Pursuant to Government Code section 17557(a) and section 1183.7 of the Commission's regulations, the Parameters and Guidelines must identify the activities mandated by the state and "may include proposed reimbursable activities that are reasonably necessary for the performance of the state-mandated program." "Reasonably necessary activities" are defined in the Commission's regulations as follows:

"Reasonably necessary activities" are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a statemandated program. Activities required by statutes, regulations and other executive orders that were not pled in the test claim may only be used to define reasonably necessary activities to the extent that compliance with the approved state-mandated activities would not otherwise be possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence submitted in accordance with section 1187.5 of these regulations. ¹⁸

Any proposed reasonably necessary activity must be supported by substantial evidence in the record explaining why the proposed activity is necessary for the performance of the statemandated activity in accordance with Government Code sections 17557(a), 17559, and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5.

Here, Section IV. of the Parameters and Guidelines lists the activities that the Commission approved as reimbursable state-mandated activities. The claimant has filed comments on the Draft Expedited Parameters and Guidelines identifying additional activities alleged to be reasonably necessary to comply with the mandate. Specifically, the claimant requests reimbursement for the following one-time activities: update policies and procedures to incorporate the requirements of the Test Claim statute; train staff (peace officers) assigned to perform the reimbursable activities listed in section IV. of the Parameters and Guidelines; and

¹⁵ Exhibit A, Test Claim Decision, page 25.

¹⁶ Exhibit A, Test Claim Decision, page 25.

¹⁷ Exhibit B, Draft Expedited Parameters and Guidelines, page 6.

¹⁸ California Code of Regulations, title 2, section 1183.7(d).

install and test the software necessary to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.¹⁹

The claimant also requests that Section IV. of the Parameters and Guidelines provide reimbursement for the following ongoing activities alleged to be reasonably necessary to comply with the mandate: updated training to meet any new requirements made by the Legislature or RIPA; and update software, as necessary, to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops. ²⁰ Each of these requests will be discussed in turn.

1. The proposed one-time activity to update policies and procedures is not supported by substantial evidence in the record explaining why this activity is reasonably necessary to comply with the mandate.

The claimant requests reimbursement for the one-time activity of updating policies and procedures to incorporate the requirements of the test claim statute. While the claimant's comments focus on costs associated with training and information technology, the comments are silent as to the specific need for updating local agency policies and procedures. Neither Captain Jordon's declaration filed with the comments, nor Captain Jordon's declaration and exhibits filed with the Test Claim demonstrate why updating policies and procedures is reasonably necessary to comply with the mandate. The only reference to this allegedly necessary activity is the claimant's assertion that "in order to comply with the test claim statutes, it is necessary for local agencies that employ peace officers to update their policies and procedures, and provide training related to data collection and reporting." There is no follow-up to this statement in the comments regarding why updating or adopting policies and procedures is necessary, nor does the record contain any specificity regarding costs incurred or the steps taken in regard to updating agency policy and procedure.

For this activity to be approved as reasonably necessary to comply with the mandate pursuant to Government Code sections 17557 and 17559, and section 1183.7 of the Commission's regulations, the claimant must explain and support, with substantial evidence in the record and in accordance with the Commission's regulations, why updating policies and procedures is reasonably necessary to comply with the mandate. Section 1187.5 of the Commission's regulations requires that oral or written representations of fact shall be under oath or affirmation; that all written representations of fact must be signed under penalty of perjury by persons who are authorized and competent to do so; and that hearsay evidence may only be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

Accordingly, the Commission denies this request.

¹⁹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

²⁰ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

²¹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

²² Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 3.

2. The proposed activity to provide one-time training for each peace officer employee and supervisor assigned to perform the reimbursable activities is supported by evidence in the record and is, therefore, reasonably necessary to comply with the mandate.

The claimant requests reimbursement to provide one-time training to employees and supervisors assigned to perform the reimbursable activities listed in Section IV. of these Parameters and Guidelines.²³ In support of this request, the claimant contends that the mandate requires law enforcement personnel to learn new definitions, software applications for the collection and submission of data, and extensive rules governing exceptions to data collection during stops.²⁴ ²⁵

The Commission finds there is substantial evidence in the record to support the finding that onetime training per employee performing the mandate is reasonably necessary to comply with the mandate. Captain Jordon's declaration, signed under the penalty of perjury, and filed with the Test Claim, declares that it would not be possible for local agencies employing peace officers to collect stop data and report it to the Attorney General without being familiar with how a stop is defined and when it must be reported.²⁶ Captain Jordon notes that prior to the enactment of Government Code 12525.5, no law enforcement agency in California was mandated to collect and report stop data as is now required.²⁷ As a result, local law enforcement agencies that employ peace officers must be trained and supervised to perform these activities correctly, and the collection and reporting of this data requires specialized expertise in information technologies. 28 As for supervisory training, Captain Jordon declares that supervisors must be trained to determine if their officers are collecting and submitting the required stop data.²⁹ Captain Jordon attached training logs to his declaration outlining leadership training in 2018, where peace officer managers were trained on AB 953 and RIPA. 30 And he attached a log showing the peace officer staff who were trained on the RIPA requirements.³¹ All sworn members of the San Diego Police Department (SDPD) were required to receive at least 15 minutes of training via an online PowerPoint presentation related to new stop data items to be collected and submitted under Government Code 12525.5(a)(1), while supervisors were required to receive an additional hour of training to ensure officers assigned to them were accurately

²³ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

²⁴ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 3.

²⁵ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

²⁶ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

²⁷ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

 $^{^{28}}$ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

²⁹ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

³⁰ Exhibit F, Excerpt from the Test Claim (Exhibit 12, Command Training Logs), pages 2, 3.

³¹ Exhibit F, Excerpt from the Test Claim (Exhibit 12, Command Training Logs), pages 27-97.

collecting and submitting the data pursuant to the alleged mandate. 32 There is no evidence rebutting these declarations.

In addition, the reporting requirements for this program, and the exceptions to reporting, are detailed and specific, and require that the reports be audited and validated pursuant to the Department of Justice (DOJ) specifications. The legislative history of Government Code section 12525.5 and the test claim regulations demonstrate that training costs were anticipated by the Legislature and DOJ. In their Economic and Fiscal Impact Statement, DOJ stated that AB 953 would likely result in increased demand for training professionals and support staff to help law enforcement agencies implement the reporting requirements. Also, the Senate Committee on Appropriations – in its report regarding AB 953 – noted that "Additional costs for training on the process would likely be required."

Accordingly, the Commission finds that the evidence in the record supports the finding that one-time training per employee is reasonably necessary to comply with the mandate. This activity is included in Section IV.A. Reimbursable Activities (One-Time Activities) as follows:

- One-time training per peace officer employee and supervisor assigned to perform the reimbursable activities listed in section IV.B. of these Parameters and Guidelines.
 - 3. The proposed one-time activity to install and test software to comply with the mandated requirements to collect and report stop data is supported by evidence in the record and is, therefore, reasonably necessary to comply with the mandate.

The test claim regulations require claimants to:

- Submit all required stop data to the system developed by the DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; and (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].)
- Authorize and remove users to the system as necessary. Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release. (Cal Code Regs., tit. 11, § 999.228(e) [Register 2017, No. 46].)

The claimant contends that the one-time activity to install and test software is necessary to comply with the state-mandated requirements for the collection and reporting of data on all

³² Exhibit F, Excerpt from the Test Claim (Exhibit 12, Command Training Logs), pages 27-97; Exhibit F, Excerpt from the Test Claim (Narrative), pages 2, 8.

³³ Exhibit F, Excerpt from the Test Claim (California Department of Justice, Economic and Fiscal Impact Statement, AB 953 Stop Data Reporting Regulations to Implement Gov. Code Section 12525.5), page 1.

³⁴ Exhibit F, Excerpt from the Test Claim (Senate Committee on Appropriations, Analysis of AB 953 [2015-2016 Reg. Sess.], August 17, 2015), page 1.

applicable stops.³⁵ In support of this, the claimant states that it has incurred costs to obtain, test, process and validate the collected data through hardware and software applications.^{36, 37} The claimant noted that its Information Technology costs were relatively minor because the San Diego Sheriff's Department provided a custom data collection application and submission tools free of charge.³⁸ The application was loaded by Data Systems members on to SDPD's desktop and mobile computers so officers could use the software to submit data.³⁹ Additional testing was done, however, to make sure the software worked properly and all of these activities were needed to comply with the mandate before going "live" on June 27, 2018.⁴⁰ Notably, the Economic and Fiscal Impact Statement for the DOJ regulations indicates that the DOJ was developing a web-based application to provide to the local agencies to assist with submission of data collected pursuant to Government Code section 12525.5.⁴¹

Accordingly, the Commission finds that the evidence in the record supports the finding that one-time installation and testing of software is reasonably necessary to comply with the mandate. This activity is included in Section IV.A. Reimbursable Activities (One-Time Activities) as follows:

- One-time installation and testing of software necessary to comply with the statemandated requirements for the collection and reporting requirements of data on all applicable stops.
 - 4. The proposed ongoing activity of providing training to meet new requirements imposed by the Legislature or RIPA is not consistent with the law and is therefore denied.

The claimant requests reimbursement for the ongoing activity of providing training to meet any new requirements made by the Legislature or the RIPA Board. This proposed activity is not consistent with the law. In the event the Legislature or DOJ change the law and increase the responsibilities of local government under this program, then new a test claim would have to be filed pursuant to Government Code sections 17551 and 17553. If the Legislature or DOJ repeals

³⁵ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 2.

³⁶ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 3.

³⁷ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 1.

³⁸ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 4.

³⁹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 4.

⁴⁰ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 3.

⁴¹ Exhibit F, Excerpt from the Test Claim (California Department of Justice, Economic and Fiscal Impact Statement, AB 953 Stop Data Reporting Regulations to Implement Gov. Code Section 12525.5), page 11.

one of the activities mandated by the state, or otherwise changes the future liability of the State under article XIII B, section 6, then the State can request that the Parameters and Guidelines be amended under Government Code section 17557(d), or the State can file a request to adopt a new test claim decision under Government Code section 17570. Thus, these Parameters and Guidelines cannot account for future changes in law.

And the RIPA Board is not tasked with, nor have they been given authority to revise or amend the requirements under the test claim statute. Rather, the RIPA Board is tasked with reviewing and analyzing reported data, working with law enforcement to review and analyze racial and identity profiling practices and procedures, issuing a report of their findings, and holding at least three annual public meetings.⁴²

The Commission therefore denies the request for ongoing training on the basis of future changes in the law.

5. The proposed ongoing activity of updating software, as necessary, to comply with the requirements of collecting and reporting data is not supported by substantial evidence in the record explaining why this activity is reasonably necessary to comply with the mandate.

The claimant has also requested ongoing reimbursement for updating software, as necessary, to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops. ⁴³ There is nothing in the record demonstrating that this is a reasonably necessary activity. The claimant has not provided or pointed to any evidence in the record demonstrating that the software used to perform the requirements under the mandate needs updating. Notably, the DOJ Economic and Fiscal Impact Statement does not mention that agencies would likely be subject to ongoing costs related to updating software. ⁴⁴

Accordingly, the Commission denies this request.

D. Claim Preparation and Submission (Section V of the Parameters and Guidelines)

Consistent with the approval of one-time training, Section V. of the Parameters and Guidelines (Claim Preparation and Submission) includes the boilerplate language for claiming the costs of training as follows:

5. 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

⁴² Exhibit F, Excerpt from the Test Claim (Senate Committee on Appropriations, Analysis of AB 953 [2015-2016 Reg. Sess.], August 17, 2015), page 4.

⁴³ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

⁴⁴ Exhibit F, Excerpt from the Test Claim (California Department of Justice, Economic and Fiscal Impact Statement, AB 953 Stop Data Reporting Regulations to Implement Gov. Code Section 12525.5).

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.

V. Conclusion

Based on the foregoing, the Commission hereby adopts the Decision and Parameters and Guidelines.

PARAMETERS AND GUIDELINES⁴⁵

Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518)

California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229 as added by Register 2017, No. 46⁴⁶

Racial and Identity Profiling

18-TC-02

Reimbursement for this program begins November 7, 2017.

I. SUMMARY OF THE MANDATE

On May 22, 2020, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning November 7, 2017, on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) to electronically report to the Attorney General, on an annual basis, data on all "stops" within their own jurisdiction, conducted by the agency's peace officers; and on those city and county law enforcement agencies that contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.

II. ELIGIBLE CLAIMANTS

Any city, county, city and county is eligible to claim reimbursement for increased costs incurred as a result of this mandate for the city or county's law enforcement agencies that meet the following criteria:

⁴⁵ Please note that the Decision and Parameters and Guidelines is a single document and must be read as a whole. It is not intended to be separated and should be posted in its entirety.

⁴⁶ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

- Employ peace officers (other than probation officers and officers in a custodial setting) to perform the requirements of the test claim statute and regulations for stops within their own jurisdictions; *or*
- Contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.

K-12 school districts and community college districts are not eligible to claim for this program. Cities and counties may not claim the costs of their peace officer employees that are incurred while they are assigned out to work for other government or private entities based on a contract or memorandum of understanding.

PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The claimant filed the Test Claim on June 14, 2019, establishing eligibility for reimbursement for the 2017-2018 fiscal year, beginning July 1, 2017. However, the regulations adopted by DOJ to implement section 12525.5 (Cal. Code Regs., tit. 11, §§ 999.224 through 999.229, Register 2017, No. 46) became operative and effective on November 7, 2017, 47 establishing the period of reimbursement beginning November 7, 2017.

Reimbursement for state-mandated costs may be claimed as follows:

- 1. Actual costs for one fiscal year shall be included in each claim.
- 2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
- 3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- 4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
- 5. 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(a).
- 6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities.

⁴⁷ The Legislature, in Government Code section 12525.5(a)(2) and (e), delayed local agency compliance with the program to a date after the regulations were required to be adopted.

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, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

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

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

A. One-Time Activities

- 1. One-time training per peace officer employee and supervisor assigned to perform the reimbursable activities listed in Section IV.B. of these Parameters and Guidelines.
- 2. One-time installation and testing of software necessary to comply with the statemandated requirements for the collection and reporting of data on all applicable stops.

B. Ongoing Activities

- 1. Identification of the peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number.
 - a. On January 1 of each year until the agency begins reporting data to the DOJ, each reporting agency shall count the number of peace officers it employs who are required to report stops to determine the date that agency must start collecting stop data and reporting to the DOJ pursuant to Government Code section 12525.5(a)(1)(2). (Cal. Code Regs, tit. 11, § 999.227(a)(8) [Register 2017, No. 46].)
 - b. Reporting agencies shall create the Officer's I.D. Number for each officer required to report stops. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)
 - c. Reporting agencies shall maintain a system to match an individual officer required to report stops to his or her Officer's I.D. Number. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)

- 2. Collection and reporting data on all stops, as defined, ⁴⁸ conducted by that agency's peace officers for the preceding calendar year in accordance with sections 999.226(a) and 999.227 of the regulations.
 - a. Begin collecting and reporting data on all stops on or before the following dates (Gov. Code, § 12525.5(a)(2), Stats. 2017, ch. 328):
 - (1) An agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019.
 - (2) An agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020.
 - (3) An agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022.
 - (4) An agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

The following are **not** reportable:

- Data elements described in section 999.226(a) for passengers in vehicles subject to a stop who have not been observed or suspected of violating the law, or who have not been subjected to the officer's actions listed in section 999.226(a)(12)(A), excluding "Vehicle impounded" and "None." 49
- Stops made during public safety mass evacuations. 50
- Stops during an active shooter incident.⁵¹

⁴⁸ See Government Code section 12525.5(g)(2) (Stats.2015, ch.466) and California Code of Regulations, title 11, section 999.224(a)(14) (Register 2017, No. 46), which define a "stop" as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control;" section 999.227(b) and (c) for interactions that are not reportable as "stops;" and section 999.227(d) for peace officer interactions that are reportable only if the officer takes additional specified actions.

⁴⁹ California Code of Regulations, title 11, section 999.227(b) (Register 2017, No. 46).

⁵⁰ California Code of Regulations, title 11, section 999.227(c)(1) (Register 2017, No. 46).

⁵¹ California Code of Regulations, title 11, section 999.227(c)(2) (Register 2017, No. 46).

- Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal detector screenings, including any secondary searches that result from the screening.⁵²
- The following interactions are *not* reportable unless a person is detained based upon individualized suspicion or personal characteristics, or the officer engages in the actions described in the data values in section 999.226(a)(12)(A)(1)-(22): Interactions during: traffic control of vehicles due to a traffic accident or emergency situation that requires that vehicles are stopped for public safety purposes; any type of crowd control in which pedestrians are made to remain in a location or routed to a different location for public safety purposes; interactions during which persons are detained at a residence so that the officer may check for proof of age for purposes of investigating underage drinking; and checkpoints and roadblocks in which an officer detains a person as the result of a blanket regulatory activity or neutral formula that is not based on individualized suspicion or personal characteristics.⁵³
- Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition.⁵⁴
- Interactions that take place with a person in his or her residence who is the subject
 of home detention or house arrest while an officer is on home detention or house
 arrest assignment.⁵⁵
- Stops in a custodial setting.⁵⁶
- Stops that occur while the officer is off-duty.⁵⁷
- b. The agency's peace officers shall collect the following required categories of stop data, and all applicable "data elements," "data values," and narrative explanatory fields described in section 999.226(a) for every person stopped, and in accordance with section 999.227(a)(4)-(6), (b) and (d) of the regulations, and complete all stop reports for stops made during the officer's shift by the end of the officer's shift, or if exigent circumstances preclude doing so, as soon as practicable: (Gov. Code, §12525.5(b), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, §§999.226(a), 999.227(a)(1)(2)(4)(5)(6)(9), (b) and (d) [Register 2017, No. 46].)

⁵² California Code of Regulations, title 11, section 999.227(c)(3) (Register 2017, No. 46).

⁵³ California Code of Regulations, title 11, section 999.227(d)(1).

⁵⁴ California Code of Regulations, title 11, section 999.227(d)(2) (Register 2017, No. 46).

⁵⁵ California Code of Regulations, title 11, section 999.227(d)(3) (Register 2017, No. 46).

 $^{^{56}}$ California Code of Regulations, title 11, section 999.225(c) (Register 2017, No. 46).

⁵⁷ Exhibit A, Test Claim Decision, page 6; Exhibit F, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, pages 12-13, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf (accessed on November 8, 2019).

- (1) "ORI number," which is "the data element that refers to the reporting agency's Originating Agency Identifier, a unique identification code number assigned by the Federal Bureau of Investigation." (Cal Code Regs., tit. 11, § 999. 226(a)(1) [Register 2017, No. 46].)
- (2) "Date, Time, and Duration of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(2) [Register 2017, No. 46].)
- (3) "Location of Stop." (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(3) [Register 2017, No. 46].)
- (4) "Perceived Race or Ethnicity of Person Stopped." (Gov. Code, § 12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(4) [Register 2017, No. 46].)
- (5) "Perceived Gender of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(5) [Register 2017, No. 46].)
- (6) "Person Stopped Perceived to be LGBT." (Cal Code Regs., tit. 11, § 999.226(a)(6) [Register 2017, No. 46].)
- (7) "Perceived Age of Person Stopped." (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(7) [Register 2017, No. 46].)
- (8) "Person Stopped Has Limited or No English Fluency." (Cal Code Regs, tit. 11, § 999.226(a)(8) [Register 2017, No. 46].)
- (9) "Perceived or Known Disability of Person Stopped." (Cal Code Regs., tit. 11, § 999.226(a)(9) [Register 2017, No. 46].)
- (10) "Reason for Stop." (Gov. Code, §12525.5(b)(2), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(10) [Register 2017, No. 46].)
- "Stop Made in Response to a Call for Service." (Cal Code Regs., tit. 11, § 999.226(a)(11) [Register 2017, No. 46].)
- (12) "Actions Taken by Officer During Stop." (Gov. Code, §12525.5(b)(7), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(12) [Register 2017, No. 46].)
- (13) "Result of Stop." (Gov. Code, §12525.5(b)(3)(4)(5), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(13) [Register 2017, No. 46].)
- (14) "Officer's Identification (I.D.) Number." (Cal Code Regs., tit. 11, § 999.226(a)(14) [Register 2017, No. 46].)
- (15) "Officer's Years of Experience." (Cal Code Regs., tit. 11, § 999.226(a)(15) [Register 2017, No. 46].)
- (16) "Type of Assignment of Officer." (Cal Code Regs., tit. 11, § 999.226(a)(16) [Register 2017, No. 46].)

- c. The following additional data values shall be reported for stops (as defined in section 999.227(e)(3) of the regulations) at a K-12 school: the name of the school where the stop took place; indicate if the stop is of a student, whether there is a perceived disability related to hyperactivity or impulsive behavior of the student, the possible conduct warranting discipline under the Education Code, whether there was an admission or written statement obtained from the student, whether the student is suspected of violating school policy, and whether the student was referred to a school administrator or counselor. (Cal Code Regs., tit. 11, § 999.227(e)(3)(4) [Register 2017, No. 46].)
- 3. Electronic submission of data to DOJ and retention of stop data collected
 - a. Submit all required stop data to the system developed by the DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; and (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].)
 - b. Authorize and remove users to the system as necessary. Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release. (Cal Code Regs., tit. 11, § 999.228(e) [Register 2017, No. 46].)
 - c. Each reporting agency, *except* those agencies that report stop data via the DOJ webbrowser based application, shall keep a record of its source data for three years and to make it available for inspection by DOJ. (Cal Code Regs., tit. 11, § 999.228(h) [Register 2017, No. 46].)
- 4. Audits and validation of data collected
 - a. Ensure that the technical specifications for data values are consistent with the regulations and follow the data dictionary prepared by DOJ. (Cal Code Regs., tit. 11, § 999.224(a)(5) [Register 2017, No. 46].)
 - b. Ensure that all data elements, data values, and narrative explanatory fields conform to the regulations and correct any errors in the data submission process through the DOJ's error resolution process. (Cal Code Regs., tit. 11, § 999.229(b) [Register 2017, No. 46].)
 - c. Agencies submitting records via the system-to-system web service or the secure file transfer protocol shall include a unique stop record number for each stop, so that DOJ can use the record number to relay information on errors when necessary. (Cal Code Regs., tit. 11, § 999.229(c) [Register 2017, No. 46].)
- 5. For stop data collected, ensure that the name, address, social security number, or other unique personally identifiable information of the individual stopped, searched, or subjected to property seizure, and the badge number or other unique identifying information of the peace officer involved, is not transmitted to the Attorney General in an open text field. (Gov. Code, § 12525.5, Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.228(d) [Register 2017, No. 46].)

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets

Report the purchase price paid for fixed assets necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the prorata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. 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 2 Code of Federal Regulations (CFR) part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & 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 & 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 that the total amount of 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 & B) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter⁵⁸ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

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

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

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

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the 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(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

⁵⁸ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

DECLARATION OF SERVICE BY EMAIL

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.

On September 29, 2020, I served the:

Decision and Parameters and Guidelines adopted September 25, 2020

Racial and Identity Profiling, 18-TC-02

Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46¹

City of San Diego, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 September 29, 2020 at Sacramento, California.

Jill L. Magee

Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814

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¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/4/20 Claim Number: 18-TC-02

Matter: Racial and Identity Profiling

Claimant: City of San Diego

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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1400—REPORTING CAPITAL ASSETS

Sources: NCGAS 1, GASBS 6, GASBS 34, GASBS 42, GASBS 51, GASBS 62, GASBS 72, GASBS 89, GASBIG 2015-1, GASBIG 2016-1, GASBIG 2019-1, AICPA GG 2011

See also: Section 2300, "Notes to Financial Statements"

Section C65., "Conduit Debt Obligations"

Section L10, "Landfill Closure and Postclosure Care Costs"

Section L20, "Leases"

Section P40, "Pollution Remediation Obligations"

Section S30, "Service Concession Arrangements"

Section S40, "Special Assessments"

Section Bn5, "Bankruptcies"

Statements of Principle

Reporting Capital Assets

A clear distinction should be made between general capital assets and capital assets of proprietary and fiduciary funds. Capital assets of proprietary funds should be reported in both the government-wide and fund financial statements. Capital assets of fiduciary funds (including fiduciary component units) should be reported only in the statement of fiduciary net position. All other capital assets of the governmental unit are general capital assets. They should not be reported as assets in governmental funds but should be reported in the governmental activities column in the government-wide statement of net position. [NCGAS 1, ¶32, as amended by GASBS 34, ¶6 and ¶69, GASBS 63, ¶8, and GASBS 84, ¶5; GASBS 34, ¶30, ¶80, ¶92, and ¶108, as amended by GASBS 63, ¶8]

Valuation of Capital Assets

Capital assets should be reported at historical cost. The cost of a capital asset should include ancillary charges necessary to place the asset into its intended location and condition for use. Donated capital assets should be reported at their acquisition value ¹ plus ancillary charges, if any. [GASBS 34, ¶18, as amended by GASBS 72, ¶79 and GASBS 89, ¶4]

Depreciation ² of Capital Assets

Capital assets should be depreciated over their estimated useful lives unless they are inexhaustible, are intangible assets with indefinite useful lives, or are infrastructure assets using the modified approach as set forth in this section. Inexhaustible capital assets such as land and land improvements should not be depreciated. Unless otherwise required, depreciation should be reported in the government-wide statement of activities; the proprietary fund statement of revenues, expenses, and changes in fund net position; and the statement of changes in fiduciary net position. Capital assets should be evaluated for impairment when events or changes in circumstances suggest that the service utility of a capital asset may have significantly and unexpectedly declined as set forth in this section. [GASBS 34, ¶21; GASBS 34, ¶22 and ¶107, as

amended by GASBS 81, ¶27; GASBS 34, ¶92, as amended by GASBS 63, ¶8 and GASBS 81, ¶27; GASBS 42, ¶9; GASBS 51, ¶17]

Reporting Capital Assets—General Requirements

.101 Section 2200, "Annual Comprehensive Financial Report," paragraph .102, requires general purpose and special-purpose governments engaged in governmental activities to provide basic financial statements that include government-wide and fund financial statements. A clear distinction should be made between general capital assets and capital assets of proprietary and fiduciary funds. Capital assets of proprietary funds should be reported in both the government-wide and fund financial statements. Capital assets of fiduciary funds (including fiduciary component units) should be reported only in the statement of fiduciary net position. All other capital assets of the governmental unit are general capital assets. They should not be reported as assets in governmental funds but should be reported in the governmental activities column in the government-wide statement of net position. [NCGAS 1, ¶32, as amended by GASBS 34, ¶6 and ¶69, GASBS 63, ¶8, and GASBS 84, ¶5; GASBS 34, ¶30, ¶80, ¶92, and ¶108, as amended by GASBS 63, ¶8]

Reporting Capital Assets

- .102 Capital assets should be reported at historical cost. The cost of a capital asset should include ancillary charges necessary to place the asset into its intended location and condition for use. Ancillary charges include costs that are directly attributable to asset acquisition—such as freight and transportation charges, site preparation costs, and professional fees. Interest cost incurred before the end of a construction period should not be capitalized as part of the asset's historical cost. Donated capital assets should be reported at their acquisition value plus ancillary charges, if any. [GASBS 34, ¶18, as amended by GASBS 72, ¶79 and GASBS 89, ¶4; GASBS 72, ¶68; GASBS 89, ¶4]
- .103 As used in this section, the term *capital assets* includes land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, works of art and historical treasures, infrastructure, and all other tangible or intangible assets that are used in operations ³ and that have initial useful lives extending beyond a single reporting period. ⁴ *Infrastructure assets* are long-lived capital assets that normally are stationary in nature and normally can be preserved for a significantly greater number of years than most capital assets. Examples of infrastructure assets include roads, bridges, tunnels, drainage systems, water and sewer systems, dams, and lighting systems. Buildings, except those that are an ancillary part of a network of infrastructure assets, should not be considered infrastructure assets for purposes of this section. [GASBS 34, ¶19]
- .104 Capital assets should be depreciated over their estimated useful lives unless they are inexhaustible, are intangible assets with indefinite useful lives as described in paragraph .136, or are infrastructure assets reported using the modified approach in paragraphs .105–.107. Inexhaustible capital assets such as land and land improvements should not be depreciated. Capital assets should be evaluated for impairment when events or changes in circumstances suggest that the service utility of a capital asset may have significantly and unexpectedly declined, as set forth in paragraphs .165–.181. [GASBS 34, ¶21; GASBS 42, ¶9; GASBS 51, ¶17]

Modified Approach

- .105 Infrastructure assets that are part of a network or subsystem of a network ⁵ (hereafter, eligible infrastructure assets) are not required to be depreciated as long as two requirements are met. First, the government manages the eligible infrastructure assets using an asset management system that has the characteristics set forth below; second, the government documents that the eligible infrastructure assets are being preserved approximately at (or above) a condition level established and disclosed by the government. ⁶ To meet the first requirement, the asset management system should:
- a. Have an up-to-date inventory of eligible infrastructure assets
- b. Perform condition assessments ⁷ of the eligible infrastructure assets and summarize the results using a measurement scale
- c. Estimate each year the annual amount to maintain and preserve the eligible infrastructure assets at the condition level established and disclosed by the government.

[GASBS 34, ¶23]

- .106 Determining what constitutes adequate documentary evidence to meet the second requirement in paragraph .105 for using the modified approach requires professional judgment because of variations among governments' asset management systems and condition assessment methods. These factors also may vary within governments for different eligible infrastructure assets. However, governments should document that:
- a. Complete condition assessments of eligible infrastructure assets are performed in a consistent manner at least every three years. §
- b. The results of the three most recent complete condition assessments provide reasonable assurance that the eligible infrastructure assets are being preserved approximately at (or above) the condition level ² established and disclosed by the government.

[GASBS 34, ¶24]

- .107 If eligible infrastructure assets meet the requirements of paragraphs .105 and .106 and are not depreciated, all expenditures made for those assets (except for additions and improvements) should be expensed in the period incurred. Additions and improvements to eligible infrastructure assets should be capitalized. Additions or improvements increase the capacity or efficiency of infrastructure assets rather than preserve the useful life of the assets. 10 [GASBS 34, ¶25]
- .108 If the requirements of paragraphs .105 and .106 are no longer met, the depreciation requirements of paragraphs .104 and .113 should be applied for subsequent reporting periods. 11 [GASBS 34, ¶26]

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Capital asset definition		Search
March 15, 2022		College Textbooks
What is a Capital Asset?	Related Courses	Accounting Books
A capital asset is property that is expected to generate value over a long period of time. Capital assets form the productive base of an	Fixed Asset Accounting	Finance Books
organization. Examples of capital assets are buildings, computer equipment, machinery, and vehicles. In asset-intensive industries,	How to Audit Fixed Assets	Operations Books
companies tend to invest a large part of their funds in capital assets. A characteristics:	capital asset has the following	CPA Exam Study Guides
It has an expected useful life of more than one year		Send us your e-mail address to receive monthly course
 Its acquisition cost exceeds a company-designated minimum am limit 	ount, known as the capitalization	discounts *
 It is not expected to be sold as a normal part of business operatinventory 	ions, as would be the case for	
It tends not to be easily convertible into cash		SUBMIT
Capital assets are defined differently when viewed from a tax perspec	tive. For tax purposes, a capital	
asset is all property held by a taxpayer, with the exceptions of inventor	ry and accounts receivable.	

Terms Similar to Capital Asset

A capital asset is also known as a fixed asset or as property, plant and equipment.

Deals On Personal Checks
Costco Checks

4 Likes Share

< Cash-generating unit definition

Mintzberg's managerial roles ... >

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State of California

Accounting Standards and Procedures for Counties 2021 Edition



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California State Controller's Office

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Accounting Standards and Procedures for Counties 2021 Edition

Published by:

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Accounting Standards and Procedures for Counties

FOREWORD

California Government Code section 30200 requires the State Controller to prescribe uniform accounting procedures for counties. Pursuant to this code section, the *Accounting Standards and Procedures for Counties* (ASP) manual was first issued in 1961.

This manual provides uniform accounting and reporting procedures that conform to Generally Accepted Accounting Principles (GAAP) as prescribed by the Governmental Accounting Standards Board (GASB). Guidance for specific account structure (e.g., account numbers, names, etc.) is left to the discretion of the individual local government as long as the statutory reporting requirements (e.g., Financial Transactions Reports, Apportionments, etc.) of the State Controller's Office (SCO) and the requirements within this manual are sufficiently met and satisfied.

The SCO is the legal authority for prescribing uniform accounting and reporting procedures for all local agencies, with the exception of cities, counties, school districts, and those local agencies that follow a system prescribed by the Public Utilities Commission of the State of California or the Federal Energy Regulatory Commission. These are generally referred to as either a local government or local government entity throughout the manual.

While the guidance and examples found in this manual may correlate with SCO Financial Transaction Reporting (FTR) instructions, this manual is not intended as a guide for FTR forms and is not all-inclusive. For detailed FTR guidance, users should refer to the SCO's Local Government Reporting Forms and Instructions, which can be accessed using the following link:

https://www.sco.ca.gov/ard local reporting forms.html

This edition of the manual has been updated to be consistent with the GASB Codification as of June 2021. At that time, the GASB Codification included all GASB Statements up to and including GASB Statement No. 97, Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans, with the exceptions of GASB Statement No. 87, Leases, and GASB Statement No. 91, Conduit Debt Obligations, GASB Statement No. 94, Public-Private and Public-Public Partnerships and Availability Payment Arrangements and GASB Statement No 96, Subscription-Based Information Technology Arrangements.

Some preliminary guidance regarding pronouncements or statutes that are not yet effective is presented in Appendix A, *Upcoming Changes*, to assist in preparing for further changes. Additional materials published after GASB Statement No. 97 will be incorporated into future editions of the manual.

While this manual provides guidance on accounting and reporting procedures, it also contains instances in which legal provisions are cited for reference purposes only. It is up to the local government to determine the applicability of each law for its individual reports. Refer to Chapter 3.05, *Conflicts between Legal Provisions and GAAP*, for guidance concerning this topic.

FOREWORD

The manual provides guidance on uniform charts of accounts, fund structures, functions, activities, and specific accounting procedures for specialized fields. The intent of the manual is to:

- ensure conformance to generally accepted accounting principles (GAAP);
- promote transparency and consistency in financial reporting; and
- facilitate comparison and analysis of financial reports on a statewide basis by minimizing differences between local governments' philosophies, methods, and terminologies.

The manual serves as a guide to aid local governments in the development of accounting and financial systems, provide continuity and consistency with State reporting requirements, answer questions on authority and procedures, provide accounting guidance to meet GAAP reporting and auditing requirements, and assist in accounting evaluations.

The task of revising and/or updating the ASP manual is a cooperative effort between the SCO, the Advisory Committee on County Accounting Procedures, and the State Association of County Auditors Accounting Standards and Procedures Committee. The result of this collaborative effort is a manual that provides counties with current information that is consistent with generally accepted accounting principles.

Accounting Standards and Procedures for Counties

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Transfers-Out

Code	Accounts	Code	Accounts
70	Transfers-Out	N/A	N/A

Special Items

Code	Accounts	Code	Accounts
80	Special Items	81	Extraordinary Items

Intrafund Transfers

Code	Accounts	Code	Accounts
90	Intrafund Transfers	N/A	N/A

Appropriation For Contingencies

Code	Accounts	Code	Accounts
100	Appropriations for Contingencies	N/A	N/A

7.10 Explanation of Objects and Subobjects

The table in this section contains the account titles and the recommended use of each account. Use is indicated by an explanation, an example, or both. In some instances, the title alone is considered self-explanatory and indicative of use.

Many of the items of expenditures shown in the preceding index are coded with more than one subobject. The proper classification for each of these items is dependent on its use. For example, an air filter pad purchased for use on a portable air conditioning unit should be posted to Maintenance—Equipment (Account No. 17); an air filter pad used in a built-in air conditioner should be posted to Maintenance—Buildings and Improvements (Account No. 18).

When an item is purchased in quantity and will be used for more than one purpose, the expenditure should be posted to the account that properly reflects the <u>major</u> purpose for which the item is to be used. For example, a cylinder of acetylene gas may be purchased primarily for use in maintaining buildings. Although some of the gas may be used in the maintenance of equipment, the entry amount of the expenditures should be charged to Maintenance - Buildings and Improvements (Account No. 18).

Food, clothing, and related items purchased for indigent persons or others for whom the county has assumed the burden of support and who are not housed in county facilities should be charged to Support and Care of Persons (Account No. 40), rather than the subobject indicating the purpose of the expenditure.

Many items are coded as both Services and Supplies and Capital Assets. The determination as to the proper account classification should be made by applying the capital asset policy.

Expenditures for items not included in this index should be posted to one of the subobject accounts such as Special Departmental Expense (Account No. 28) or Miscellaneous Expense (Account No. 21).

Examples are of two category types and are grouped as follows:

- Under <u>Include</u> in the charts are examples of the types of expenditures that should be posted to this account.
- Under <u>Do Not Include</u> are examples of the types of expenditures that should not be posted to this account. This category also notes the type of account to which they should be posted. Examples are illustrated on the following pages.

Explanation of Objects and Subobjects

Salaries and Employee Benefits

Code	Accounts—Salaries and Employee Benefits
	Salaries and Wages The list below is not all-inclusive; it includes types of expenses/expenditures usually posted under this category:
1	 Elected officials Permanent employees Extra help Suggestion awards Overtime Premium pay Compensation to prisoners and inmates for services rendered Vacation and sick leave pay
	 Following is a list of expenses/expenditures <u>not</u> posted under this category: Uniform allowances—post these types of transactions to accounts such as "SERVICES AND SUPPLIES, Clothing and Personal supplies." Allowances for incidentals to prisoners and court wards—post these types of transaction to accounts such as "OTHER CHARGES, Support and Care of Persons."
2	Retirement Includes the county's share of the expense of employee retirement. Include: Investment-related costs Administrative Investment management Custodial fees Employer pension contribution Adjustments to deferred outflows of resources made in the current accounting period Do Not Include: Not recognized employer pension contribution; post to "Deferred Outflows of Resources" Contributions that are outside the measurement date

Code	Accounts—Salaries and Employee Benefits
	Employee Group Insurance Includes the county's share of employee group insurance programs.
3	 Include: Employer's share of health, dental, life and accident insurance Employee share of unemployment insurance Employer's share of State disability insurance
4	Workers' Compensation Insurance Includes the Workers' Compensation premiums paid by the county.
5	Federal Insurance Contributions Act (FICA)/Medicare/Old Age Survivors Disability Insurance (OASDI) Employer's share of O.A.S.D.I and FICA/Medicare.
6	Other Benefits Includes employee benefits not covered in the other subobjects.

Services and Supplies

Code	Accounts —Services and Supplies
10	Include:
	 Do Not include: Any of these used in building and grounds maintenance; post to "services and Supplies: Maintenance – Buildings and Improvements"

Code	Accounts —Services and Supplies
	Clothing and Personal
	Includes items for personal use, including safety appliances.
	Include:
	Badges, chevrons
	Belts
	• Buttons
	• Combs
	• Facial tissue
	• Gloves
	Goggles, masks
11	• Gowns
	• Helmets
	Raincoats
	Rubber boots
	• Safety clothing
	Sewing supplies
	• Shoes
	• Slippers
	• Tobacco
	Toilet articles
	Uniforms, Uniform allowances
	• Yardage
	Communications
	Include:
	Telephone, telegraph, and teletype services
	Radio and microwave services
	Messenger services
12	• Fax machines, pagers, and cell phones
	Do Not Include:
	Radio repair services and supplies; post to "SERVICES AND SUPPLIES,
	Maintenance-Equipment."
	• Rental of communication equipment; post to "SERVICES AND SUPPLIES, Rent-
	Equipment"

 C

Calendar year. The yearly period from the first day of January to the last day of December, inclusive, for which the tax is imposed.

California Special Districts Association (CSDA). The not-for-profit association that assists in providing services for all independent special districts throughout California.

Call Option. An option that gives its holder the right but not the obligation to purchase a financial instrument or commodity at a certain price for a period of time.

Callable bond. A type of bond with a feature that permits the issuer to pay the obligation before the stated maturity date by giving notice of redemption in a manner specified in the bond contract.

Capital and Related Financing Activities. The 1) acquisition and disposal of capital assets used in providing services or producing goods, 2) borrowing money for acquiring, constructing, or improving capital assets and repaying the amounts borrowed, including interest, and 3) paying for capital assets obtained from vendors on credit.

Capital Assets. Assets including land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, works of art and historical treasures, infrastructure, and all other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period.

Capital Budget. A plan of proposed capital outlays and the means of financing them. See <u>Capital Program</u>.

Capital Expenditures. Expenditures are resulting in the acquisition of or addition to the government's general capital assets.

Capital Grants. Grants restricted by the grantor for the acquisition and/or construction of capital assets.

Capital Improvement Assessment. Increase in taxes for capital asset acquisition or construction for a specific amount of time, for specific debts for specific property owners.

Capital Improvement Program. See Capital Program.

Capital Improvement Special Assessments. Special assessment projects that are capital in nature and enhance the utility, accessibility, or aesthetic value of the affected properties. Usually, the projects also provide improvements or additions to a government's general capital assets. Typical special assessment capital improvements are streets, sidewalks, parking facilities, and curbs and gutters. Sometimes the improvements provide capital assets that become an integral part of a government's enterprise activities (e.g., water or sewer main construction).

Capital Outlays. See Capital Expenditures.

Capital Program. A plan for capital expenditures to be incurred each year over a fixed period of years to meet capital needs arising from the long-term work program or other capital needs. A capital program sets forth each project or other contemplated expenditure in which the government is to have a part and specifies the resources estimated to be available to finance the projected expenditures.

Capital Projects Funds. Funds used to account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays, including the acquisition or construction of capital facilities and other capital assets. Capital projects funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held in trust for individuals, private organizations, or other governments.

Capitalization Contribution. Contribution to a public-entity risk pool to meet initial or ongoing capital minimums established by statute, regulation, or the pooling agreement itself. Capitalization contributions generally take the form of cash.

Capitalization Threshold. Dollar value at which a government elects to capitalize tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period. Generally, capitalization thresholds are applied to individual items rather than groups of items unless the result would be to exclude items that in aggregate would clearly be material to the financial statements.

Capping. In the context of municipal solid-waste landfills, the cost of final cover expected to be applied near or after the date that the landfill stops accepting solid waste.

Carrying Amount (Book Value). The amount at which assets and liabilities are reported in the financial statements. See Book Value.

Cash. In the context of cash flows reporting, not only currency on hand but also demand deposits with banks or other financial institutions. Cash also includes deposits in other kinds of accounts or cash management pools that have the general characteristics of demand deposit accounts.

Cash Basis of Accounting. The basis of accounting that recognizes transactions or events when related cash amounts are received or disbursed.

Cash Conduit. In the context of pass-through grants, a grantee that merely transmits grantor-supplied monies to sub-recipients without having administrative or direct financial involvement in the program.

Cash Discount. An allowance received or given if payment of an account is completed within a stated period of time or earlier than the normal payment date.

Cash Equivalent. In the context of cash flow reporting, cash equivalents are defined as short-term, highly liquid investments that are both 1) readily convertible to known amounts of cash, and 2) so near their maturity that they present insignificant risk of changes in value because of changes in interest rates.

Cash Flow Underwriting. The practice of an insurance enterprise depending on investment income rather than on positive underwriting results to achieve a profit.

Cash with Fiscal Agent. An asset account reflecting deposits with fiscal agents, such as commercial banks, for the payment of long-term debt principal and interest.

Catastrophe. A fire, earthquake, windstorm, explosion, or similar event resulting in substantial losses or an unusually large number of unrelated and unexpected losses occurring in a single period.

Cede. To transfer all or part of an insurance risk to another enterprise through reinsurance.

Ceded Premiums/Claims Costs. Premiums paid to a public entity risk pool and claims costs that are transferred to another enterprise in connection with a reinsurance arrangement.

Certificate of Achievement for Excellence in Financial Reporting Program. Program sponsored by the GFOA to encourage and assist state and local governments to prepare high-quality ACFRs. The program has been in continuous operation since 1946. The program originally was known as the Certificate of Conformance Program.

Certificates of Participation (COP). Certificates issued for the financing of capital assets. COPs represent undivided interests in the rental payments under a tax-exempt lease.

Certified Public Accountant (CPA). An accountant who has met all the statutory and licensing requirements of a given state for use of that designation. All U.S. states require accountants, at a minimum, to complete successfully a uniform national examination before being allowed to designate themselves as CPAs.

Change in Accounting Estimate. Changes in estimates used in accounting are necessary consequences of periodic presentations of financial statements. Preparing financial statements requires estimating the effects of future events. Accounting estimates change as new events occur, as more experience is acquired or as additional information is obtained.

Change in Accounting Principle. Adoption of a generally accepted accounting principle different from the one used previously for reporting purposes.

Change in Ownership. A transfer of a percent interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

Chapter 9 (U.S. Bankruptcy Code). A provision of the US Bankruptcy Code intended to protect a financially distressed government from its creditors while it develops and negotiates a plan for adjusting its debts. Chapter 9 must be approved by a state prior to usage by a government.

Character Classification. Classification of expenditures according to the periods they are presumed to benefit. The four character groupings are (1) current operating expenditures, presumed to benefit the current fiscal period; (2) debt service expenditures, presumed to benefit prior fiscal periods as well as current and future periods; (3) capital outlay expenditures, presumed to benefit the current and future fiscal periods; and (4) intergovernmental expenditures.

Charges for Services. The term used for a broad category of program revenues that arise from charges to customers, applicants, or others who purchase, use, or directly benefit from the goods, services, or privileges provided, or are otherwise directly affected by the services. Revenues in this category include fees charged for specific services such as water use or garbage collection; licenses and permits, such as dog licenses, liquor licenses, and building permits; operating special assessments, such as for street cleaning or special street lighting; and any other amounts charged to service recipients. Fines and forfeitures are also included in this category because they result from direct charges to those who are otherwise directly affected by a program or service, even though they receive no benefit. Payments from other governments for goods or services—for example, when a county reimburses a special district for borrowing the district's equipment—also should be reported in this category.

Check. A bill of exchange drawn on a bank and payable on demand; a written order on a bank to pay on demand a specified sum of money to a named person, to his or her order, or to the bearer out of money on deposit to the credit of the maker. A check differs from a warrant in that the latter is not necessarily payable on demand and may not be negotiable. A check differs from a voucher in that the latter is not an order to pay. A voucher-check combines the distinguishing characteristics of a voucher and a check; it shows the propriety of a payment and is an order to pay.

Claim. (1) Potential losses that can arise from a) employment (e.g., workers' compensation and unemployment), b) contractual actions (e.g., delays or inadequate specifications), c) actions of government personnel (e.g., medical malpractice, damage to privately owned vehicles by government-owned vehicles, improper police arrest), and d) governmental properties (e.g., personal injuries, property damage). (2) In the context of insurance, demand payment of a policy benefit because of the occurrence of an insured event, such as the destruction or damage of property and related deaths or injuries.

Claims Made Policy. In connection with public entity risk pools, a type of policy that covers losses from claims asserted (reported or filed) against the policyholder during the policy period, regardless of whether the liability-imposing events occurred during the current or any previous period in which the policyholder was insured under the claims-made contract or other specified period before the policy period (the policy retroactive date).

Claims Servicing Pool. Public entity risk pool that manages separate accounts for each pool member from which the losses of that member are paid. Also referred to as an account pool.

Classification of Property. Any enumeration or grouping of property by a statute which results in it being treated differently from other property for the purpose of taxation.

Classified Presentation. Separate reporting of the current and noncurrent portions of assets and liabilities that permits the calculation of working capital. A classified presentation is required for the proprietary fund statement of net position.

Closed Amortization Period. A specific number of years that is counted from one date and, therefore, declines to zero with the passage of time. For example, if the amortization period initially is thirty years on a closed basis, twenty-nine years remain after the first year, twenty-eight years after the second year, and so forth. In contrast, an open amortization period (open basis) is one that begins again or is recalculated at the exact actuarial valuation date. Within a maximum number of years specified by law or policy (for example, thirty years), the period may increase, decrease, or remain stable.

Closed-End Mutual Fund. An SEC-registered investment company that issues a limited number of shares to investors that are then traded like an equity security on a stock exchange. See Open End Mutual Fund.

Closed Period. This term is used on connection with the amortization of deferred inflows and resources and deferred outflows of resources arising from recognition of postemployment benefit expense and changes in related liabilities. A specific number of years that is counted from one date and declines to zero with the passage of time. For example, if the recognition period initially is five years on a closed basis, four years remain after the first year, three years after the second year, and so forth.

Code. See Coding.

Coding. A system of numbering or otherwise designating accounts, entries, invoices, vouchers, etc., in such a manner that the symbol used reveals quickly certain required information. To illustrate the coding of accounts, numbers in the 400 range could be used for expenditures, numbers between 420 and 430 for expenditures within the public safety function, and the number 421 for expenditures incurred in connection with the police activity classification. Within the police activity classification, the number 421.5 could be used for support services, and the number 421.51 for communications support services. Accordingly, expenditure for police radios would be classified as 421.51 (i.e., expenditures for communications services, within support services, within the police activity classification, within the public safety function).

Collateral. The cash, securities, or letters of credit received by the lender from the borrower as protection against the borrower's failure to return the underlying securities.

Collateral Pool. A single financial institution collateral pool is a group of securities pledged by a single financial institution against all the public deposits it holds. A multiple financial institution collateral pool is a group of securities pledged by various financial institutions to provide a common collateral for their deposits of public funds. In such a collateral pool, the assets of the pool and the power to make additional assessments against the members of the pool, if necessary, ensure there will be no loss of public funds because of the default of a member.

Collector's Roll. See Tax Roll.

Combination Bond. A bond issued by a government that is payable from the revenues of a governmental enterprise but that is also backed by the full faith and credit of the government.

Combining Financial Statements. Financial statements that report separate columns for individual funds or component units. Combining financial statements normally are required in an ACFR to support each column in the basic financial statements that aggregate information from more than one fund or component unit.

Commercial Paper. An unsecured promissory note (typically to finance short-term debt) issued primarily by corporations for a specific amount and maturing on a specific day. The maximum maturity for commercial paper is 270 days, but most is sold with maturities of up to 30 days. Almost all commercial paper is rated as to credit risk by rating services.

Commitment Fees (Lending Activities). Fees charged for entering into an agreement that obligates the government to make or acquire a loan or to satisfy an obligation of the other party under a specified condition. May include fees for letters of credit and obligation to purchase a loan or group of loans.

Committed Fund Balance. Amounts that can be used only for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision-making authority should be reported as committed fund balance. Those committed amounts cannot be used for any other purpose unless the government removed or changes the specified use by taking the same type of action (for example, internal resolution and/or ordinance) it employed to commit previously those amounts. The authorization specifying the purposes for which amounts can be used should have the consent of both the legislative and executive branches of the government, if applicable. Committed fund balance also should incorporate the contractual obligation to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements.

Commitments. In the context of note disclosure, contingent obligations at the balance sheet date, arising from the terms of executory contracts.

Committee on Accounting Procedure (CAP). The authoritative private-sector standard-setting body that preceded the Accounting Principles Board and the FASB. The CAP issued guidance in the form of Accounting Research Bulletins.

Commodities Programs. Distribution of surplus agricultural products as a form of assistance, often in connection with school lunch programs.

Comparability. The principle according to which differences between financial reports should reflect substantive differences in the underlying transactions or the governmental structure rather than the selection of different alternatives in accounting procedures or practices.

Comparative Data. Information from one or more prior fiscal periods that is provided to enhance the analysis of financial data of the current fiscal period.

Comparative Financial Statements. Financial Statements that provide all of the information required by GAAP for two or more fiscal periods.

Compensated Absences. Paid time off from work for active employees. Includes vacation, regular (dependent on illness or need for medical care) and reimbursable sick leave, and sabbatical during which no services are required to be rendered.

Compliance Auditing. Auditing for compliance with applicable laws and regulations. Tests of compliance with laws and regulations are substantive tests; therefore, the term <u>compliance</u> <u>auditing</u> should not be confused with the similar term <u>compliance testing</u>, which usually refers to testing for compliance with internal control procedures.

Compliance Supplement. A publication of the U.S. Office of Management and Budget that outlines compliance requirements for federal awards programs. The publication is designed to assist independent auditors performing Single Audits.

Component Units. Legally separate organizations for which the elected officials of the primary government are financially accountable. In addition, a component unit can be another organization for which the nature and significance of its relationship with a primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete (primary government + component units = financial reporting entity).

Component Unit Financial Report (CUFR). A report covering all funds of a component unit.

Component Unit Financial Statements. Financial statements of a component unit that may be issued separately from the component unit financial report.

Composite Depreciation Methods. Depreciation methods applied to groups of assets rather than to individual assets.

Annual Compressive Financial Report (ACFR). Financial report that contains, at a minimum three sections: 1) introductory, 2) financial, and 3) statistical, and whose financial section provides information on each individual fund and component unit.

Comprehensive Framework of Internal Controls. A structure of internal controls that provides for: (a) a favorable control environment, (b) the continuing assessment of risk, (c) the design, implementation, and maintenance of effective control-related policies and procedures, (d) the effective communication of information, and (e) the ongoing monitoring of the effectiveness of control-related policies and procedures as well as the resolution of potential problems identified by controls.

Concession. A grant of rights, land or property in return for services or for a particular use, a right to undertake and profit by a specified activity, or a lease for a particular purpose. This may also refer to an agreement between the owner of a facility and the concession owner and/or concessionaire that grants the exclusive rights to operate a specified business in the facility under specified conditions. The concessionaire usually has to pay the party that grants it the concession's ongoing fees that may either be a fixed amount or a percentage of revenues. See <u>Service Concession Arrangement (SCA)</u>.

Condensed Financial Statements. Abbreviated financial statements (condensed in one page) sometimes required by GAAP to be presented within the notes to the financial statements in connection with component units, external investment pools, and segments. In addition, GAAP prescribes the presentation of condensed financial information for the prior fiscal year as part of management's discussion and analysis.

Conduit Debt Obligation. A debt instrument issued in the name of a state or local government (the issuer) that is for the benefit of a third party that is primarily liable for the repayment of the debt instrument (third-party obligor). A conduit debt obligation has all of the characteristics: (a) There are at least three parties involved: (1) an issuer, (2) a third-party obligor, and (3) a debt holder or a debt trustee. There may be more than one third-party obligor, debt holder, or debt trustee; (b) the issuer and the third-party obligor are not within the same financial reporting entity; (c) the debt obligation is not a parity bond of the issuer, nor is it cross-collateralized with other debt of the issuer; (d) the third-party obligor or its agent, not the issuer, ultimately receives the proceeds from the debt issuance; and (e) the third-party obligor, not the issuer, is primarily obligated for the payment of all amounts associated with the debt obligation (debt service payments)

Connection Fees. Fees charged to join or to extend an existing utility system. Often referred to as tap fees or system development fees.

Consistency. The notion that once an accounting principle or reporting method is adopted, it will be used for all similar transactions and events.

Construction Contracts Payable. A liability account reflecting amounts due on contracts for construction of infrastructure type assets and other related improvements.

Construction/Development in Progress. A capital asset account reflecting the cost of construction or development work for projects not yet completed. The terms Construction in Progress and Development in Progress are used when recognizing project expenditures in the capital assets accounting system for the construction of capital assets, such as building and improvements, infrastructure or the development of internally generated intangible assets.

Consumption Method. The method under which inventories are recorded as expenditures/expenses when used. See Purchases Method.

Contingency. An existing condition, situation, or set of circumstances involving uncertainty as to possible gain (referred to as a gain contingency) or loss (referred to as a loss contingency) to a government that will ultimately be resolved when one or more future events occur or fail to occur. Resolution of the uncertainty may confirm the acquisition of an asset or the reduction of liability or the loss or impairment of an asset or the incurrence of liability.

Contingency Appropriation. See Appropriation for Contingencies.

Contingent Liabilities. Items may become liabilities as a result of conditions undetermined at a given date, such as guarantees, pending lawsuits, judgments under appeal, unsettled disputed claims, unfilled purchase orders, and uncompleted contracts. Contingent liabilities should be disclosed in the financial statements (including the notes) when there is a reasonable possibility that a loss may have been incurred. Guarantees, however, should be disclosed even though the possibility of loss may be remote.

Continuing Appropriation. An appropriation that, once established, is automatically renewed without further legislative action, period after period, until altered or revoked. The term should not be confused with Indeterminate Appropriation.

Contracts Payable. A liability account reflecting amounts due on contracts for goods or services furnished to a government. Amounts withheld as guarantees on contracts should be classified separately in an account entitled Retainage Payable. See Accounts Payable.

Contributions. In the context of defined benefit pension and OPEB plans, contributions are additions to a pension or OPEB plan's fiduciary net position for amounts from employers, nonemployer contributing entities (for example, state government contributions to a local government pension or OPEB plan), or employees.

Control Account. An account in the general ledger where there is recorded the aggregate of debit and credit postings to a number of related accounts called <u>subsidiary accounts</u>. For example, Taxes Receivable is a control account supported by the aggregate of individual balances in individual property taxpayers' subsidiary accounts. See <u>General Ledger</u> and <u>Subsidiary Account</u>.

Control Cycle. A term used in connection with the evaluation of internal control to describe a series of logically interrelated transactions/processes and associated control-related policies and procedures.

Control Deficiency in Internal Control. A control deficiency in internal control exists when the design or operation of control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis.

Controller. See <u>Auditor-Controller</u>.

Corrective Action Plan. A plan that state and local officials are required to submit to appropriate federal officials under the Single Audit Act. The plan details how material noncompliance or weaknesses found in the audit will be eliminated or why corrective action is not necessary.

Correction of an Error. Changes to previously issued financial statements after discovering mathematical mistakes, mistakes in the application of accounting principles, or oversight or misuse of facts that existed at the time the financial statements were prepared.

Cost. The amount of money or other consideration exchanged for property or services.

Cost Accounting. The method of accounting that provides for the assembling and recording of all of the elements of cost incurred to accomplish a purpose, carry on an activity or operation, or complete a unit of work or a specific job.

Cost Ledger. A subsidiary record wherein each project, job production center, process, operation, product, or service is given a separate account to which all items entering into its cost are posted in the required detail. Such accounts should be arranged and kept such that the results shown in them may be reconciled with and verified by a control account or accounts in the general books.

Cost of Living. The Annual Percentage Factor as determined by the California Department of Industrial Relations used in determining the annual inflation factor (not to exceed 2%), pursuant to Revenue and Taxation Code section 51(a)(1)(D).

Cost of Living Adjustment. The cost of living adjustment is a periodic update to a person's compensation that is intended to offset a decline in purchasing power. The adjustment is usually derived from a general index of pricing changes, such as the consumer price index.

Cost of Replacement. See Replacement Cost.

Cost of Reproduction. See Reproduction Cost.

Cost Records. All ledgers, supporting records, schedules, reports, invoices, vouchers, and other records and documents reflecting the cost of projects, jobs, production centers, processes, operations, products, or services, or the cost of any of the component parts thereof.

Cost Reimbursement Basis. Setting of charges so that costs are systematically recovered on a break-even basis over time. (Typically used by Internal Service Funds.)

Cost-Sharing Multiple-Employer Defined Benefit Pension or OPEB plan. A multi-employer defined benefit pension/OPEB plan that is administered through a trust in which the pension/OPEB obligations to the employees of more than one employer are pooled and pensions/OPB plan assets can be used to pay the benefits of the employees of any employer that provides pensions/OPEB through the pensions/OPEB plan.

Cost Unit. A term used in cost accounting to designate the unit of product or service whose cost is computed. These units are selected for the purpose of comparing the actual cost with a standard cost or with actual costs of units produced under different circumstances or at different places and times. See Unit Cost and Work Unit.

Counterparty. In the context of investments, the party that pledges collateral or repurchase agreement securities to the government or that sells investments to or buys them for the government. In the context of securities lending, the issuer of the security or equivalent party to other investments. In other contexts (such as deposits, liabilities, derivative instruments), the external (reciprocal) party to a contract, transaction or arrangement with a government.

County Budget Act. Under Title 3 Government of Counties, Gov. Code section 29000–29144 is referred to as the <u>County Budget Act</u> and defines the requirements concerning county budget matters prescribed by the Controller. The Chapter applies to counties, dependent special districts, and other agencies under the supervision of the county board. Refer to the *Introduction* section of Chapter 6, *Budgetary Accounting* to access a link to the <u>County Budget Guide</u> (which includes the County Budget Act).

Coupon Rate. The interest rate specified on interest coupons attached to a bond. The term nominal interest rate is also used in this sense.

Covenant. See Bond Covenant.

Coverage Ratio. Ratio of revenues pledged for debt to related debt service payments. A measure of the magnitude of resources available to pay the interest on and repay the principal of debt backed by pledged revenues. For each type of debt backed by pledged revenues, a coverage ratio is generally calculated by dividing gross pledged revenues or pledged revenues net of specific operating expenses by the sum of interest expenses and principal repayments.

Credit Risk. The risk that an issuer or counterparty to an investment will not fulfill its obligations.

Crossover Refunding. Types of advance refunding in which the escrow established with the proceeds of the refunding bonds only begins to secure repayment of the refunded debt at some designated future time, known as the <u>crossover date</u>.

Current. As applied to budgeting and accounting, the operations of the present fiscal period, as opposed to past or future periods. <u>Current</u> usually connotes items likely to be used up or converted into cash within one year.

Current Assets. For accounting and financial reporting purposes, the term current assets are used to designate cash and other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed within a year. Therefore, current assets generally include such resources as (a) cash available for current operations and items that are the equivalent of cash; (b) inventories of merchandise, raw materials, goods in process, finished goods, operating supplies, and ordinary maintenance material and parts; (c) trade accounts, notes, and acceptances receivable; (d) receivables from taxpayers, other governments, vendors, customers, beneficiaries, and employees, if collective within a year; (e) installment or deferred accounts and notes receivable if they generally conform to normal trade practices and terms within the business-type activities; (f) marketable securities representing the investment of cash available for current operations; and (g) prepayments such as insurance, interest, rents, unused royalties, current paid advertising service not yet received, and operating supplies. Prepayments are not current assets in the sense that they will be converted into vast but in the sense that, if not paid in advance, they would require the use of current assets within a year. Current assets excludes such resources as: (1) cash and claims to cash that are restricted at to withdrawal or use for other than current operations, that are designated for disbursement in the acquisition or construction of noncurrent assets, or that are segregated for the liquidation of long-term debts; (2) receivables arising from unusual transactions (such as the sale of capital assets) that are not expected to be collected within 12 months; (3) cash surrender value of life insurance policies; (4) land and other natural resources; (5) depreciable assets; and (6) long-term prepayments that are applicable to the operations of several years, or deferred changes such as bonus payments under a long-term lease.

Current Costs. In connection with municipal solid-waste landfills and pollution remediation obligations, the amount that would be paid if all equipment, facilities, and services included in the estimate of the obligation were acquired during the current period.

Current Financial Resources Measurement Focus. Measurement focus where the aim of a set of financial statements is to report the near-term (current) inflows, outflows, and balances of expendable financial resources. The current financial resources measurement focus is unique to accounting and financial reporting for state and local governments and is used solely for reporting the financial position and results of operations of governmental funds.

Current Liabilities. Used principally to designate obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities. As a category in the statement of net (position), the classification is intended to include obligations for items that have entered into the operating cycle, such as payables incurred in the acquisition of materials and supplies to be used in providing services; collections received in advance of the performance of services' and debts that arise from operations directly related to the operating cycle, such as accruals for wages, salaries, commissions, rentals, and royalties. Other liabilities who regular and ordinary liquidation is expected to occur within one year also are intended for inclusion, such as short-term debts arising from the acquisition of capital assets, serial maturities of long-term obligations, amounts required to be expended within one year under sinking fund provisions, and certain agency obligations arising from the collection or acceptance of cash or other assets for the account of third parties. The current liability classification also is intended to include obligations that, by their terms, are due on demand or will be due on demand within one year from the date of the financial statements, even though liquidation may not be expected within that period. It also is intended to include long-term obligations that are or will be callable by the creditor either because the debtor's violation of a provision of the debt agreement at the date of the financial statement makes the obligation callable or because the violation, if not cured within a specified grace period, will make the obligations callable. According, such callable obligations should be classified as current liabilities unless one of the following conditions is met:

- (1) The creditor has waived or subsequently lost the right to demand repayment for more than one year from the date of the financial statement.
- (2) For long-term obligations containing a grace period within which the debtor may cure the violation, it is probable that the violation will be cured within that period, thus preventing the obligation from becoming callable.

Current Refunding. Refunding transaction when the issuance of new debt immediately replaces previously outstanding issued debt. The situation differs from <u>advance refunding</u>, where the proceeds of the refunding bonds are placed in escrow pending the call date or maturity of the debt to be refunded.

Current Resources. Resources available to meet current obligations and expenditures. Examples: current assets, estimated revenues of a particular period not yet realized, transfers from other funds authorized but not received, and, in the case of certain funds, bonds authorized and unissued.

Current Roll Auditor's/Auditor's Roll. The roll containing the property on which current taxes are a lien.

Current Roll Supplemental/Supplemental Roll. The roll for the fiscal year during which the change in ownership occurs or the new construction is completed.

Current Tax Rate. The tax rate applicable to the current roll, including any rate for voter-approved indebtedness.

Current Taxes. Taxes levied and became due within one year.

Current Value. In connection with asset retirement obligations, the amount that would be paid if all equipment, facilities, and services included in the estimate were acquired during the current period.

Custodial Agreement. A written contract is establishing the responsibilities of a custodian who holds collateral for deposits with financial institutions, investment securities, or securities underlying repurchase agreements.

Custodial Credit Risk. The custodial credit risk for <u>deposits</u> is the risk that, in the event of the failure of a depository financial institution, a government will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party. The custodial credit risk for <u>investments</u> is the risk that, in the event of the failure of the counterparty to a transaction, a government will not be able to recover the value of investment or collateral securities that are in the possession of an outside party.

Customer Deposits. A liability account used in an Enterprise Fund to reflect deposits made by customers as a prerequisite to receiving services and/or goods provided by the fund.

D

Data Processing. (Information Systems) (1) The preparation and handling of information and data from source media through prescribed procedures to obtain such end results as classification, problem solution, summarization, and reports. (2) Preparation and handling of financial information wholly or partially by mechanical or electronic means. See <u>Electronic Data Processing</u> (EDP).

Debt. An obligation resulting from the borrowing of money or from the purchase of goods and services. Debts of governments include bonds, time warrants, and notes. See <u>Accounts Payable</u>, <u>Bonds</u>, <u>Note Payable</u>, and <u>General Long-Term Debt</u>.

Debt Extinguishments. See <u>Advance Refunding Bonds</u>, <u>Defeasance</u>, and <u>In-Substance</u> Defeasance of Debt.

Debt Limit. The maximum amount of outstanding gross or net debt legally permitted.

Debt Proceeds. The difference between the face amount of debt and the issuance discount or the sum of the face amount and the issuance premium. Debt proceeds differ from cash receipts to the extent issuance costs, such as underwriters' fees, are withheld by the underwriter.

Debt Ratios. Comparative statistics illustrating the relation between the issuer's outstanding debt and such factors as its tax base, income, or population. These ratios often are used as part of the process of determining the credit rating of an issue, especially with general obligation bonds.

Debt Service. Appropriations required to pay the cost of interest and redemption charges, including the funding of any reserve or sinking fund requirements on indebtedness existing or legally authorized as of January 1, 1979, or on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity, voting in an election for such purpose.

Debt Service Fund. Governmental fund used to account for and report financial resources that are restricted, committed, or assigned to expenditure for principal and interest. Debt service funds should be used to report resources if doing so is legally mandated. Financial resources that are being accumulated for principal and interest maturing in future years also should be reported in debt service funds.

Debt Service Requirements. The amount of money required to pay interest on outstanding debt, serial maturities of principal for serial bonds, and required contributions to accumulate money for future retirement of term bonds.

Deduction. A term used to describe decreases in the net position of fiduciary funds.

Deep-Discount Debt. Debt issued with a stated interest rate significantly less than the effective interest rate (e.g., less than 75 percent of the effective interest rate).

Defaulted Taxes. Delinquent secured property taxes that become subject to redemption penalties and fees as of July 1st. Property, by operation of law, becomes subject to the Tax Collector's power to sell five years after becoming tax defaulted.

Defeasance. In the context of financial reporting, netting of outstanding liabilities and related assets on the statement of financial position. Most refundings result in the defeasance of the refunded debt. Defeasance also is sometimes encountered in conjunction with annuity contracts purchased in connection with lottery prizes and settlements of claims and judgments.

Deferred Inflow(s) of Resources. An acquisition of net assets by the government that is applicable to a future reporting period. A deferred inflow of resources has a negative effect on net position, similar to liabilities.

Deferred Outflow(s) or Resources. A consumption of net assets by the government that is applicable to a future reporting period. A deferred outflow of resources has a positive effect on net position, similar to assets.

Deferred Retirement Option Program (DROP). An optional program that permits an employee to elect a calculation of benefit payments based on service credits and salary, as applicable, as of the DROP entry date. The employee continues to provide service by the employer after the DROP entry date; however, the pensions that would have been paid to the employee (if the employee had retired and not entered the DROP) are credited to an individual employee plan until the end of the DROP period.

Deficiency. A general term indicating the amount by which anything falls short of some requirement or expectation. For example, a local governments' net assets may be insufficient to meet its net liabilities. The term should not be used without qualification.

Deficit. (1) The excess of the liabilities of a fund over its assets. (2) The excess of expenditures over revenues during an accounting period; or, in the case of proprietary funds, the excess of expenses over revenues during an accounting period.

Defined Benefit Pension Plan (or OPEB). Pension or OPEB plans that are used to provide defined benefit pensions or OPEB.

Defined Benefit Pensions (or OPEB). Pensions or OPEB for which the income or other benefits that the employee will receive at or after separation from employment are defined by the benefit terms. The pensions or OPEB may be stated as a specified dollar amount or as an amount that is calculated based on one or more factors such as age, years of service, and compensation.

Defined Contribution Pensions (or OPEB) Plan. Pensions or OPEB having terms that

1) provide an individual account for each employee; 2) define the contributions that an employer is required to make (or the credits that it is required to provide) to an active employee's account for period in which that employee renders service; and 3) provide that the pensions (or OPEB) an employee will receive will depend only on the contributions (or credits) to the employee's account, actual earnings on investments of those contributions (or credits), and the effects of forfeitures of contributions (or credits) made for other employees, as well as pension plan administrative costs, that are allocated to the employee's account.

Delinquent (Special) Assessments. Special assessments remaining unpaid on and after the date to which a penalty for nonpayment is attached.

Delinquent Abstract. See Redemption Roll.

Delinquent Roll. See Redemption Roll.

Delinquent Taxes. Taxes remaining unpaid on and after the date a penalty for nonpayment is attached. Even though the penalty may be subsequently waived and a portion of the taxes may be abated or canceled, the unpaid balances continue to be delinquent taxes until abated, canceled, paid, or converted into tax liens.

Delinquent Unsecured Roll. A list of unsecured property declared to be in default by the tax collector in a particular year.

Demand Bonds. Long-term debt issuances with demand (<u>put</u>) provisions that require the issuer to repurchase the bonds upon notice from the bondholder at a price equal to the principal plus accrued interest. To ensure the ability to redeem the bonds, issuers of demand bonds frequently enter into short-term standby liquidity agreements and long-term <u>takeout</u> agreements.

Dependent Special District. A special district that has a legislative body that consists, in whole or part, of ex officio members who are officers of a county or city or who are appointees of those officers and not appointed to a fixed term.

Depletion. The allocation of the cost of wasting assets (e.g., timber, oil, coal) to the periods benefited by their use.

Deposit. Money placed with a banking or other institution or with a person, sometimes for a specific purpose.

Depository Insurance. Depository insurance includes (1) Federal depository insurance funds, such as those maintained by the Federal Deposit Insurance Corporation (FDIC or FDICIA), (2) State depository insurance funds, and (3) multiple financial institutions collateral pools that insure public deposits. In such a pool, a group of financial institutions holding public funds pledges collateral to a common pool.

Deposit Warrant. A financial document prepared by an appointed accounting or finance officer authorizing the treasurer of a government to accept for deposit sums of money collected by various departments and agencies of the government. See <u>Warrant</u>.

Depreciation. (1) Expiration in the service life of capital assets, other than wasting assets, attributable to wear and tear, deterioration, the action of the physical elements, inadequacy, and obsolescence. (2) The portion of the cost of a capital asset, other than a wasting asset, charged as an expense during a particular period. In accounting for depreciation, the cost of a capital asset, less any salvage value, is prorated over the estimated service life of such an asset, and each period is charged with a portion of such cost. Through this process, the entire cost of the asset is ultimately charged off as an expense.

Depreciation schedule. A schedule listing the annual allocation of the cost of capital assets to future periods, using one of the depreciation methods acceptable under GAAP.

Derivative. A financial instrument whose value depends on, or is derived from, the value of an underlying asset, interest rate, foreign exchange or an acceptable index rate. The term also is applied to similar transactions, such as structured financial instruments (for example, mortgage-backed securities).

Derivative Instrument. An arrangement to receive or make payments based on prices related to a specified transaction without actually entering into that transaction. Specifically, a financial instrument or other contract that has (1) the settlement factors, including one or more reference rates and one or more notional amounts, (2) leverage, and (3) net settlement.

Derived Tax Revenues. Nonexchange revenues that result from assessments imposed on exchange transactions (income taxes, sales taxes and other assessments on earnings or consumption.

Developer fees. Fees charged to developers to cover, in whole or in part, the anticipated cost of improvements that will be necessary as a result of the development (e.g., parks, sidewalks).

Direct Charges. See Direct Expenses.

Direct Costs. See <u>Direct Expenses</u>.

Direct Costing. Use of actual source data (invoices) to establish the historical cost of a capital asset.

Direct Debt. The outstanding long-term debt instruments, including bonds, notes, certificates of participation, loans, and leases, of the government used preparing the statistical section of an ACFR.

Direct Expenses. An expense that is specifically associated with a service, program, or department and, thus, is clearly identifiable with a particular function.

Direct Labor. The cost of labor directly expended in the production of specific goods or rendition of specific services.

Direct Material Cost. The cost of materials that become an integral part of a specific manufactured product or which are consumed in the performance of a specific service.

Director of Finance. In the context of government, an office, created by the voters, with the power and duties of the auditor-controller, treasurer, and tax collector, and such other duties as prescribed by the board of supervisors.

Disallowed Costs. Charges to a federal or state award that the awarding agency or pass through entity determines to be unallowable, in accordance with the applicable federal or state statues. Regulations, or the terms and conditions of a federal or state award.

Disclaimer of Opinion. In the context of an independent auditors report, a report stating that the auditor does not express an opinion on the financial statements. The disclaimer of opinion is appropriate when the auditor has not performed an examination sufficient in scope to enable him or her to form an opinion on the financial statements. A disclaimer of opinion should not be expressed because the auditor believes, on the basis of the examination, that there are material departures from GAAP. In such circumstances, an adverse opinion would be appropriate. See also Adverse Opinion, Modified Opinion, and Qualified Opinion.

Discount. In the context of bonds payable and investments, the amount by which par value exceeds the price paid for security. The discount generally represents the difference between the nominal interest rate and the actual or effective rate of return to the investor.

Discount Rate. The rate used to adjust a series of future payments to reflect the time value of money. For the purpose of calculating the pension benefit obligation defined by GASB, this rate is equal to the estimated long-term rate of return on current and future investments of the pension plan. In the context of leases, the discount rate used by the lessee is the lessee's incremental borrowing rate unless the lessee is aware of the lessor's implicit rate and that rate is less than the lessee's incremental borrowing rate.

Discount Rate—as used in GASB 73. A yield or index rate for 20-year tax-exempt general obligation municipal bonds with an average rating of AA/Aa or higher (or equivalent quality on another rating scale).

Discount Rate—as used in GASB 87. The rate used for making present value calculations of the lease liability.

Discounting. A method used to determine the present value of a future cash payment or series of payments that takes into consideration the time value of money.

Discounted Present Value. See Present Value.

Discrete Presentation (Component Units). Method of reporting financial data of component units separately from financial data of the primary government.

Discrete Presentation (Discretely Presented). The method of reporting financial data of component units in a column(s) separate from the financial data of the primary government. An integral part of this method of presentation is that individual component unit supporting information is required to be provided within condensed financial statements within the notes to the reporting entity's basic financial statements or in combining statements in basic financial statements.

Discussion Memorandum (DM). Due-process document issued by the GASB that solicits comments from interested parties on various aspects of a technical issue that is the subject of research by the board.

Documented Vessel. Any vessel required to have a valid marine document issued by the Bureau of Customs of the United States, subject to special valuation procedures.

Dollar Purchase/Reverse Repurchase Agreement. A repurchase/reverse repurchase agreement that involves the transfer of securities in which the parties agree that the securities returned usually will be of the same issuer but will not be the same certificates. Fixed coupon and yield maintenance agreements are the most common types of dollar agreements.

Double Entry. A system of bookkeeping requiring that, for every entry made on the debit side of an account or accounts, entry or entries be made in an equal amount to the credit side of another account or accounts.

Dry Period Financing. The cash required to for certain periods of time when cash receipts are insufficient to meet the cash demands.
Due from _____ Fund. An asset account used to indicate amounts owed to a particular fund by another fund for goods sold or services rendered. This account includes only short-term obligations on open account, not interfund loans. See Advance from _____ Fund and Interfund Receivable/Payable.
Due from _____ Government. An asset account reflecting amounts due to the reporting government from another government. These amounts may represent grants-in-aid, shared taxes, taxes collected by another unit, loans, and charges for services rendered by a reporting unit for

Due Process. Procedures followed by the GASB to ensure that the views of all interested parties are solicited and considered prior to issuing an authoritative pronouncement. At a minimum, due process requires that all statements and interpretations be preceded by an exposure draft.

Due to Fiscal Agent. A liability account reflecting amounts due to fiscal agents, such as commercial banks, for servicing a government's maturing interest and principal payments on indebtedness.

another government.

Appendix B: Glossary

Due to	Fund. A liability account reflecting amounts	owed by a particular fund to another
fund for goods sold or service rendered. These amounts include only short-term obligations on		
open account a	and not interfund loans. See Advance to	<u>Fund</u> and <u>Interfund</u>
Receivable/Pay	yable.	

Duration. In the context of investment disclosure, a measure of a debt investment's exposure to fair value changes arising from changes interest rates. Duration uses the present value of cash flows, weighted for those cash flows as a percentage of the investment's full price.

E

Early Recognition Option. A term used in connection with debt service funds. The option to recognize an expenditure in the current period in a debt service fund for principal and interest payments due early in the subsequent period. This option is available only in situations involving the nondiscretionary transfer of resources to a debt service fund in the current period for payments due shortly after the end of the fiscal year (i.e., usually within one to several days, and never more than one month later).

Earnings. See <u>Income</u> and <u>Revenues</u>.

Economic Gain/Loss. In the context of an advance refunding, the difference between the present value of the old debt service requirements and the present value of the new debt service requirements discounted at the effective interest rate and adjusted for additional cash paid.

Economic Resources Measurement Focus. A measurement focus under which the aim of a set of financial statements is to report all inflows, outflows, and balances affecting or reflecting an entity's net assets. The economic resources measurement focus is used for proprietary and fiduciary funds, as well as for government-wide financial reporting. It also is used by business enterprises and not-for-profit organizations in the private sector.

Educational Revenue Augmentation Fund (ERAF). The fund established for the deposit of money (property tax dollars) deducted and transferred from the county, cities, and special districts for subsequent distribution to schools.

Effective Interest Rate (Yield). The rate of earnings on a bond investment, based on the actual price paid for the bond, the coupon rate, the maturity date, and the length of time between interest dates, in contrast with the nominal interest rate.

Effectiveness. A term used by auditors to describe to the degree to which an entity, program, or procedure is successful at achieving its goals and objectives.

Efficiency. A term by auditors to describe the degree to which an entity, program, or procedure is successful at achieving its goals and objectives with the least use of scarce resources.

Electronic Data Processing (EDP). Data processing by means of high-speed electronic equipment. See <u>Data Processing</u>.

Eligibility Requirements. A term used in connection with government-mandated and voluntary nonexchange transactions to describe conditions established by enabling legislation or the resource provided (qualifying characteristics of recipients, timing requirements, allowable costs, other contingencies) that are required to be met before a transaction (other than the provision of cash or other assets received in advance) can occur.

Emerging Issues Task Force. A group established to assist the Financial Accounting Standards Board (FASB) in improving financial reporting through the timely identification, discussion, and resolution of financial accounting issues within the framework of FASB Accounting Standards Codification. (GASB has not established an emerging issues task force, although it is empowered to do so).

Eminent Domain. The power of a government to acquire private property for public purposes. Eminent domain is frequently used to obtain real property that cannot be purchased from owners in a voluntary transaction. When the power of eminent domain is exercised, owners are compensated by the government in an amount determined by the courts.

Employer Entity. The entity that employs the individuals for whom a paying entity makes onbehalf payments for fringe benefits and salaries. The employer entity may be governmental or nongovernmental.

Employer's Contributions. In the context of pension benefit and OPEB plans, these are payments made by the employer into a pension or OPEB plan. Only amounts paid to trustees and outside parties qualify as contributions.

Enabling Legislation. Authorizes the government to assess, levy, charge, or otherwise mandate payment of resources (from external resource providers) and includes a legally enforceable requirement that those resources be used only for the specific purposes stipulated in the legislation. Legal enforceability means that a government can be compelled by an external party—such as citizens, public interest groups, or the judiciary—to use resources created by enabling legislation only for the purposes specified by the legislation.

Encumbrances. Commitments related to unperformed (executory) contracts for goods or services. Used in budgeting, encumbrances are not GAAP expenditures or liabilities but represent the estimated amount of expenditures ultimately to result if unperformed contracts in process are completed. Any encumbrances remaining at fiscal year-end should be classified as restricted, committed or assigned fund balance in the governmental fund balance sheet.

Endowment. Funds or property donated with either a temporary or permanent restriction as to their use. Endowments with the stipulation that the principal balance not is disbursed are often accounted for in permanent funds. See Permanent Fund.

Enterprise District. A special district operated as a business enterprise, charging customers fees for services. Generally these special type of special districts cannot levy taxes unless statutorily allowed to do so.

Enterprise Fund. Used to report any activity for which a fee is charged to external users for goods or services. Activities are required to be reported as enterprise funds if any one of the following criteria is met. Governments should apply each of these criteria in the context of the activity's principal revenue sources. (1) The activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity. Debt that is secured by a pledge of net revenues from fees and charges and the full faith and credit of a related primary government or component unit, even if that government is not expected to make any payments, is not payable solely from fees and charges of the activity. (Some debt may be secured, in part, by a portion of its own proceeds but should be considered as payable solely from the revenues of the activity). (2) Laws or regulations require that the activity's costs of providing services including capital costs (such as depreciation or debt services), be recovered with fees and charges, rather than with taxes or similar revenues. (3) The pricing policies of the activity established fees and charges designed to recover its costs, including capital costs (such as depreciation or debt service).

Entitlement. The amount of payment to which a state or local government is entitled, pursuant to an allocation formula contained in applicable statutes.

Entity. The basic unit upon which accounting and/or financial reporting activities focus. The basic governmental legal and accounting entity is prescribed by GAAP to be the reporting entity for financial statement reporting purposes and it alone may issue ACFRs and BFS.

Entity Differences. A difference between the budgetary basis of accounting and GAAP, arising because the appropriated budget either includes or excludes organizations, programs, activities, and functions which may or may not be compatible with the criteria defining the governmental reporting entity.

Entry. The record of a financial transaction in the appropriate book of account.

Entry Age Actuarial Cost Method. A method under which the actuarial present value of the projected benefits of each individual included in an actuarial valuation is allocated on a level basis over the earnings or service of the individual between entry age and assumed exit age(s). The portion of this actuarial present value allocated to a valuation year is called the normal cost. The portion of this actuarial present value not provided for a valuation date by the actuarial present value of future normal costs is called the actuarial accrued liability.

Equalized Roll. The combination, as of August 20, of the local valuations certified by the assessor, any changes made by the county board of supervisors in July, and the current state-assessed valuations reported by the State Board of Equalization.

Equipment. See <u>Machinery and Equipment</u>.

Equity Accounts. In those accounts presenting either fund balances or net position, this is the difference between assets and liabilities of the fund.

Equity Securities. Any security that represents an ownership interest in an entity, including common, preferred, or other capital stock; unit investment trusts; and closed-end mutual funds. However, the term equity security does not include convertible debt or preferred stock that either is required to be redeemed by the issuing entity or is redeemable at the option of the investor.

Equivalent Single Amortization Period. The weighted average of all amortization periods used when components of the total unfunded actuarial accrued liability are separately amortized and the average is calculated in accordance with the parameters.

Escheat (Abandoned Property). The reversion of property to a government entity in the absence of legal claimants or heirs. The laws of many governmental entities provide that a rightful owner or heir can reclaim escheated property into perpetuity. This does not necessarily mean that governments hold all escheated property into perpetuity. Because large portions of escheated property are never reclaimed, most governments use some of the property to help finance with either their general or specific operations.

Estimated Life. The expected economic useful life of an asset, from the date placed in service to the projected retirement date.

Estimated Revenue. The amount of revenue estimated to accrue or to be collected during a fiscal period.

Estimated Uncollectible Accounts. See Allowance for Uncollectibles.

Estimated Uncollectible Receivables. See Allowance for Uncollectibles.

Ethics Rule 202. Ethics rule established by the AICPA that places on the independent auditor the burden of proof to justify any material departures from the guidance found in Category B of the GAAP hierarchy.

Ethics Rule 203. Ethics rule established by the AICPA that makes it an ethical violation for the independent auditor to assert that financial statements are <u>fairly presented in conformity with GAAP</u> if those statements materially violate standards issued by the appropriate authoritative standard-setting body. A special exception applies when unusual circumstances would make the application of an authoritative standard misleading. This would apply to guidance found in Category A of the GAAP hierarchy.

Excess Insurance. The transfer of risk of loss from one party (the insured) to another (the excess insurer) in which the excess insurer provides insurances (as defined in this glossary) in excess of a certain, typically large amount. For example, an insurance to transfer risk of aggregate losses above \$5 million by its pool participants.

Exchange (Exchange Transaction). Transactions in which each party receives and surrenders essentially equal values.

Exchange-Like Transaction. Transactions in which there is an identifiable exchange between the reporting government and another party, but the values exchanged may not be quite equal or the direct benefits of the exchange may not be exclusively for the parties to the exchange. Examples include certain fees for regulatory or professional licenses and permits, certain tap fees, certain developer contributions, certain grants and donations, and other transactions that, regardless of the label applied to them, are based on an exchange of similar but not equal values

Exempt Property. Property acquired by a public entity, which becomes exempt from taxation under the laws of the state.

Exit Price. The price that would be received to sell an asset or paid to transfer a liability.

Expected Useful Life. See Estimated Life.

Expenditure-Driven Grants. Government-mandated or voluntary non-exchange transactions in which expenditure is the prime factor for determining eligibility. Also referred to as reimbursement grants.

Expenditures. Under current financial resources measurement focus, decreases in net financial resources not properly classified as other financing sources nor as deferred outflow of resources. Expenditures are recognized when liabilities are incurred, exceptions apply.

Expenses. In the context economic resources measurement focus, outflows or other using up of assets or incurrences of liabilities (or a combination of both) from delivering or producing goods, rendering services, or carrying out other activities that constitute the entity's ongoing major or central operations.

Explicit Measurable Equity Interest. A term used in connection with joint ventures. An asset resulting from a stipulation in the joint venture agreement that the participants have a present or future claim to the net resources of the joint venture and setting forth the method to determine the participants' shares of the joint venture's net resources.

Exposure Draft (ED). Due-process document issued by the GASB soliciting comments from interested parties on a proposed authoritative pronouncement.

External Auditor. Independent auditor(s) typically engaged to conduct the audit of a government's financial statements.

External Financing Sources. In governmental fund types, includes revenues, other financing sources, and transfers in. This is a conventional term and should not be used in the financial statement presentation.

External Investment Pool. An arrangement that commingles (pools) the money of more than one legally separate entity and invests, on the participants' behalf, in an investment portfolio; one or more of the participants is not part of the sponsor's reporting entity. An external investment pool can be sponsored by an individual government, jointly by more than one government, or by a nongovernmental entity.

Extinguishment of Debt. Using financial resources that did not arise from debt proceeds; the debtor pays the creditor and is relieved of all its obligations with respect to the debt. This includes the debtor's reacquisition of its outstanding debt securities in the public securities markets, regardless of whether the securities are canceled or held as so-called treasury bonds. The debtor is legally released from being the primary obligor under the debt, either judicially or by the creditor, and it is probable that the debtor will not be required to make future payments with respect to that debt under any guarantees.

Extraordinary Items. Transactions or other events that are both unusual in nature and infrequent in occurrence. These items are reported separately in the Statement of Activities.

Face Value. As applied to securities, the amount of the issuer's liability stated in the security document. See Par Value.

Fair Value. The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date or described as an exit price (GASB Statement No. 72, as amended).

Federal Award. Federal financial assistance and federal cost-reimbursement contracts that nonfederal entities receive directly from federal awarding agencies or indirectly from pass-through entities.

Federal Financial Assistance. For purposes of applying the provisions of the Single Audit Act of 1997 and 2 CFR 200 (subpart F), Audits of State and Local Governments, assistance provided by a federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations. Federal financial assistance does not include direct federal cash assistance to individuals.

Federal Program. All Federal awards to a nonfederal entity assigned a single number in the Assistance Listings Numbers (ALN).

Fidelity Bond. A written promise to indemnify against losses from theft, defalcation, and misappropriation of public monies by government officers and employees.

Fiduciary Fund. A category of funds used to report assets held in a trust agreement or equivalent arrangement that has certain characteristics or in a custodial capacity for the benefit of others and which therefore cannot be used to support the government's own programs. The fiduciary fund category includes pension (and other employee benefit) trust funds, investment trust funds, private-purpose trust funds, and custodial funds.

Final Amended Budget. A term used in connection with budgetary reporting. The adopted budget adjusted by all fund balance classifications, transfers, allocations, supplemental appropriations, and other legally authorized legislative and executive changes applicable to the fiscal year, whenever signed into law or otherwise legally authorized.

Final Budget. The original budget adjusted by all reserves, transfers, allocations, supplemental appropriations, and other legally authorized legislative and executive changes applicable to the fiscal year, whenever signed into law or otherwise legally authorized.

Financial Accountability. The level of accountability that exists if a primary government appoints a voting majority of an organization's governing board and is either able to impose its will on that organization or there is a potential for the organization to provide specific financial benefits to, or impose specific financial burdens on, the primary government. Accountability for governmental organizations with a separately elected governing board, a governing board appointed by another government, or a jointly appointed board that is fiscally dependent on the primary government.

Financial Accounting Foundation (FAF). A not-for-profit organization responsible for overseeing the operations of both GASB and FASB.

Financial Accounting Standards Advisory Council (FASAC). An advisory group that assists FASB. FASAC includes representatives of all of FASB's major constituents.

Financial Accounting Standards Board (FASB). The authoritative accounting and financial reporting standard-setting body for business enterprises and not-for-profit organizations. FASB is the direct successor of the Committee on Accounting Procedure and the Accounting Principles Board. GASB and its predecessors have elected to apply a number of FASB's standards, as well as those of its predecessors, to state and local government.

Financial Audit. An audit made to determine whether the financial statements of a government are presented fairly, in conformity with GAAP/GASB and conducted in accordance with government auditing standards.

Financial Instrument. A financial instrument is cash, evidence of an ownership interest in an entity, or a contract that both: 1) imposes on one entity a contractual obligation to deliver cash or another financial instrument to a second entity or exchange other financial instruments on potentially unfavorable terms with the second entity (for example, an option), and 2) conveys to that second entity a contractual right to receive cash or another financial instrument from the first entity or to exchange other financial instruments on potentially favorable terms with the first entity (for example, an option).

Financial Reporting Entity. A primary government, organizations for which the primary government is financially accountable, and other organizations for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete. However, a governmental organization other than a primary government (such as a component unit, a joint venture, a jointly governed organization, or other stand-alone government) serves as the nucleus for its own reporting entity when it issues separate financial statements.

Financing Requirements. In governmental fund types, the total financing needs for the accounting period involved. This is a conventional term and should not be used in the financial presentation.

Financial Resources. Resources that are or will become available for spending. Financial resources include cash and resources ordinarily expected to be converted to cash (receivables, investments). Financial resources also may include inventories and prepaid items (because they obviate the need to expend current available financial resources)

Financial Resources Measurement Focus. A measurement focus according to which the aim of a set of financial statements is to report the near-term (current) inflows, outflows, and balances of expendable (spendable) financial resources. The current financial resources measurement focus is unique to accounting and financial reporting for state and local governments and is used solely for reporting the financial position and results of operations of governmental funds.

Financial Section. One of the three basic sections of an ACFR. The financial section is used to present the independent auditor's report on the financial statements, the basic financial statements (including the notes to the financial statements), required supplementary information, combining statements, individual fund statements and schedules, and supplementary information, as needed.

Financial Statements. A tabulation of amounts, derived from accounting records and expressed in words and dollars, that displays either 1) the financial position of the reporting unit at a moment in time or 2) inflows and outflows of resources from transactions or other events during a period of time.

Financial Uses. In governmental fund types, decreases, excluding expenditure refunds, in the net current assets of a fund. <u>Financing uses</u> includes expenditures, other financing uses, and transfers out.

Finding. In the context of financial statement audits, published communication of an internal control weakness or instance of noncompliance in connection with an audit.

Fiscal Accountability. Responsibility of governments to justify that their actions in the current period have complied with public decisions concerning the raising and spending of public moneys in the short term (usually one budgetary cycle or one year)

Fiscal Agent. A fiduciary agent, usually a bank or a local government officer, who performs the function of paying debt principal and interest when due.

Fiscal Dependence. A term used in connection with the definition of the financial reporting entity. A situation requiring the inclusion of a legally separate entity as a component unit within the financial reporting entity because the governing board of the primary government may <u>arbitrarily</u> override the financial decisions of the legally separate entity regarding (1) its budget, (2) the levying of taxes or the setting of rates or charges, or (3) the issuance of bonded debt.

Fiscal Funding Clause. A provision in a lease that allows a cancellation if a governing body does not appropriate funds to pay for a lease in a given period.

Fiscal Period. Any period at the end of which a government determines its financial position and the results of its operations. Often referred to as an Accounting Period.

Fiscal Year. For financial reporting purposes, any 12-month period to which the annual operating budget applies and at the end of which a government determines its financial position and the results of its operations. For budgetary purposes, the current 12 month period to which the annual operating budget applies and at the end of which a government determines its position and the results of its operations.

Five Percent Criterion. The second of two tests used to determine whether a given governmental fund or enterprise fund should be reported as a major fund in the basic financial statements. This test is applied to the combined total assets, liabilities, revenues or expenses/expenditures of all governmental and enterprise funds for which the 10 percent criterion has been met. See Ten Percent Criterion.

Fixed Budget. A budget setting forth dollar amounts that are not subject to change based on the volume of goods or services to be provided. See Flexible Budget.

Fixed Charge (Fixed Charge Assessment). A charge in addition to any ad valorem taxes included on a tax bill. Fixed charges are not based on the assessed value of the property and are levied on a parcel basis (i.e., for sewer, library, and flood control assessments). See Special Benefit Assessment(s).

Fixed Costs. Costs of providing goods or services that do not vary proportionately with the volume of goods or services provided (e.g., insurance and contributions to retirement systems).

Fixed Coupon Repurchase/Reverse Repurchase Agreement. A repurchase/reverse repurchase agreement in which the parties agree that the securities returned will have the same stated interest rate as, and maturities similar to, the securities transferred.

Fixed-Income Securities. Securities that offer a specified, measurable cash flow (e.g., most bonds).

Fixtures. Attachments to buildings that are not intended to be removed and cannot be removed without damage to the buildings. Those fixtures with a useful life presumed to be as long as that of the building itself are considered a part of the building; all others are classified as equipment.

Flexible Budget. A budget whose dollar amounts vary according to the volume of goods or services to be provided. See Fixed Budget.

Flow of Current Financial Resources. See Current Financial Resources Measurement Focus.

Flow of Economic Resources. See Economic Resources Measurement Focus.

Food Stamps. A federal award program that is intended to improve the diets of members of low-income households by increasing their ability to purchase food.

Force Account. A method employed in the construction and/or maintenance of capital assets whereby a government's own personnel are used instead of an outside contractor. This method also calls for the purchase of materials by the government and the possible use of its own equipment, but the distinguishing characteristic of the force account method is the use of the government's own personnel.

Foreclosure. The seizure of property as payment for delinquent tax or special assessment obligations. Ordinarily, property foreclosed upon is resold to liquidate delinquent tax or special assessment obligations, but on occasion governments retain possession for their own needs.

Foreign Currency Risk. The risk that changes in the exchange rate will adversely affect the cash flows or fair value of a transaction.

Foreign Currency Transactions. Transactions whose terms are denominated in a currency other than the U.S. dollar. Foreign currency transactions arise when a government 1) buys or sells on credit goods or services whose prices are denominated in a foreign currency; 2) borrows or lends resources, and the amounts payable or receivable are denominated in a foreign currency; or 3) for other reasons acquires or disposes of assets, or incurs or settles liabilities denominated in a foreign currency.

Forfeiture. The automatic loss of cash or other property as a punishment for not complying with legal provisions and as compensation for the resulting damages or losses. This term should not be confused with confiscation. The latter term designates the actual taking over of the forfeited property by the government. Even after the property has been forfeited, it cannot be said to be confiscated until the government claims it.

Formal Budgetary Integration. The management control technique through which the annual operating budget is recorded in the general ledger through the use of budgetary accounts. It is intended to facilitate control over revenues and expenditures during the year.

Formula Grants. Government-mandated or voluntary nonexchange transactions involving the provision of resources based on established criteria (e.g., number of full-time equivalent students) other than the incurrence of qualifying expenditures. Also commonly referred to as shared revenues.

Franchise. A special privilege granted by a government permitting the continued use of public property, such as city streets, and usually involving the elements of monopoly and regulation.

Frozen Entry Age Actuarial Cost Method. A method under which the excess of the Actuarial Present Value of Projected Benefits of the group included in an Actuarial Valuation, over the sum of the Actuarial Value of Assets plus the Unfunded Frozen Actuarial Accrued Liability, is allocated on a level basis over the earnings or service of the group between the valuation date and assumed exit. This allocation is performed for the group as a whole, not as a sum of individual allocations. The Frozen Actuarial Accrued Liability is determined using the Entry Age Actuarial Cost Method. The portion of this Actuarial Present Value allocated to a valuation year is called the Normal Cost.

Full Cash Value. The amount of cash or its equivalent that property would bring if exposed for sale in the open market.

Full Faith and Credit. A pledge of the general taxing power for the payment of debt obligations. Bonds carrying such pledges are referred to as general obligation bonds or full faith and credit bonds.

Full Scope Audit. An audit covering: (1) Financial and Compliance, to determine (a) whether the financial statements of an audited entity present fairly the financial position, results of operations, and (when applicable) cash flows in accordance with generally accepted accounting principles, and (b) whether the entity has complied with the various legal and contractual requirements that may have a material effect on the financial statements; (2) Economy and Efficiency, to determine (a) whether the entity is managing and utilizing its resources (such as personnel, property, space) economically and efficiently, (b) the causes of inefficiencies or uneconomical practices, and (c) whether the entity has complied with laws and regulations concerning matters of economy and efficiency; and (3) Program Results, to determine (a) whether the desired results or benefits established by the legislature or other authorizing body are being achieved, and (b) whether the agency has considered alternatives that might yield the desired results at a lower cost.

Function. A group of related activities aimed at accomplishing a major service or regulatory program for which a government is responsible. For example, public health is a function.

Functional-Basis Combining. The process of grouping or combining similar funds and/or component units on a functional basis (e.g., transportation, economic development) for financial reporting purposes.

Functional Classification. Expenditure classification according to the principal purpose for which expenditures are made. Examples are public safety, public health, and public welfare.

Fund. A fiscal and accounting entity with a self-balancing set of accounts in which cash and other financial resources, all related liabilities and equities or balances, and changes therein, are recorded and segregated to carry on specific activities or attain certain objectives in accordance with special regulations, restrictions or limitations.

Fundamental Analysis. A method of estimating the fair value of a security when it is thinly traded or when quoted market prices are not available. Fundamental analysis considers assets, liabilities, operating statement performance, management, and economic environment of the issuer in estimating a fair value.

Fund Balance. In a governmental fund, the residual of assets, less liabilities and deferred inflows of resources (if applicable). Fund balance has five components: non-spendable, restricted, committed, assigned, and unassigned.

Fund Balance Classifications. Financial statements for governmental funds may report up to five components of fund balance: non-spendable, restricted, committed, assigned and unassigned. The General Fund is the only governmental fund with a positive unassigned amount.

Fund Balance Sheet. A balance sheet for a single fund. See Fund and Balance sheet.

Fund Capital Assets. Capital assets that are associated with proprietary or trust funds.

Fund Classifications. One of the three categories (governmental, proprietary, and fiduciary) used to classify fund types.

Fund Financial Statements. Basic financial statements presented for governmental, proprietary, and fiduciary fund categories, in contrast to government-wide financial statements.

Fund Type. Any one of 11 categories into which all funds are classified in governmental accounting. The governmental fund types are General, Special Revenue, Debt Service, Capital Projects, and Permanent. The proprietary fund types are Enterprise and Internal Service. The fiduciary fund types are Pension (and Other Employee Benefit) Trust, Investment Trust, Private-Purpose Trust, and Custodial funds.

Funded Debt. The same as bonded debt, which is the preferred term.

Funded Mandate. Also known as a government-mandated nonexchange transaction. A situation where a government at one level provides resources to a government at another level and requires the recipient to use the resources for a specific purpose (for example, federal programs that state or local governments are mandated to perform).

Funded Ratio (OPEB Only). The actuarial value of assets expressed as a percentage of the actuarial accrued liability.

G

GAAFR. Acronym for *Governmental Accounting, Auditing, and Financial Reporting*, a publication of the GFOA. Also known as the <u>Blue Book</u>.

GAAP Hierarchy. Sets forth what constitutes GAAP for all state and local governmental entities. The hierarchy establishes the order of priority of pronouncements and other sources of accounting and financial reporting guidance that a governmental entity should apply. The sources of authoritative GAAP are categorized in descending order of authority as follows: (1) GASB Statements (Category A); and (2) GASB Technical Bulletins; GASB Implementation Guides; and literature of the AICPA cleared by the GASB (Category B).

Generally Accepted Accounting Principles (GAAP). Conventions, rules, and procedures that together serve as the norm for the fair presentation of financial statements. GAAP is considered to be the uniform minimum standards of, and guidelines to, financial accounting and reporting. Adherence to GAAP is intended to assure that financial reports of all state and local governments—regardless of jurisdictional legal provisions and customs—contain the same types of financial statements and disclosures, for the same categories and types of funds and activities, based on the appropriate measurement and classification criteria.

Generally Accepted Auditing Standards (GAAS). Rules and procedures that govern the conduct of a financial audit. The Statements on Auditing Standards issued by the Auditing Standards Board of the AICPA constitute GAAS

Generally Accepted Government Auditing Standards (GAGAS). Standards established by the GAO in its publication, *Government Auditing Standards* (GAS), commonly known as the <u>Yellow Book</u> for the conduct and reporting of both financial and performance audits. GAGAS sets forth general standards applicable to both types of audits and separate standards of fieldwork and reporting for financial and performance audits. The GAGAS standards of fieldwork and reporting for financial audits incorporate and build upon GAAS.

General Capital Assets. Capital assets that are not assets of any fund, but of the government unit as a whole. Most often these assets arise from the expenditure of the financial resources of governmental funds.

General Fund. The primary operating fund of a government. The General Fund accounts for and reports all financial resources not accounted for and reported in another fund.

General Journal. A journal in which are recorded all entries not recorded in special journals. See <u>Journal</u> and <u>Special Journal</u>.

General Ledger. A record containing the accounts needed to reflect the financial position and the results of operations of a government. In double-entry bookkeeping, the debits and credits in the general ledger are equal (i.e., the debit balances equal the credit balances). See <u>Subsidiary Ledger</u>, <u>Control Account</u>, and <u>Subsidiary Account</u>.

General Long-Term Debt. Long-term debt expected to be repaid from governmental funds. See <u>Long-Term Debt</u>.

General Obligation Bonds Payable. Bonds backed by the full faith and credit of government. See Full Faith and Credit.

General Obligation Debt. Debt paid by and secured by general taxation, generally income or property taxation. The full faith and credit of the government secure the debt.

General Purpose Government. States, counties, cities, towns and villages, and special districts (and similar).

General Revenues. All revenues are general revenues unless they are required to be reported as program revenues. All taxes, even those that are levied for a specific purpose, are general revenues and should be reported by type of tax—for example, sales tax, property tax, franchise tax, and income tax. All other nontax revenues (including interest, grants, and contributions) that do not meet the criteria to be reported as program revenues should also be reported as general revenues. General revenues should be reported after total net expense of the government's functions.

Going Concern. Significant information that is available raising doubts as to whether a legally separate entity can continue to meet its obligations as they become due without a substantial disposal of assets outside the ordinary course of business, restructuring of operations and debts, oversight of a financial assistance, or oversight or review board or similar.

Government Accountability Office (GAO). The investigative arm of the U.S. Congress charged with improving the performance and accountability of the federal government. The GAO issues the publication Government Auditing Standards (GAS), commonly known as the <u>Yellow Book</u>, which sets generally accepted government auditing standards (GAGAS).

Government Acquisitions. A situation in which a government acquires another entity, or the operations of another entity, in exchange for significant consideration. The consideration provided should be significant in relation to the asset and liabilities acquired. The acquired entity or operation becomes part of the acquiring government's legally separate entity.

Government Combinations. One of the following types of arrangements, after which a substantial portion of the services provided by the previously separate entities or their operations continue after the transaction has occurred:

- Merger. A combination of legally separate entities in which no significant consideration is exchanged and either (1) one or more of the entities cease to exist and one or more new governments are formed or (2) one or more legally separate entities cease to exist and their operations are merged into one or more continuing governments.
- **Acquisition**. A combination in which a new or continuing government acquires one or more other entities, or the operations of one or more other entities, in which no significant consideration is exchanged. The acquired entity or operation becomes part of the acquiring government's legal entity, and the acquired entity or operation ceases to exist as a legally separate entity.
- Transfer of operations. A combination involving the operations of one or more governments or nongovernmental entities rather than the entities themselves being moved to a new or existing government, in which no significant consideration is exchanged

Government Finance Officers Association (GFOA). Formerly the Municipal Finance Officers Association. An organization comprised of accounting and finance professionals from throughout the United States and Canada. The GFOA has played a major role in the development and promotion of GAAP for state and local government and sponsored the Certificate of Achievement for Excellence in Financial Reporting Program. Publishes *Governmental Accounting, Auditing, and Financial Reporting* (GAAFR), commonly known as the <u>Blue Book</u>.

Government Mergers. A government merger is a government combination of legally separate entities in which no significant consideration is exchanged and either 1) two or more governments (or one or more government and one or more nongovernmental entities) cease to exist as legally separate entities and are combined to form one or more new governments, or 2) one or more legally separate government or nongovernmental separate entities cease to exist and their operation is absorbed into, and provided by, one or more continuing governments.

Government National Mortgage Association (GNMA). GNMA is a U.S. governmental agency that guarantees certain types of securities (mortgage-backed securities), provides resources for, and administers certain types of low-income housing assistance programs.

Governmental Accounting. The composite activity of analyzing, recording, summarizing, reporting, and interpreting the financial transactions of governments.

Governmental Accounting Standards Advisory Council (GASAC). An advisory body established to assist GASB. The membership of GASAC represents all major groups with an interest in accounting and financial reporting for state and local governments.

Governmental Accounting Standards Board (GASB). The authoritative accounting and financial reporting standard-setting body for US State and local government entities.

Governmental Accounting, Auditing and Financial Reporting (GAAFR). Published by the GFOA and is also known as the <u>Blue Book</u>. It provides detailed guidance to the application of principles to the accounting and financial reporting activities of state and local governments.

Governmental Activities. Those activities of a government that are carried out primarily to provide services to citizens and that are financed primarily through taxes, intergovernmental grants and other nonexchange revenues. These activities are usually reported in the governmental funds and internal service funds.

Governmental Capital Assets. Assets that directly or indirectly are used in providing services that are not directly associated with fees or other revenues. Examples include roads, bridges, schools, and equipment used for fire protection.

Governmental External Investment Pool. An arrangement that commingles (pools) the money of more than one legally separate entity and invests, on the participants' behalf, in an investment portfolio. In this arrangement, one or more of the participants is not part of the sponsor's reporting entity. In California, it is typical for external pools to be used; the participants that are not typically part of the report local government entity and may include school districts and local-board-governed special districts.

Governmental Entity. For accounting and financial reporting purposes, an entity subject to the hierarchy of GAAP applicable to state and local governments. Composed of public corporations, bodies corporate and politic, and entities that have or are one or more of the following: (1) popular election of officers or appointment or approval of a controlling majority of the members of the entity's governing body by officials of one or more state or local governments, (2) the potential for unilateral dissolution by a government, with the net assets reverting to a government, or (3) the power to enact and enforce a tax levy. Additionally, entities with the ability to directly issue tax-exempt debt are presumed to be governmental

Governmental Funds. Funds generally used to account for tax supported activities. There are five different types of governmental funds consisting of the General Fund, Special Revenue Funds, Capital Projects Funds, Debit Service Funds, and Permanent Funds, as applicable. The funds focus primarily on the sources, uses, and balances of current financial resources and often has a budgetary orientation.

Governmental Financial Reporting Model. The minimum combination of financial statements, note disclosures, and required supplementary information prescribed for state and local governments by GASB.

Government-Mandated Nonexchange Transactions. When a government at one level provides resources to a government at another level and requires the recipient to use the resources for a specific purpose (for example, federal programs that state or local governments are mandated to perform.)

Government-Wide Financial Statements. Financial statements that incorporate all of a government's governmental and business-type activities, as well as its nonfiduciary component units. There are two basic government-wide financial statements: the statement of net position and the statement of activities

Grant Anticipation Note (GAN). A short-term interest-bearing note issued by a government in anticipation of grants to be received at a later date. The notes are retired from proceeds of the grants to which they are related. See Interim Borrowing.

Grants. Transactions in which one governmental entity transfers cash or other items of value to (or incurs a liability for) another governmental entity, an individual, or an organization as a means of sharing program costs, subsidizing other governments or entities, or otherwise reallocating resources to the recipients.

Grants-in-Aid. See Grants.

Gross. Gross amount of income, profit, or interest, without deduction of tax or other contributions; total.

Gross Bonded Debt. The total amount of direct debt of a government represented by outstanding bonds before deduction of any assets available and earmarked for their retirement.

Guaranteed Investment Contract (GIC). A general obligation instrument issued by an insurance company, typically to a pension plan, that provides for a guaranteed return on principal over a specified period. The general assets of the issuing company support the GIC. Investment contracts issued by noninsurance companies are similar in substance to GICs, and except for those issued by financial institutions (BICs), are treated like GICs.

Н

Historical Cost. The original price paid to acquire an asset or the amount received pursuant to the incurrence of a liability in an actual exchange transaction. See <u>Cost</u>.

Hold-Harmless Agreement. A contract that protects organizations from being sued when someone suffers damage, bodily injury, or financial loss on business property or while a service is being provided, exceptions apply.

Homeowner Exemption. A value reduction provided to homeowners pursuant to Revenue and Taxation Code section 218.

I

Impact Fees. Fees charged to developers to cover, in whole or in part, the anticipated cost of improvements that will be necessary as a result of the development (e.g., parks, sidewalks).

Implementation Guides. Guidance on the proper implementation of authoritative accounting and financial reporting standards issued by the staff of the GASB. Implementation guides use a question-and-answer format and enjoy <u>Category B</u> status on the hierarchy of GAAP for United States state and local governments. The GASB annually issues a Comprehensive Implementation Guide that consolidates, updates, and expands upon the guidance offered in the individual publications

Imposed Nonexchange Revenues. Assessments imposed on nongovernmental entities, including individuals, other than assessments on exchange transactions (for example, property taxes and fines).

Imprest Account. An account into which a fixed amount of money is placed for the purpose of minor disbursements or disbursements for a specific purpose (e.g., payroll). When a disbursement is made, a voucher is completed to record its date, amount, nature, and purpose. From time to time, a report with substantiating vouchers is prepared; the account is replenished for the exact amount of the disbursements and appropriate general ledger accounts are charged.

The total of cash plus substantiating vouchers always should equal the total fixed amount of money set aside in the imprest account. See <u>Petty Cash</u>.

Improvements. Addition made to, or change made in, a capital asset, other than maintenance, to prolong its life or to increase its efficiency or capacity. The cost of the addition or change normally is added to the book value of the asset (the term betterment is sometimes used instead).

Improvements other than Buildings. Attachments or annexations to land that are intended to remain so attached or annexed, such as sidewalks, trees, drives, tunnels, drains and sewers. Sidewalks, curbing, sewers and highways are sometimes referred to as betterments, but the term improvements is preferred.

Inactive Employees. Individuals no longer employed by an employer in the pension or OPEB plan or the beneficiaries of those individuals. Inactive employees include individuals who have accumulated benefits under the terms of a pension or OPEB plan but are not yet receiving benefits and individuals currently receiving benefits.

Inception of the Lease. The date of the lease agreement or commitment, if earlier. For purposes of this definition, a commitment should be in writing, signed by the parties in interest to the transaction, and should specifically set forth the principal provisions of the transaction. If negotiated, such a preliminary agreement or commitment does not qualify for purposes of this definition.

<u>In-Relation-To</u> Opinion. In an in-relation-to opinion, the independent auditor states that (1) the scope of the audit was limited to the basic financial statements and (2) based on the audit of the basic financial statements, it is possible to assert that the combining and individual fund statements and schedules are fairly presented in relation to the basic financial statements as a whole (rather than in their own right). An in-relation-to opinion is a lower level of assurance than as opinion on the fair presentation of the combining and individual fund and component unit financial statements.

Income. A term used in proprietary fund type accounting to represent 1) revenues or 2) the excess of revenues over expenses. See Operating Income, Income Before Transfers, and Net Income.

Income before Transfers. Proprietary fund operating income plus nonoperating revenues and minus nonoperating expenses.

Income Distributions. Interest, dividends, stock splits, and other distributions made by an issuer of securities. Income distributions on underlying securities are payable from the borrower to the lender, and income disruption on collateral securities are payable from the lender to the borrower.

Incurred but not Reported (IBNR) Claims. In the context of risk financing, claims for events that have occurred but have not yet been reported to the governmental entity, public-entity risk pool, insurer, or reinsurer as of the date of the financial statements. IBNR claims include (1) known loss events that are expected to be presented later as claims, (2) unknown loss events that are expected to become claims, and (3) expected future development on claims already reported

Independent Auditor. An auditor(s) who is independent, both in fact and appearance, of the entities he or she audits. Both GAAS and GAGAS set specific criteria that should be met for an auditor to be considered independent.

Independent District. A special district that is governed by an independent board of directors elected by the districts' voters, or landowners within the district, or appointed to a fixed term of office by either the city council, board of trustees, or board of supervisors.

Indeterminate Appropriation. An appropriation that is not limited either to any definite period of time or to any definite amount. A distinction should be made between an indeterminate appropriation and a continuing appropriation. First, whereas a continuing appropriation is indefinite only as to time, an indeterminate appropriation is indefinite as to both time and amount. Second, even indeterminate appropriations that are indefinite only as to time are to be distinguished from continuing appropriations in that such indeterminate appropriations may eventually lapse (e.g., an appropriation to construct a building may be made to continue in effect until the building is constructed; once the building is completed, the unexpended balance of the appropriation lapses). On the other hand, a continuing appropriation may continue forever and can be abolished only by specific action of the legislative body.

Indirect Expenses. Expenses that are not program-specific and are usually allocated based on a systematic and rational formula. See Overhead.

Indirect Project Costs. Costs incurred after the acquisition of the property, such as construction administration (for example, the costs associated with a field office at a project site and the administrative personnel that staff the office), legal fees, and various office costs, that clearly relate to projects under development or construction. Examples of office costs that may be considered indirect project costs are cost accounting, design, and other departments providing services that are clearly related to real estate project.

Individual Investment (Accounts). An investment service provided by a governmental entity for other, legally separate entities that are not part of the same reporting entity. With individual investment accounts, specific investments are acquired for individual entities and the income from and changes in the value of those investments affect only the entity for which they were acquired.

Industrial Development Bonds. Bonds issued by governments, the proceeds of which are used to construct facilities for a private business enterprise.

Inflows of Resources. An acquisition of net assets by the government that is applicable to the reporting period. Includes revenues and special items and extraordinary items that are gains, and, in governmental funds, other financing sources.

Information Systems. See <u>Data Processing</u>.

Infrastructure (or Infrastructure Assets). Long-lived capital assets that normally are stationary in nature and normally can be preserved for a significantly greater number of years than most capital assets. Examples of infrastructures assets include roads, bridges, tunnels, drainage system, water and sewer systems, dams, and lighting systems. Buildings, except those that are not ancillary part of a network or infrastructure assets, should not be considered infrastructure assets.

Initial Direct Costs. In the context of lease accounting, only those costs incurred by the lessor that are 1) costs to originate a lease incurred in transactions with independent third parties that (a) result directly from and are essential to acquire that lease and (b) would not have been incurred had that leasing transaction not occurred and 2) certain costs directly related to specified activities performed by the lessor for that lease. Those activities are evaluating the prospective lessee's financial condition, evaluating and recording guarantees, negotiating lease terms, preparing and processing lease documents, and closing the transaction. The costs directly related to those activities should include only that portion of the employees' total compensation and payrollrelated fringe benefits directly related to time spent performing those activities for that lease and other costs related to those activities that would not have been incurred but for that lease. Initial direct costs should not include costs related to activities performed by lessees, servicing existing leases, and other ancillary activities related to establishing and monitoring credit policies, supervision, and administration. Initial direct costs should not include administrative costs, rent, depreciation, any other occupancy and equipment costs and employee's compensation and fringe benefits related to activities described in the previous sentence, unsuccessful origination efforts, and idle time.

Inputs. The assumptions that market participants would use when pricing an asset or liability, including assumptions about risk, such as the following: (1) the risk inherent in a particular valuation technique used to measure fair value (such as a pricing model), and (2) the risk inherent in the inputs to the valuation technique.

In-Substance Assignment. In the context of hedge accounting, a situation that is considered substantially equivalent to an assignment because (1) the original swap counterparty, or the swap counterparty's credit support provider, is replaced; (2) the original swap agreement is ended, and the replacement swap agreement is entered into on the same date; (3) the terms that affect changes in fair values and cash flows in the original and replacement agreements are identical; and (4) any difference between the original swap agreement's exit price and the replacement swap's entry price can be attributed to the original swap agreement's exit price being based on a computation specifically permitted under the original swap agreement

In-Substance Defeasance of Debt. When debt is considered defeased for accounting and financial reporting purposes, even though a legal defeasance has not occurred. When debt is defeased, it is no longer reported as a liability on the face of the statement of net position.

Insurance. The transfer of risk of loss from one party (the insured) to another party (the insurer) in which the insurer promises (usually specified in a written contract) to pay the insured or others on the insured's behalf an amount of money or services, or both, for economic losses sustained from an unexpected (accidental) event during a period of time for which the insured makes a premium payment to the insurer.

Insured Benefit Plan. In the context of OPEB, a financing arrangement whereby an employer accumulates funds with an insurance company, while employees are in active service, in return for which the insurance company unconditionally undertakes a legal obligation to pay the benefits of those employees or their beneficiaries, as defined in the employer's plan. From an employer perspective, an insured benefit resembles a defined contribution plan, while from an employee perspective it resembles a defined benefit plan.

Intangible Assets. Assets with an initial useful life that extends beyond a single reporting period that lack physical substance and that are neither financial in nature (neither a monetary asset nor a claim to a monetary asset) nor primarily held for the purpose of directly obtaining income or profit.

Interest in Property. Includes any legal or equitable interest in property.

Interest Method. In the context of bonds, a method of periodic amortization of issuance costs and premium or discount over the term of the related debt. The objective of the interest method is to arrive at a periodic interest cost (including amortization) that will represent a level effective rate on the sum of the face amount of the debt and (plus or minus) the unamortized premium or discount and issuance costs at the beginning of each period. The difference between the periodic interest cost so calculated and the nominal interest on the outstanding amount of the debt is the amount of periodic amortization.

Interest Rate Risk. The risk that changes in interest rates will adversely affect the fair values of a government's financial instruments or a government's cash flows.

Interest Rate Swap. An interest rate swap is a customized contract between two parties to swap two schedules of cash flows. The most common reason to engage in an interest rate swap is to exchange a variable-rate payment for a fixed rate payment or vice versa.

Interest Receivable on Investments. An asset account reflecting the amount of interest receivable on investments.

Interfund Activity. Activity between funds of the primary government, including blended component units. Interfund activities are divided into two broad categories, reciprocal and nonreciprocal. Reciprocal interfund activity comprises interfund loans and interfund services provided and used. Nonreciprocal interfund activity comprises interfund transfers and interfund reimbursements.

Interfund Loans. Amounts provided between funds and blended component units of the primary government with a requirement for repayment

Interfund Receivable/Payable. Short-term loans made by one fund to another, or the current position of an advance to or from another fund, where both funds are included in the primary government's reporting unit. See <u>Interfund Activity</u>.

Interfund Reimbursements. Repayments by one fund or blended component unit of a primary government to another for expenditures or expense incurred on its behalf.

Interfund Services Provided and Used. Sales and purchases of goods and services between funds and blended component units of the primary government for a price approximating their external exchange value.

Interfund Transaction. Transactions between funds of the same government reporting entity. See Interfund Activity and Internal Activities.

Interfund Transfers. Flows of assets (such as cash or goods) between funds and blended component units of the primary government without equivalent flows of assets in return and without a requirement for repayment

Intergovernmental Payable. A liability account reflecting amounts owed by the reporting government to another government.

Intergovernmental Receivable. An asset account reflecting amounts due to the reporting government from another government. These amounts may represent grants-in-aid, shared taxes, taxes collected by another unit, loans, and charges for services rendered by the government for another government.

Intergovernmental Revenues. Revenues from other governments in the form of grants, entitlements, shared revenues, or payments in lieu of taxes.

Interim Borrowing. 1) Short-term loans to be repaid from general revenues during the course of a fiscal year. 2) Short-term loans in anticipation of tax collections, grants, or bond issuance. See Bond Anticipation Notes, <u>Grant Anticipation Notes</u> and <u>Tax Anticipation Notes</u>.

Interim Financial Statements. Financial statements prepared as of a date or for a period during the fiscal year and including only financial transactions during the current year to date.

Internal Activities (Interfund Transactions). Transfers between funds or activities of a government during a period.

Internal Auditing. An independent appraisal of the diverse operations and controls within a government entity to determine whether acceptable policies and procedures are followed, established standards are met, resources are used efficiently and economically, and the organization's objectives are being achieved. The term covers all forms of appraisal of activities undertaken by auditors working for and within an organization.

Internal Balances (Interfund Loans). Receivables or payables between funds or activities of a government that exist at the reporting date.

Internal Control Structure. Policies and procedures established to provide reasonable assurance that specific government objectives will be achieved.

Internal Financial Reporting. Financial reporting specifically designed to meet the needs of management.

Internal Investment Pools. An arrangement that commingles (pools) the money of more than one fund or component unit of a reporting entity. Investment pools that include participation by legally separate entities that are not part of the same reporting entity as the pool sponsor are not internal investment pools, but rather are external investment pools.

Internal Service Fund (ISF). Used to report any activity that provides goods or services to other funds, departments, or agencies of the primary governments, on a cost-reimbursement basis. Internal service funds should be used only if the reporting government is the predominant participant in the activity. Otherwise, the activity should be reported as an enterprise fund.

Internally Generated Intangible Asset. Intangible assets that are either (1) created or produced by the government or an entity contracted by the government or (2) acquired from a third party but requiring more than minimal incremental effort on the part of the government to begin to achieve their expected level of service capacity.

Interperiod Equity. The measure of the extent to which current-year revenues are sufficient to pay for the services provided by the government entity during the year, and whether current-year citizens are receiving services by shifting part of the payment burden to future years' citizens or by using up previously accumulated resources.

Intra-Entity Activity. Resource flows between a primary government and blended component units during a period. Should be reclassified as internal activities and treated as interfund activity.

Intra-Entity Leases. These are leasing arrangements between the primary government and the lessee or lessor where the lessee or the lessor is considered a blended component unit of the primary government. (Note: Provisions of GASB 87, as amended, do not apply in this such situations.)

Intrafund Transfer. A transfer of central staff costs to the operating units in the same governmental type fund.

Introductory Section. The first of three essential components of any ACFR. The introductory section typically provides general information on a government's structure and personnel, as well as information useful in assessing the government's economic condition. The contents of the introductory section normally fall outside the scope of the independent audit of the financial statements. The key element of the introductory section is the letter of transmittal. It includes items such as table of contents, letter of transmittal, and other material deemed appropriate by management.

Inventory. The aggregate of those items of tangible personal property that 1) are held for sale in the ordinary course of operations, 2) are in process of production for such sale, or 3) are to be currently consumed in the production of goods or services to be available for sale. Operating materials and supplies (for example, property held for installation or use in the provision of services) or certain business-type activities usually are treated as inventory.

Investee. An entity that issued an equity instrument of which all or a portion is held by an investor.

Investing Activities. In the context of cash flows reporting, cash flows from making and collecting loans (except program loans) and from acquiring and disposing of debt or equity instruments.

Investment. A security or other asset that 1) a government holds primarily for the purpose of income or profit and 2) has presented service capacity based solely on its ability to generate cash or to be sold to generate cash.

Investment in Capital Assets Net of Related Debt. One of three components of net assets that are required by GAAP to be reported in both government-wide and proprietary fund financial statements. Related debt, for this purpose, includes the outstanding balances of any bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of capital assets of the government.

Investment Section. One of four sections of an ACFR for an investment pool and one of five sections of an ACFR of a public employee retirement system.

Investment Trust Fund. Fiduciary fund type used to report fiduciary activities from the external portion of investment pools and individual investment accounts that are held in a GASB other fiduciary trust

Invitation to Comment (ITC). A due-process document that may be released by GASB to solicit the views of interested parties on a topic under study by the board prior to the release of an exposure draft.

Issuer. In the context of bonds, the entity that is legally obligated to make principal and interest payments to bondholders. In the context of investments generally, the entity that has the authority to distribute a security or other investment. In the context of mutual funds/external investment pools/other pooled investments, the entity invested in, rather than the investment company manager or pool sponsor.

J

Job Account. An account pertaining either to an operation that occurs regularly (a <u>standing order</u>) or to a specific piece of work (<u>job order</u>) showing all charges for material and labor used and other costs incurred, together with any allowances or other credits.

Joint Venture. A legal entity or other organization that results from a contractual arrangement and that is owned, operated, or governed by two or more participants as a separate and specific activity subject to joint control, in which the participants retain 1) an ongoing financial interest or 2) an ongoing financial responsibility. Generally, the purpose of a joint venture is to pool resources and share the costs, risks, and rewards of providing goods or services to the joint venture participants directly, or for the benefit of the public or specific service recipients.

Jointly Governed Organization. A regional government or other multi-governmental arrangement that is governed by representatives from each of the governments that create the organization, but that is not a joint venture because the participants do not retain an ongoing financial interest or responsibility.

Journal. A book of original entry. See General Journal, Special Journal, and Register.

Journal Voucher. A standard form provided for the recording of certain transactions or information in place of, or supplementary to, the journals or registers. The journal voucher usually contains an entry or entries, explanations, references to documentary evidence supporting the entry or entries, and the signature or initials of one or more properly authorized officials.

Judgment. An amount to be paid or collected by a government as the result of a court decision, including a condemnation award in payment for private property taken for public use.

Judgment Bonds. Bonds issued to finance judgments.

Judgments Payable. A liability account reflecting amounts owed as the result of court decisions, including condemnation awards for private property taken for public use.

Jurisdiction. A particular geographic area containing a defined legal authority. Examples include counties, cities, special districts, school districts, community college districts, or county superintendents of schools.

Jurisdictional Change. Any changes to the boundaries of a jurisdiction, including formations, consolidations, and dissolutions. Commonly referred to as annexations.

K

NONE

L

Landfill Closure and Postclosure Costs. Costs incurred to provide for the protection of the environment that occur near or after the date that a municipal solid-waste landfill stops accepting solid waste and during the postclosure period. Closure and postclosure care costs include the cost of equipment and facilities (e.g., leachate collection systems and final cover) as well as the cost of services (e.g., postclosure maintenance and monitoring costs).

Lapse. As applied to appropriations, the automatic termination of an appropriation. Except for indeterminate appropriations and continuing appropriations, an appropriation is made for a certain period of time. At the end of this period, any unexpended or unencumbered balance thereof lapses, unless otherwise provided by law. Also referred to as the <u>lapse period</u>.

Lease. A contract that conveys control of the right to use another entity's nonfinancial asset (the underlying asset) as specified in the contract for a period of time in an exchange or exchange-like transaction.

Lease-Leaseback Transactions. In a lease-leaseback transaction, an asset is leased by one party (first party) to another party and then leased back to the first party. The leaseback may involve an additional asset (such as leasing a school building that has been constructed by a developer on land owned by and leased back to a school district) or only a portion of the original asset (such as leasing back only one floor of a building to the owner). A lease-leaseback transaction should be accounted for as a net transaction.

Lease Asset. Intangible asset (right to use underlying asset)—value of lease liability plus any lease payments at or before the commencement of the lease term and any initial direct costs that are ancillary to place the use in asset.

Lease Incentives. Lease incentives are (a) payments made to, or on behalf of, the lessee, for which the lessee has a right of offset with its obligation to the lessor, or (b) other concessions granted to the lessee. A lease incentive is equivalent to a rebate or discount and includes assumption of a lessee's preexisting lease obligations to a third party, other reimbursements of lessee costs, rent holidays, and reductions of interest or principal charges by the lessor.

Lease Liability. Present value of future lease payments (including fixed payments, variable payments based on index or some interest rate, reasonable certain residual guarantees, etc.).

Lease Modifications and Terminations. These are amendments that modify the provisions of the lease contract. Examples of amendments to lease contracts include changing the contract price, lengthening or shortening the lease term, and adding or removing an underlying asset. An amendment should be considered a lease modification unless the lessee's right to use the underlying asset decreases, in which case the amendment should be considered a partial or full lease termination. (Note: some amendments or terminations may qualify as remeasurement of a lease contract.)

Lease Receivable. The present value of lease payments expected to be received during a lease term by the lessor.

Lease Rental Bond. A bond usually issued by a nonprofit authority and secured by lease payments to be made by the government leasing the project financed by bond proceeds.

Lease Term. The period during which the lessee has a noncancelable right to use an underlying asset (referred to as the noncancelable period).

Leasehold. The right to the use of real estate by virtue of a lease, usually for a specified term of years, for which consideration is paid.

Ledger. A group of accounts in which are recorded the financial transactions of an entry. See <u>General Ledger</u> and <u>Subsidiary Ledger</u>.

Legal Debt Limit. See Debt Limit.

Legal Debt Margin. The excess of the amount of debt legally authorized over the amount of debt outstanding. See Debt Limit.

Legal Defeasance. Situation that occurs when debt is legally satisfied based on certain provisions in the debt instrument, even though the debt is not actually repaid. When debt is defeased, it is no longer reported as a liability on the face of the statement of position; only the new debt used to refund it, if any, is reported as a liability.

Legal Enforceability. When a government can be compelled by an external party—such as citizens, public interest groups, or the judiciary—to use resources created by enabling legislation only for the purposes specified by the legislation.

Legal Investments. 1) Investments those savings banks, insurance companies, trustees and other fiduciaries (individual or corporate) are permitted to make by the laws of the state in which they are domiciled, or under the jurisdiction in which they operate or serve. The investments which meet the conditions imposed by law constitute the legal investment list. 2) Investments that governments are permitted to make by law.

Legal Level of Budgetary Control. The level at which spending in excess of budgeted amounts would be a violation of law.

Legal Opinion. 1) An opinion of an authorized official such as an attorney or county counsel regarding the legal issues applicable to a particular situation. 2) In the case of government bonds, the opinion of a specialized bond attorney as to the legality of a bond issue.

Lender. A governmental entity that transfers its securities to a broker-dealer or other entity in a securities-lending transaction.

Lent Securities. The securities lent by the lender to the borrower in a securities lending transaction. Also referred to as underlying securities.

Lessee. The party to a lease contract who acquires the right to use another entity's nonfinancial asset(s).

Lessor. The party to a lease contract who conveys the right to use its nonfinancial asset(s) to another party.

Lessee's Incremental Borrowing Rate. The rate that, at the inception of the lease, the lessee would have incurred to borrow over a similar term the resources necessary to purchase the leased asset.

Letter of Credit. A financial institution's written guarantee of a customer's drafts, up to a specified amount, for a certain period of time.

Level of Budgetary Control. One of the three possible levels of budgetary control and authority to which organizations, programs, activities and functions may be subject. These levels of budgetary control are (1) appropriated budget, (2) legally authorized nonappropriated budget review and approval process, which is outside the appropriated budget process, and (3) nonbudgeted financial activities, which are not subject to the appropriated budget and the appropriation process or to any legally authorized nonappropriated budget review and approval process, but still are relevant for sound financial management and oversight. See Legal Level of Budgetary Control.

Level of Effort Requirements. A requirement that a grant recipient does not use grant resources to reduce its own participation in a given program or activity.

Leverage. Using debt to control more assets. Generally, the asset obtained outweighs the cost of the borrowed money. In the context of derivative instruments, an essential characteristic of a derivative instrument that requires that the agreement itself involve little or no initial net investment, yet be able to produce the same financial effect as an instrument involving a much larger investment of resources.

Levy. (1) To impose taxes, special assessments, or service charges for the support of government activities. (2) The total amount of taxes, special assessments, or service charges imposed by government.

Liabilities. Present obligations to sacrifice resources that the government has little to no discretion to avoid.

Lien. An enforceable legal claim by a government. The date of the lien may be known as a <u>lien</u> date or an assessment date.

Lien Date. For property (ad valorem) taxes, the date when an enforceable legal claim to taxable property arises. Generally, the lien date is specified in the relevant enabling legislation. Many governments use the term lien date even though a lien is not formally placed on the property at that date. Alternatively, the term assessment date is used to describe this same date.

Liquidity. The ability to convert assets to cash quickly without significant losses.

Loan Premium or Fee. In the context of securities lending arrangements, payments from the borrower to the lender as compensation for the use of the underlying securities when the securities lending arrangement is backed either by a letter of credit, or by securities that cannot be pledged or sold absent a default.

Loans Receivable. An asset account reflecting amounts loaned to individuals or organizations external to a government, including notes taken as security for such loans. Loans to other governments should be recorded and reported separately.

Local Agency. Any city, county, special district, or local government authority (e.g. joint powers authority).

Local Agency Formation Commission (LAFCo). LAFCO's are formed under the California law (refer to Gov. Code §56300 et seq.) and typically oversee boundary changes of counties, cities and special districts, and formation of new agencies, which includes incorporation, consolidation, or reorganization of local government entities.

Local Improvement Tax. See Special Assessment.

Local Roll. Property on the secured and unsecured roll that is the county assessor's duty to assess.

Long-Term Budget. A budget prepared for a period longer than a fiscal year or, in some state governments, a budget prepared for a period longer than a biennium. Long-term budgets concerned with capital outlay plans and capital improvement programs are referred to as <u>capital</u> budgets.

Long-Term Debt. See General Long-Term Debt.

Long-Term Obligations. Obligations scheduled to mature beyond one year from the date of a government's financial statements.

Lump-Sum Appropriation. An appropriation made for a stated purpose, or for a named department, without specifying further the amounts that may be spent for specific activities or for particular objects of expenditure (e.g., a lump-sum appropriation for the police department would not specify the amounts to be spent on uniform patrol, traffic control, etc., or for salaries and wages, materials and supplies, travel).

M

Machinery and Equipment. Property that does not lose its identity when removed from its location and is not changed materially or consumed immediately—within one year—by use.

Maintenance. The act of keeping capital assets in a state of good repair. It includes preventive maintenance; normal periodic repairs; replacement of parts, structural components, and so forth; and other activities needed to maintain the asset so that it continues to provide normal services and achieves its optimum life.

Major Fund. The general fund or its equivalent and any other fund where: 1) total assets, liabilities, revenues, or expenditures/expenses of that individual governmental or enterprise fund are at least 10 percent of the corresponding total (assets, liabilities, and so forth) for all funds of that category or type (that is, total governmental or total enterprise funds, and 2) total assets, liabilities, revenues, or expenditures/expenses of the individual governmental fund or enterprise fund are at least 5% of the corresponding total for all governmental and enterprise funds combined. In addition, to funds that meet the major fund criteria, any other governmental or enterprise criteria, any other governmental or enterprise fund that the government's officials believe is particularly important to financial statement users (for example, because of public interest or consistency) may be reported as a major fund.

Major Program. In the context of a single audit, a federal award program for which the independent auditor must (1) gain an understanding of internal control over compliance, (2) test internal control over compliance, and (3) offer an opinion whether the government recipient complied with compliance requirements that could have a direct and material effect on that program.

Management. Persons who are responsible for achieving the objectives of the government and who have the authority to establish policies and make decisions by which those objectives are to be pursued. Management normally includes the chief executive officer (for example, city manager), directors or secretaries in charge of principal government departments or functions (such as service provision administration or finance), and other persons who perform similar policymaking functions. Persons without formal titles also may be members of management.

Management Letter. In the context of the independent audit of the financial statements, a formal communication by the independent auditor to management that identifies internal control weaknesses discovered in the course of the audit of the financial statements. A management letter typically would be redundant in an audit conducted in accordance with GAGAS, which require that the independent auditor publish internal control weaknesses and instances of noncompliance in conjunction with a formal report on internal control and compliance. The management letter, as just described, should be distinguished from the management representation letter. The latter is a communication by management to the independent auditor in which management takes formal responsibility for the fair presentation of the financial statements and makes certain specific representations regarding their contents and circumstances

Office of the State Controller State-Mandated Costs Claiming Instructions No. 2020-03 Racial and Identity Profiling – Program No. 375 December 22, 2020

In accordance with Government Code (GC) sections 17560 and 17561, eligible claimants may submit claims to the State Controller's Office (SCO) for reimbursement of costs incurred for state-mandated cost programs. This document contains claiming instructions and forms that eligible claimants must use for filing claims for the Racial and Identity Profiling program. SCO issues these claiming instructions subsequent to the Commission on State Mandates (CSM) adopting the program's Parameters and Guidelines (Ps & Gs). The Ps & Gs are an integral part of the claiming instructions and are located on CSM's website.

On September 25, 2020, CSM adopted a Statement of Decision finding that the test claim legislation imposed a reimbursable state-mandated program on city and county law enforcement agencies within the meaning of Article XIII B, section 6 of the California Constitution and GC section 17514.

Exception

There will be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

Eligible Claimants

Any city, county, city and county is eligible to claim reimbursement for increased costs incurred as a result of this mandate for the city or county's law enforcement agencies that meet the following criteria:

- Employ peace officers (other than probation officers and officers in a custodial setting) to perform the requirements of the test claim statute and regulations for stops within their own jurisdictions; or
- Contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.

K-12 school districts and community college districts are not eligible to claim for this program. Cities and counties may not claim the costs of their peace officer employees that are incurred while they are assigned out to work for other government or private entities based on a contract or memorandum of understanding.

Reimbursement Claim Deadline

Initial Reimbursement Claims

Initial reimbursement claims must be filed within 120 days from the issuance date of the claiming instructions. Costs incurred for compliance with this mandate are reimbursable for the period beginning November 7, 2017, through June 30, 2018,

for fiscal year 2017-18; the period beginning July 1, 2018, through June 30, 2019 for fiscal year 2018-19; and the period beginning July 1, 2019, through June 30, 2020 for fiscal year 2019-20, must be filed with the SCO by **April 21, 2021**.

Annual Reimbursement Claims

Annual reimbursement claims for subsequent fiscal years may be filed by **February 15** following the fiscal year in which costs were incurred. If the deadline falls on a weekend or holiday, claims are due the following business day.

Claims filed more than one year after the specified deadline will not be accepted.

Penalty

Initial Reimbursement Claims

When filed within one year of the initial filing deadline, claims are assessed a late penalty of 10% of the total amount of the initial claim without limitation pursuant to GC section 17561(d)(3).

Annual Reimbursement Claims

When filed within one year of the annual filing deadline, claims are assessed a late penalty of 10% of the claim amount, not to exceed \$10,000, pursuant to GC section 17568.

Minimum Claim Cost

GC section 17564(a), states that no claim may be filed pursuant to GC sections 17551 and 17561, unless such a claim exceeds one thousand dollars (\$1,000).

Reimbursement of Claims

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. These 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 created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating: "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5.

Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal

government requirements. However, these documents cannot be substituted for source documents.

Audit of Costs

All claims submitted to SCO are subject to review to determine if costs are related to the mandate, are reasonable and not excessive, and if the claim was prepared in accordance with the SCO's claiming instructions and the Ps & Gs adopted by CSM. If any adjustments are made to a claim, the claimant will be notified of the amount adjusted, and the reason for the adjustment.

On-site audits will be conducted by SCO as deemed necessary. Pursuant to GC section 17558.5(a), a reimbursement claim for actual costs filed by a claimant is subject to audit by SCO no later than three years after the date the actual reimbursement claim was filed or last amended, whichever is later. However, if no funds were appropriated or no payment was made to a claimant for the program for the fiscal year for which the claim was filed, the time for SCO to initiate an audit will commence to run from the date of initial payment of the claim.

All documents used to support the reimbursable activities must be retained during the period subject to audit. If an audit has been initiated by SCO during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings. Supporting documents must be made available to SCO on request.

Record Retention

All documentation to support actual costs claimed must be retained and must be made available to the SCO on request (GC section 17558.5(a)) for a minimum period of three years after the date of initial payment of the claim and/or until the ultimate resolution of any audit finding.

Claim Submission

Submit a signed original Form FAM-27 and one copy with required documents. Please sign the Form FAM-27 in blue ink and attach the copy to the top of the claim package.

Mandated costs claiming instructions and forms are available on SCO's website.

Use the following mailing addresses:

If delivered by U.S. Postal Service:

Office of the State Controller Attn: Local Reimbursements Section Local Government Programs and Services Division P.O. Box 942850 Sacramento, CA 94250 If delivered by other delivery service:

Office of the State Controller Attn: Local Reimbursements Section Local Government Programs and Services Division 3301 C Street, Suite 700 Sacramento, CA 95816

For more information, contact the Local Reimbursements Section by <u>email</u>, by telephone at (916) 324-5729, or by writing to the address above.

	RACIAL AND IDENTITY PROFILING CLAIM FOR PAYMENT FORM	(19) (20)	ate Controller's Office Use Only Program Number 00375 Date Filed LRS Input	Program 375
(01) Cla	mant Identification Number		Reimbursement Claim I	Data
(02) Cla	mant Name	(22)	FORM 1, (04) A. 1. (f)	
County	of Location	(23)	FORM 1, (04) A. 2. (f)	
Street A	ddress or P.O. Box and Suite	(24)	FORM 1, (04) B. 1. (f)	
City, Sta	te, and Zip Code	(25)	FORM 1, (04) B. 2. (f)	
(03)	Type of Claim	(26)	FORM 1, (04) B. 3. (f)	
(04)	(09) Reimbursement	(27)	FORM 1, (04) B. 4. (f)	
(05)	(10) Combined	(28)	FORM 1, (04) B. 5. (f)	
(06)	(11) Amended	(29)	FORM 1, (06)	
(07)	(12) Fiscal Year of Cost	(30)	FORM 1, (07)	
(80)	(13) Total Claimed Amount	(31)	FORM 1, (09)	
(14) Less: 10% Late Penalty			FORM 1, (10)	
(15) Less: Prior Claim Payment Received				
(16) Net Claimed Amount				
(17) Due from State				
(18) Due to State				

(37) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code sections 17560 and 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 of the Government Code.

I further certify that there was no application other than from the claimant, nor any grant(s) or payment(s) received for reimbursement of costs claimed herein, and claimed costs are for a new program or increased level of services of an existing program. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer	Date Signed	
	Telephone Number	
Type or Print Name and Title of Authorized Signatory	Email Address	

(38) Name of Agency Contact Person for Claim	Telephone Number	
	Email Address	
Name of Consulting Firm/Claim Preparer	Telephone Number	
	Email Address	

Form FAM-27 (New 12/20)

State Control	ler's Office Mandated Cost Manual for Lo	ocal Agencie
Program 375	RACIAL AND IDENTITY PROFILING CLAIM FOR PAYMENT INSTRUCTIONS	FORM FAM-27
(01)	Enter the claimant identification number assigned by the State Controller's	Office.
(02)	Enter claimant official name, county of location, street or postal office box city, state, and zip code.	address,
(03) to (08)	Leave blank.	
(09)	If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbu	ırsement.
(10)	Not applicable.	
(11)	If filing an amended reimbursement claim, enter an "X" in the box on line (Amended.	11)
(12)	Enter the fiscal year in which actual costs are being claimed. If actual cost than one fiscal year are being claimed, complete a separate Form FAM-27 fiscal year.	
(13)	Enter the amount of the reimbursement claim as shown on Form 1, line (1 total claimed amount must exceed \$1,000; minimum claim must be \$1,001	,
(14)	Initial reimbursement claims must be filed as specified in the claiming instrain Annual reimbursement claims must be filed by February 15 , or as specified claiming instructions following the fiscal year in which costs were incurred. filed after the specified date must be reduced by a late penalty. Enter zero was filed on time. Otherwise, enter the result from the following penalty can formula:	ed in the . Claims o if the claim
	 Late Initial Reimbursement Claims: Form FAM-27, line (13) multiplic without limitation; or 	ed by 10%,
	 Late Annual Reimbursement Claims: Form FAM-27, line (13) multip 10%, late penalty not to exceed \$10,000. 	olied by
(15)	Enter the amount of payment, if any, received for the claim. If no payment received, enter zero.	was
(16)	Enter the net claimed amount by subtracting the sum of lines (14) and (15) (13).) from line
(17)	If line (16), Net Claimed Amount, is positive, enter that amount on line (17) State.), Due from
(18)	If line (16), Net Claimed Amount, is negative, enter that amount on line (18 State.	3), Due to
(19) to (21)	Leave blank.	

Program 375	RACIAL AND IDENTITY PROFILING CLAIM FOR PAYMENT INSTRUCTIONS (CONTINUED)	FORM FAM-27
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- (22) to (32) Bring forward the cost information as specified in the left-hand column of lines (22) through (32) for the reimbursement claim, e.g., Form 1, (04) A. 1. (f), means the information is located on Form 1, block (04), line A. 1., column (f). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. The indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 35.19% should be shown as 35. Completion of this data block will expedite the process.
- (33) to (36) Leave blank.
 - (37) Read the statement of Certification of Claim. The claim must be signed and dated by the agency's authorized officer, and include their typed or printed name, title, telephone number, and email address. Claims cannot be paid unless accompanied by an original signed certification. (Please sign the Form FAM-27 in blue ink and attach the copy to the top of the claim package.)
 - (38) Enter the name, telephone number, and email address of the agency contact person for the claim. If the claim was prepared by a consultant, type or print the name of the consulting firm, claim preparer, telephone number, and email address.

SUBMIT A SIGNED ORIGINAL FORM FAM-27 AND ONE COPY WITH ALL OTHER FORMS TO:

Address, if delivered by U.S. Postal Service:

Office of the State Controller
Attn: Local Reimbursements Section
Local Government Programs and Services Division
P.O. Box 942850
Sacramento, CA 94250

Address, if delivered by other delivery service:

Office of the State Controller
Attn: Local Reimbursements Section
Local Government Programs and Services Division
3301 C Street, Suite 700
Sacramento, CA 95816

	0GRAM 75	RACIAL AND IDENTITY PROFILING CLAIM SUMMARY						
(01)	Claimant				(02)			Fiscal Year 20/20
(03)	Departme	ent			l			
Dire	ct Costs				Object A	ccounts		
(04)	Reimburs	able Activities	(a) Salaries and Benefits	(b) Materials and Supplies	(c) Contract Services	(d) Fixed Assets	(e) Training	(f) Total
A. O	ne-Time	Activities						
	supervisor a reimbursabl Installation necessary t	r peace officer employee and assigned to perform the le activities and testing of software o comply with the state-equirements						
в. о	ngoing A						1	
1.	to report sto	n of the peace officers required ops, and maintenance of a natch individual officers to their number						
2.	Collection a	and reporting data on all stops						
3.		ubmission of data to of Justice and retention of stop ed						
4.	Audits and	validation of data collected						
5.	identities of officer involved	ta collected, ensure the the individual and the peace ved are not transmitted to the eneral in an open text field						
(05)	Total Dire	ect Costs						
Indir	rect Costs	3						
(06)	Indirect C	Cost Rate		[Fro	m ICRP or 10%]			%
(07)	Total Ind	irect Costs	ect Costs [Refer to Claim Summary Instructions]					
(80)	08) Total Direct and Indirect Costs [Line (05)(f) + line (07)]							
Cost	t Reduction	on						
(09)	Less: Of	fsetting Revenues						
(10)	Less: Ot	her Reimbursements						
(11)	Total Cla	imed Amount		[Line (08) min	nus {line (09) + li	ne (10)}]		

PROGRAM 375

RACIAL AND IDENTITY PROFILING CLAIM SUMMARY INSTRUCTIONS

FORM

- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of costs.
- (03) If more than one department has incurred costs for this mandate, give the name of each department.

 A separate Form 1 should be completed for each department.
- (04) For each reimbursable activity, enter the totals from Form 2, line (05), columns (d) through (h), to Form 1, block (04), columns (a) through (e), in the appropriate row. Total each row.
 - Note: Please refer to the parameters and guidelines for the details of the reimbursable activities.
- (05) Total columns (a) through (f).
- (06) Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an Indirect Cost Rate Proposal (ICRP). If an indirect cost rate of greater than 10% is used, include the ICRP with the claim.
- (07) Local agencies have the option of using the flat rate of 10% of direct labor costs or using a department's ICRP in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. If the flat rate is used for indirect costs, multiply Total Salaries, line (05)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (08) Enter the sum of Total Direct Costs, line (05)(f), and Total Indirect Costs, line (07).
- (09) If applicable, enter any offsetting revenue received by the claimant for this mandate from any state or federal source. Submit a schedule detailing the revenue sources and amounts.
- (10) If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (11) From Total Direct and Indirect Costs, line (08), subtract the sum of Offsetting Revenues, line (09), and Other Reimbursements, line (10). Enter the remainder on this line and carry the amount forward to Form FAM-27, line (13) of the Reimbursement Claim.

PROGRAM 375		F	ORM 2					
(01) Claimant			(02)					cal Year
							20	_/20
(03) Reimbursable Activities	s: Check only o	ne box per f	orm to iden	ntify the activ	rity being cla	aimed.		
A. One-Time Activities		В.	Ongoing A	Activities				
Training per peace office assigned to perform the			mainter	cation of the per nance of a system I.D. number				
Installation and testing o comply with the state-material	f software necessar andated requiremen	ry to 🔲	2. Collecti	ion and reportin	ig data on all s	tops		
				nic submission on of stop data o		artment of J	ustic	e and
			4. Audits a	and validation o	of data collecte	d		
			and the	p data collected peace officer i y General in an	nvolved are no	t transmitted		
(04) Description of Expenses	5			Ob	ject Accou	nts		
(a) Employee Names, Job Classifications, Functions Perform and Description of Expenses	(b) Hourly ed, Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries and Benefits	(e) Materials and Supplies	(f) Contract Services	(g) Fixed Assets		(h) Training
(05) Total Subtotal	Page	of						

PROGRAM 375

RACIAL AND IDENTITY PROFILING ACTIVITY COST DETAIL INSTRUCTIONS

FORM

2

- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of costs.
- (03) Check the box which indicates the activity being claimed. Check only one box per form. A separate Form 2 must be prepared for each applicable activity.

Note: Please refer to the parameters and guidelines for the details of the reimbursable activities.

(04) The following table identifies the type of information required to support reimbursable costs. To itemize costs for the activity checked in block (03), enter each employee name, job classification, a brief description of the activities performed, productive hourly rate, actual time spent, fringe benefits, supplies used, contract services, fixed assets, and training. The descriptions required in column (04)(a) must be of sufficient detail to explain the cost of activities or items being claimed.

	Required Documentation to Support Reimbursable Costs								
Object Accounts				Colu	ımns				Submit Supporting
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	Documents with the Claim
Salaries and	Employee Name and Job Classification	Hourly Rate	Hours Worked	Salaries equal Hourly Rate times Hours Worked					
Benefits	Activities Performed	Benefit Rate		Benefits equal Benefit Rate times Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used		Costs equal Unit Cost times Quantity Used				
Contract Services	Name of Contractor and Specific Tasks Performed	Hourly Rate	Hours Worked and Inclusive Dates of Service			Costs equal Hourly Rate times Hours Worked or Total Contract Cost			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost times Quantity	Usage				Costs equal Total Cost times Usage		Copy of Contract and/or Invoices
Training	Employee Name, Classification, and Name of Class		Dates Attended					Registration Fee	

(05) Total line (04), columns (d) through (h) and enter the sums on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail activity costs, number each page. Enter totals from line (05), columns (d) through (h) to Form 1, block (04), columns (a) through (e) in the appropriate row.