

**ITEM 5**  
**INCORRECT REDUCTION CLAIM**  
**PROPOSED DECISION**

Government Code Sections 3502.5 and 3508.5

California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160,  
32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310,  
32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070

Statutes 2000, Chapter 901 (SB 739)

Register 2001, Number 49

*Local Government Employee Relations*

Fiscal Year 2010-2011

17-0130-I-01

City of Monrovia, Claimant

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Commission on State Mandates, Proposed Decision, *Firefighter's Cancer Presumption*,  
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# Exhibit A

## 1. INCORRECT REDUCTION CLAIM TITLE

Local Government Employee Relations IRC

FY 2010-11

## 2. CLAIMANT INFORMATION

City of Monrovia

Name of Local Agency or School District

Buffy J. Bullis

Claimant Contact

Administrative Services Director/Finance Director

Title

415 S. Ivy Ave.

Street Address

Monrovia, CA 91 016

City, State, Zip

626-932-5513

Telephone Number

626-932-5566

Fax Number

bbullis@ci.monrovia.ca.us

E-Mail Address

## 3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this incorrect reduction claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Annette S. Chinn

Claimant Representative Name

President

Title

Cost Recovery Systems, Inc.

Organization

705-2 East Bidwell Street #294

Street Address

Folsom, CA 95630

City, State, Zip

916-939-7901

Telephone Number

916-939-7801

Fax Number

achinnrs@aol.com

E-Mail Address

For CSM Use Only

Filing Date

**RECEIVED**

August 15, 2017

Commission on  
State Mandates

IRC # 17-0130-I-01

## 4. IDENTIFICATION OF STATUTES OR EXECUTIVE ORDERS

Please specify the subject statute or executive order that claimant alleges is not being fully reimbursed pursuant to the adopted parameters and guidelines.

Chapter 980, Statutes of 2000

## 5. AMOUNT OF INCORRECT REDUCTION

Please specify the fiscal year and amount of reduction. More than one fiscal year may be claimed.

Fiscal Year	Amount of Reduction
2010-11	\$50,459.00

TOTAL:

## 6. NOTICE OF INTENT TO CONSOLIDATE

Please check the box below if there is intent to consolidate this claim

☐ Yes, this claim is being filed with the intent to consolidate on behalf of other claimants.

Sections 7 through 11 are attached as follows:

### 7. Written Detailed

Narrative:

pages 1 to 5.

### 8. Documentary Evidence

and Declarations:

Exhibit 1.

### 9. Claiming Instructions:

Exhibit 2.

### 10. Final State Audit Report or Other Written Notice of Adjustment:

Exhibit 3.

### 11. Reimbursement Claims:

Exhibit 4.

(Revised June 2007)



*Sections 7 through 11 shall be included with each incorrect reduction claim submittal.*

#### **7. WRITTEN DETAILED NARRATIVE**

Under the heading "7. Written Detailed Narrative," please describe the alleged incorrect reduction(s). The narrative shall include a comprehensive description of the reduced or disallowed area(s) of cost(s).

#### **8. DOCUMENTARY EVIDENCE AND DECLARATIONS**

If the narrative describing the alleged incorrect reduction(s) involves more than discussion of statutes or regulations or legal argument and utilizes assertions or representations of fact, such assertions or representations shall be supported by testimonial or documentary evidence and shall be submitted with the claim under the heading "8. Documentary Evidence and Declarations." All documentary evidence must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and be based upon the declarant's personal knowledge or information or belief.

#### **9. CLAIMING INSTRUCTIONS**

Under the heading "9. Claiming Instructions," please include a copy of the Office of State Controller's claiming instructions that were in effect during the fiscal year(s) of the reimbursement claim(s).

#### **10. FINAL STATE AUDIT REPORT OR OTHER WRITTEN NOTICE OF ADJUSTMENT**

Under the heading "10. Final State Audit Report or Other Written Notice of Adjustment," please include a copy of the final state audit report, letter, remittance advice, or other written notice of adjustment from the Office of State Controller that explains the reason(s) for the reduction or disallowance.

#### **11. REIMBURSEMENT CLAIMS**

Under the heading "11. Reimbursement Claims," please include a copy of the subject reimbursement claims the claimant submitted to the Office of State Controller.



## 12. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the incorrect reduction claim submission. \**

This claim alleges an incorrect reduction of a reimbursement claim filed with the State Controller's Office pursuant to Government Code section 17561. This incorrect reduction claim is filed pursuant to Government Code section 17551, subdivision (d). I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this incorrect reduction claim submission is true and complete to the best of my own knowledge or information or belief.

Buffy J. Bullis

Print or Type Name of Authorized Local Agency  
or School District Official

Administrative Services Director/Finance Director

Print or Type Title



Signature of Authorized Local Agency or  
School District Official

9/19/17

Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the incorrect reduction claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*





August 10, 2017

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

Re: Incorrect Reduction Claim for Local Government Employee Relations Program,  
City of Monrovia

Dear Ms. Halsey,

The City of Monrovia is requesting to appeal the decision of the State Controller's Office (SCO) to deny reimbursement of \$50,459 in state mandated costs for FY 2009-10 for the Local Government Employee Relations Program No. 298. The City requests that the Commission on State Mandates review and consider this Incorrect Reduction Claim (IRC) to reverse the reduction made to the City's claim.

The City believes that the SCO's decision to reduce the claim is not justified and is unfair because the SCO's accounting division waited almost three years to audit the City's claim to determine that the claim would be reduced by \$50,459 due to clerical errors (described further in this letter). Because the SCO waited almost three years to audit the claim and notify the City of the error, the City was unable to correct the claim as the filing period had passed. After multiple requests to the SCO, the City was denied an opportunity to revise/amend the claim. It is important to note that, had the City known of the clerical error sooner (not three years later), the City would have immediately corrected and resubmitted the claim within the filing period. Furthermore, the City believes that state mandated costs should not be denied on the basis of a clerical error and that the City should be given an opportunity to amend a claim that contains actual, eligible, state mandated costs.

This IRC letter provides a summary of the claim, a chronology of events, a relevant case study, and an overview of the City's compliance with the state mandate guidelines.

The following documents are attached to assist with your review:

1. Original Claim for the Local Government Employee Relations (Dated 1/30/2012)
2. Backup Documentation of Invoices (Submitted with Original Claim on 1/30/2012)
3. Email Notification from SCO Regarding Claim Reduction and Email Correspondences (Dated 9/29/2014 - 9/30/2014)
4. Final Written Appeal Letter to the State Controller's Office (dated 9/8/2016)
5. State Controller's Office Denial Letter (dated 10/20/2016)



**Summary of SB90 Claim - Local Government Employee Relations Program No. 298  
Original Claim Submitted on 1/19/2012**

<b>Fiscal Year</b>	<b>Cost Incurred</b>	<b>Notes</b>
2009-10	\$50,459	The FY 2009-10 claim was denied because it was mistakenly recorded in FY 2010-11 instead of FY 2009-10 and the filing period for FY 2009-10 had passed by the time the City was notified of the reduction on 9/29/2014.
2010-11	\$147,355	The FY 2010-11 claim was approved as part of the original claim because it was recorded in the correct fiscal year 2010-11
2011-12	\$31,813	The FY 2011-12 claim was denied because it was mistakenly recorded in FY 2010-11 instead of FY 2011-12; however, the City was able to resubmit the claim separately in the subsequent year.
<b>Total Claim</b>	<b>\$229,627</b>	Total amount submitted.
2009-10 Reduction	\$50,459	Total amount denied.
<b>Total Amount Recovered</b>	<b>\$179,168</b>	Total amount approved. This includes the FY 2010-11 claim that was originally approved and the FY 2011-12 claim that was revised and resubmitted.

As indicated in the summary above, the FY 2009-10 cost was the only portion of the claim that was not resolved or recovered due to the State Controller's Office (SCO) denial of the claim. The City of Monrovia is filing the Incorrect Reduction Claim (IRC) to reverse the FY 2009-10 \$50,459 reduction made to the City's claim.

**Chronology:**

- **January 30, 2012** - City timely submitted the FY 2010-11 claims for State Reimbursement.

The City submitted an SB 90 Claim for the Local Government Employee Relations Program No. 298 for three fiscal years (FY 2009-10, FY 2010-11, and FY 2011-12) under one submittal (FY 2010-11 FAM-27.) At the time, the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible.

- **September 29, 2014** - State Controller's Office auditor notified the City of the claim reduction.

The State Controller's Office waited almost three years to audit the City's claim. On September 29, 2014, Ms. Afsana Saidra, SCO Auditor, notified the City of Monrovia that the FY 2010-11 Local Government Employee Relations claim would be reduced by \$50,459, due to errors in filing the claim for FY 2009-10, FY 2010-11, and FY 2011-12 in one submission (under the FY 2010-11 period), rather than filing separate claims for each fiscal year. It is important to note that, had the City known of the clerical error sooner, the City would have corrected and resubmitted the claim for FY 2009-10.



- **September 29, 2014** - City Finance Director, Ms. Buffy Bullis, responds to the SCO.

Ms. Bullis emailed the SCO a message requesting correction of the clerical error and restoration of the \$50,459 reduction (less applicable late penalties) for the FY 2009-10 costs that were submitted.

- **September 30, 2014** - State Controller's Offices' desk auditor denies the City's request.

Ms. Afsana Saida emailed the City a response denying the City's request to correct the clerical error and restore the eligible FY 2009-10 costs of \$50,459. Ms. Afsana Saida indicated that the reduction would not be restored because all "Actual costs must be traceable and be supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities," as noted in the attached email correspondence. However, the City believes that these requirements were, in fact, satisfied and that the City filed the claim in good faith. The claim included *valid and traceable costs* through proper documentation of actual and eligible invoices.

Ms. Bullis followed up with a phone call to Mr. Jay Lal, SCO Accounting Division Manager; however, the request to correct the clerical error was denied. The City was informed that the cut would not be restored because the deadline to file the FY 2009-10 claims had passed. However, had the City known of or been notified of the clerical error sooner (not almost three years after the original claim submittal), the City would have corrected the paperwork within the allowable timeframe by submitting a separate late claim for FY 2009-10.

- **September 8, 2016** - City Finance Director, Ms. Buffy Bullis, makes a final written appeal to SCO.

Ms. Bullis mailed Mr. Jay Lal, SCO Accounting Division Manager, a final written appeal to request reconsideration of the denial and allow the City to correct the FY 2009-10 claim and recover the state mandated costs for that period.

- **October 20, 2016** - State Controller's Office again denies request for reconsideration.

Mr. Jay Lal, SCO Accounting Division Manager, mails a written letter denying the City's request for reconsideration of the denied FY 2009-10 costs.

- **August 10, 2017** - City Files an Incorrect Reduction Claim

This Incorrect Reduction Claim is filed on time as local agencies (the City) can submit the IRC to the Commission on State Mandates within three years from the date of the State Controller's notice. The original notice submitted by the State Controller's Office was submitted to the City on September 29, 2014, as noted above, and sets the IRC deadline to September 29, 2017.



### Relevant Case Study:

On March 18, 2016, the Commission on State Mandates issued a Draft Proposed Decision regarding the City of Los Angeles Incorrect Reduction Claim for Firefighter Cancer Presumption Claim (09-4081-I-01). The City of Monrovia has observed similarities between this IRC case and the one detailed above. In the City of Los Angeles case, they had also attached documented costs to their claims; however, had made a clerical error in transferring those cost to their FAM-27 coversheet. The Commission found that the State Controller's Office should have allowed for the correction of a "mere arithmetic error". This case is similar in that the costs were all eligible, properly documented at the time of filing and the error was due to a simple clerical error. Had the SCO's office notified the City of Los Angeles immediately, the City could have still had time to provide separate coversheets and submit the corrected paperwork. Reference: <https://www.csm.ca.gov/matters/09-4081-I-01/doc7.pdf>

### Compliance with State Mandate Requirements:

The City believes the FY 2009-10 expenses in the amount of \$50,459 are legitimate, valid, and reimbursable based on the following state mandate requirements:

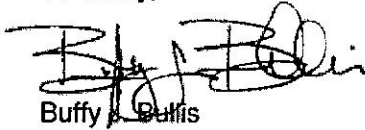
- "Government Code (GC) sections 17500 through 17617 provide for the reimbursement of costs incurred by local agencies for costs mandated by the State. These are costs that local agencies are required to incur after July 1, 1980, as a result of any statute enacted after January 1, 1975, or any executive order implementing such statute which mandates a new program or higher level of service of an existing program." (The City's costs claimed were eligible, documented, and incurred to comply with a State Mandated Program.)
- "Reimbursement claims are defined as any claim filed with the State Controller's Office (SCO) for reimbursement of costs incurred for which an appropriation is made for the purpose of paying the claim. All claims received by the SCO will be reviewed to verify all actual costs claimed. An adjustment of the claim will be made if the amount claimed is determined to be excessive, improper, or unreasonable." (The City's costs were not found to be excessive, improper, or unreasonable. The FY 2010-11 and FY 2001-12 costs were not questioned.)
- "Each local agency, to which the mandate is applicable, shall submit claims for the costs of the initial fiscal years to the SCO within 120 days of the issuance date for the claiming instructions, pursuant to GC section 17561(d)(1)(A)." (The City's costs were submitted to the State by the deadline.)
- "In order for the SCO to authorize the payment of a claim, the Certification of Claim, Form FAM-27, must be properly filled out, signed in blue ink, and dated by the agency's authorized officer." (The City believes the wording here is important. It does not say "in order for the State to APPROVE COSTS", instead it states "Authorize Payment". Granted – the Form FAM-27 was not filled in properly; however – if a claimant had, for example, filed the FAM-27 in black ink instead of blue ink, should that preclude them from obtaining reimbursement for properly documented and timely submitted eligible costs? The City believes that the actual submission and its attached support is the claim – and not just the properly completed coversheet. Clerical errors should not be grounds for denial of constitutionally guaranteed, mandated costs reimbursements.)



At this time, the City of Monrovia kindly requests that your Commission consider this Incorrect Reduction Claim and overturn the State Controller's Office decision to deny the claim and allow the City to correct a simple clerical error. The City is willing to provide amended paperwork to correct the error. Please note that all costs submitted were prepared in accordance with the claiming instructions, Statement of Decision, and the Parameters and Guidelines adopted by the Commission.

Attached are City correspondences with the State and claim documentation, which we feel explains the circumstances of this case. Should you have any questions, please contact me at (626) 932-5513 or our consultant, Annette Chinn, at (916) 939-7901.

Sincerely,



Buffy Bullis

Administrative Service Director/Finance Director

City of Monrovia

Phone: (626) 932-5513| Fax (626) 932-5567| Email: [bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)

c: Anne Kato, Chief Bureau of Payments  
Annette Chinn, Cost Recovery Systems, Inc.



# **EXHIBIT 1**






**Declaration of Buffy J. Bullis  
In support of  
The City of Monrovia's Incorrect Reduction Claim for the  
FY 2009-10 State Mandated Claim  
Local Government Employee Relations Program No. 298**

I, Buffy J. Bullis, declare as follows:

1. I am employed by the City of Monrovia and hold the position of Administrative Services Director/Finance Director. I have worked for the City of Monrovia since 2003. I have personal knowledge of the facts herein and if called upon to testify, I could do so to the best of my knowledge.
2. On January 30, 2012, the City of Monrovia timely submitted an SB 90 Claim for the Local Government Employee Relations Program No. 298 for three fiscal years (FY 2009-10, FY 2010-11, and FY 2011-12) under one submittal (FY 2010-11 FAM-27.) At the time, the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible.
3. On September 29, 2014, almost three years after the original claim submittal, the SCO auditor notified the City of Monrovia that the FY 2009-10 portion of the claim (\$50,459) was denied because it was [mistakenly] recorded in the FY 2010-11 claim instead of filing a separate claim for FY 2009-10.
4. On October 20, 2016, the SCO Accounting Division Manager informed the City of Monrovia that the FY 2009-10 claim could not be corrected and resubmitted because the filing period for the FY 2009-10 claims had passed.

I declare under penalty of perjury under the laws of the State of California that the information in this declaration is true and complete to the best of my own knowledge or information or belief.

Executed this 10<sup>th</sup> day of August 2017 at Monrovia, California.

  
Buffy J. Bullis, Declarant





Sent via email to: [achinners@aol.com](mailto:achinners@aol.com) and [bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)

September 8, 2017

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

Ms. Buffy Bullis  
Administrative Services Director  
City of Monrovia  
415 S. Ivy Ave.  
Monrovia, CA 91016

**RE: Notice of Incomplete Incorrect Reduction Claim**

*Local Government Employee Relations*

Statutes 2000, Chapter 980

City of Monrovia, Claimant

Dear Ms. Chinn and Ms. Bullis:

On August 15, 2017, the Commission on State Mandates (Commission) received an incorrect reduction claim (IRC) filed by the City of Monrovia on the above-named matter.

Upon initial review, Commission staff finds this incorrect reduction claim to be incomplete because: (1) since the incorrect reduction claim form submitted is not the current form, *Section 12. Claim Certification* has been omitted<sup>1</sup>; and, (2) the person listed in *Section 2. Claimant Information* of the incorrect reduction claim form does not appear to be the city manager or director of finance and no resolution or ordinance of the City Council has been submitted to show that she has been authorized by the City to file an incorrect reduction claim, as is required under section 1185.1(a)(2) of the Commission's regulations.

Who May File an Incorrect Reduction Claim on Behalf of a Local Agency?

Pursuant to section 1185.1(a)(2) of Commission regulations, only specified authorized city officials may file on behalf of a city.

Section 1185.1(a)(2) of Commission regulations state that only a "city manager, director of finance, or other officer with a delegation by ordinance or resolution from the city council, may file on behalf of a city." Therefore, only an official authorized in section 1185.1(a)(2) of the Commission's regulations may be named as Claimant Contact in *Section 2. Claimant Information* on the incorrect reduction claim form, or act as the authorized signatory in *Section 12. Claim Certification* of the incorrect reduction claim form. Ms. Bullis's title is "Administrative Services Director" and nothing has been submitted for the record to indicate that she is in fact the city manager or director of finance or that she has been delegated by ordinance or regulation to file on behalf of the city. Thus, Ms. Bullis may not be named as Claimant Contact in *Section 2. Claimant Information* on the incorrect reduction claim form, nor may she act as the authorized signatory for the purposes of *Section 12. Claim Certification* of the incorrect reduction claim form. In addition, the language certifying the claim under the penalty of perjury has been omitted from the submission due to the omission of *Section 12*, which is included on the current Commission form. However, Ms. Bullis and anyone else who

<sup>1</sup> Please see the Commission on State Mandates' website for current forms:  
<https://www.csm.ca.gov/forms/IRCFForm.pdf> [accessed August 23, 2017].



specifically requests to be on the mailing list for a matter is included on all service of written materials and may participate in the mandate determination process.

Curing This Incorrect Reduction Claim

1. A revised, current incorrect reduction claim form that provides the claimant information of an individual authorized to file on behalf of the agency under section 1185.1 of the Commission's regulations in *Section 2. Claimant Information* and sign, certifying the claim, in *Section 12. Claim Certification*.

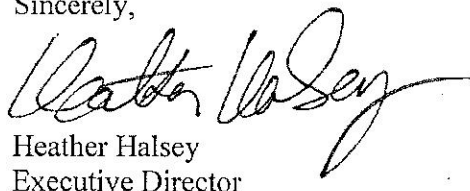
If Ms. Bullis is in fact authorized to file on behalf of the City, please include a copy of the delegation by ordinance or resolution from the City of Monrovia's city council demonstrating that the Administrative Services Director is eligible to legally bind the city for the purpose of mandate claims.

Retaining Your Original Filing Date

To retain the original filing date, please refile the required elements to cure this incorrect reduction claim as specified above, which will supersede any initial filing, within 30 days of the date of this letter by **October 9, 2017**. If a complete incorrect reduction claim filing is not received within 30 calendar days from the date of this letter, the executive director may disallow the original incorrect reduction claim filing date. (Cal. Code Regs., tit. 2, § 1185.2(a).) As provided in the Commission's regulations, a real party in interest may appeal to the Commission for review of the actions and decisions of the executive director. Please refer to California Code of Regulations, title 2, section 1181.1(c).

The revised filing may be submitted electronically via the Commission's e-filing system pursuant to section 1181.3 of the Commission's regulations and will replace the original filing. Please see the Commission's website at [http://www.csm.ca.gov/dropbox\\_procedures.php](http://www.csm.ca.gov/dropbox_procedures.php)

Sincerely,



Heather Halsey  
Executive Director



**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 8, 2017 I served via e-mail to [achinnrcrs@aol.com](mailto:achinnrcrs@aol.com) and [bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us) the:

**Notice of Incomplete Test Claim Filing**

*Local Government Employee Relations*

Statutes 2000, Chapter 980

City of Monrovia, Claimant

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 8, 2017 at Sacramento, California.

  
\_\_\_\_\_  
Jill L. Magee  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562



## Emy-Rose Hanna

---

**From:** Jill Magee <jill.magee@csm.ca.gov>  
**Sent:** Thursday, September 14, 2017 11:09 AM  
**To:** Emy-Rose Hanna  
**Subject:** RE: Local Government Employee Relations

Hello,


I just heard back from my Executive Director, the resolution you provided is sufficient.

Please let me know if you have any other questions.

Sincerely,  
Jill

**Jill Magee**  
Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
[www.csm.ca.gov](http://www.csm.ca.gov)  
Phone: (916) 323-3562  
Fax: (916) 445-0278

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 Please consider the environment before printing this e-mail

**From:** Jill Magee  
**Sent:** Thursday, September 14, 2017 8:35 AM  
**To:** 'Emy-Rose Hanna' <ehanna@ci.monrovia.ca.us>  
**Subject:** RE: Local Government Employee Relations

Good morning,

Thanks. Per section 1185.1 of the Commission's regulations, an ordinance or resolution from the city council is required. Please do not submit any unnecessary documents. As I explained, I will get back to you as soon as I have an answer on the ordinance you already sent. Here is a link to the California Code of Regulations:

[https://govt.westlaw.com/calregs/Document/I5D1712838B7A41758B8C0DE410D5C13F?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I5D1712838B7A41758B8C0DE410D5C13F?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))


Sincerely,  
Jill



**Jill Magee**

Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
[www.csm.ca.gov](http://www.csm.ca.gov)  
Phone: (916) 323-3562  
Fax: (916) 445-0278

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 Please consider the environment before printing this e-mail

**From:** Emy-Rose Hanna [<mailto:ehanna@ci.monrovia.ca.us>]  
**Sent:** Thursday, September 14, 2017 7:42 AM  
**To:** Jill Magee <[jill.magee@csm.ca.gov](mailto:jill.magee@csm.ca.gov)>  
**Subject:** RE: Local Government Employee Relations

Hello Jill,

I also wanted to send you the link to the City's Org Chart, which may be found on page 25 of the [FY 2016-2017 Budget Book](#).

The Org Chart illustrates how the Administrative Services Department is responsible for all Finance Operations.

Please let me know if the Org Chart, along with the resolution I sent earlier, will suffice. If so, I can include both in the resubmittal of the IRC.

Thank You,

**Emy-Rose Hanna****Management Analyst**

Administrative Services | City of Monrovia  
415 S. Ivy Avenue, Monrovia, CA 91016  
Phone: 626-932-5515 | Email: [ehanna@ci.monrovia.ca.us](mailto:ehanna@ci.monrovia.ca.us)  
Office Hours: Mon-Thu 7:00 am – 6:00 pm (PST)

**From:** Emy-Rose Hanna  
**Sent:** Wednesday, September 13, 2017 4:11 PM  
**To:** 'Jill Magee' <[jill.magee@csm.ca.gov](mailto:jill.magee@csm.ca.gov)>  
**Subject:** RE: Local Government Employee Relations

Hi Jill,

I was planning to submit the resolution along with the revised claim form and all the claim contents in our resubmittal later this week.

I sent this over only to confirm that it will be accepted once we resubmit because I don't want it to be deemed incomplete again.



Thank You,

**Emy-Rose Hanna**

**Management Analyst**

Administrative Services | City of Monrovia

415 S. Ivy Avenue, Monrovia, CA 91016

Phone: 626-932-5515 | Email: [ehanna@ci.monrovia.ca.us](mailto:ehanna@ci.monrovia.ca.us)

Office Hours: Mon-Thu 7:00 am – 6:00 pm (PST)

**From:** Jill Magee [<mailto:jill.magee@csm.ca.gov>]

**Sent:** Wednesday, September 13, 2017 4:05 PM

**To:** Emy-Rose Hanna <[ehanna@ci.monrovia.ca.us](mailto:ehanna@ci.monrovia.ca.us)>

**Subject:** RE: Local Government Employee Relations

Hello,

Thank you for your email. I am not sure if it would need to be formally filed via our drop box in order to be considered but I will find out and get back to you, likely sometime tomorrow morning,

Sincerely,

Jill

**Jill Magee**

Program Analyst

Commission on State Mandates

980 Ninth Street, Suite 300


Sacramento, CA 95814

[www.csm.ca.gov](http://www.csm.ca.gov)

Phone: (916) 323-3562

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 Please consider the environment before printing this e-mail

**From:** Emy-Rose Hanna [<mailto:ehanna@ci.monrovia.ca.us>]

**Sent:** Wednesday, September 13, 2017 4:02 PM

**To:** Jill Magee <[jill.magee@csm.ca.gov](mailto:jill.magee@csm.ca.gov)>

**Subject:** RE: Local Government Employee Relations

**Importance:** High

Hello Jill,

It was a pleasure speaking with you earlier today!



We would like to resubmit the IRC Claim by end of this week. Before we resubmit, we were hoping you could confirm if the attached resolution will satisfy the requirement to have the Director of Finance sign the IRC Claim Form.

I have attached a resolution that contains a Certificate of Authorized Officials whom are allowed to sign financial documents, oversee financial operations and execute financial transactions.

The Administrative Services Director, Buffy Bullis, is shown on the Certificate of Authorized Officials on page 3 of the PDF.

(You can also find out more information about our department here: <http://www.cityofmonrovia.org/your-government/administrative-services/about-us> )

Could you please let me know if this resolution satisfies the requirement to have the Finance Directors' signature on the IRC Claim Form?

Thank you kindly,

**Emy-Rose Hanna**

**Management Analyst**

Administrative Services | City of Monrovia

415 S. Ivy Avenue, Monrovia, CA 91016

Phone: 626-932-5515 | Email: [ehanna@ci.monrovia.ca.us](mailto:ehanna@ci.monrovia.ca.us)

Office Hours: Mon-Thu 7:00 am – 6:00 pm (PST)

**From:** Jill Magee [<mailto:jill.magee@csm.ca.gov>]

**Sent:** Friday, September 08, 2017 11:45 AM

**To:** [achinnrcs@aol.com](mailto:achinnrcs@aol.com); Buffy Bullis <[bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)>

**Cc:** Heidi Palchik <[Heidi.Palchik@csm.ca.gov](mailto:Heidi.Palchik@csm.ca.gov)>

**Subject:** Local Government Employee Relations

Good Afternoon Ms. Chinn and Ms. Bullis:

Please find the attached letter regarding the incorrect reduction claim filing you submitted on behalf of the City of Monrovia. Commission staff has determined that this filing is incomplete.

Please contact me if you have any questions.

Sincerely,

Jill

**Jill Magee**

Program Analyst

Commission on State Mandates

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**RESOLUTION NO. 2017-03**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF MONROVIA, CALIFORNIA, ESTABLISHING A  
CERTIFICATE OF AUTHORIZED OFFICIALS**

**THE CITY COUNCIL OF THE CITY OF MONROVIA DOES** hereby resolve as follows:

**WHEREAS**, by Resolution No. 2001-50 the City Council has previously directed Wells Fargo bank to act as the designated banking institution on behalf of the City of Monrovia; and

**WHEREAS**, by Resolution No. 2001-49 the City Council has previously designated the Bank of New York as the authorized safekeeping custodian for city funds on behalf of the City of Monrovia; and

**WHEREAS**, the City Council and staff are required from time to time to sign certain documents related to contractual, custodial, banking, investment and safekeeping activities; and

**WHEREAS**, various organizations and financial institutions require formal authorization to verify the accuracy of the existing authorized officials and officers' signatures;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROVIA  
HEREBY RESOLVES:**

**SECTION 1.** That the Officials identified in Exhibit "A" are now acting and duly qualified to

- a) execute contracts, agreements, and other documents on behalf of the City;
- b) To execute such agreements or documents as the designated banking institution, custodian, or trustee of funds may at any time request (and all renewals or amendments thereto) regarding the City of Monrovia's account(s), including Custodial Agreements (containing indemnity and hold harmless provisions), and which agreement the Administrative Services Director has reviewed and does approve, and
- c) To deposit in any City custody account or accounts, stocks, bonds, securities, cash, funds, checks, instruments and/or other property held or owned by the City of Monrovia from whatever source received, and to disburse, redeem, withdraw, and/or dispose of any such stocks, bonds, securities, cash, funds, checks, instruments and/or other property upon written order or instruction of any two Authorized Persons as identified in Exhibit "A"

**SECTION 2.** Account signature authorizations and other related routine banking forms or documents may be executed administratively by the City Manager, Administrative Services Director, or any of their designees.



PASSED, APPROVED AND ADOPTED this 17<sup>th</sup> day of January, 2017.



Tom Adams, Mayor  
City of Monrovia

ATTEST:



Alice D. Atkins, CMC, City Clerk  
City of Monrovia

APPROVED AS TO FORM:



Craig A. Steele, City Attorney  
City of Monrovia

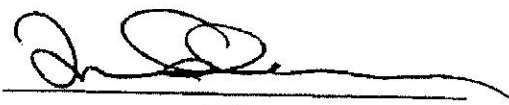
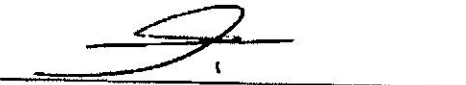

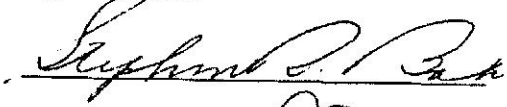



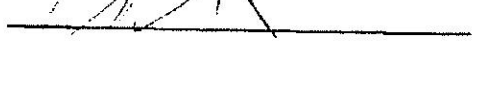


RESOLUTION NO. 2017-03

EXHIBIT A


CERTIFICATE OF AUTHORIZED OFFICIALS

I, the undersigned City Clerk of the City of Monrovia, hereby certify that, pursuant to Resolution No. 2017-03, duly adopted by the Monrovia City Council on January 17, 2017, those officials named upon the face of this Certificate have been duly authorized, are now acting, and are qualified to sign written instructions, consents, agreements, documents, accounts, etc., on behalf of this municipality, that the specimen signatures appearing opposite the names and titles are the genuine signatures of such officers, and that said resolution authorizing these officials is now in full force and effect. You are further authorized to recognize these signatures until you receive our written instructions to the contrary.

Tom Adams	Mayor, will sign	
Alexander C. Blackburn	Mayor Pro-Term, will sign	
Oliver Chi	City Manager, will sign	
Stephen R. Baker	City Treasurer, will sign	
Buffy Bullis,	Administrative Services Director, will sign	
Alexander Kung	Deputy Administrative Services Director will sign	
Alice D. Atkins	City Clerk, will sign	
Craig A. Steele	City Attorney, will sign	

Certified on this 17<sup>th</sup> day of January 17, 2017.

NAME:

  
Alice D. Atkins, CMC

TITLE: City Clerk, City of Monrovia

(seal)



STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            ) §  
CITY OF MONROVIA                    )

I, ALICE D. ATKINS, CMC, City Clerk of the City of Monrovia, California, do hereby certify that the foregoing is a full, true and correct copy of Resolution 2017-03, it was duly adopted and passed at a regular meeting of the Monrovia City Council on the 17th day of January, 2017, by the following vote:

**AYES:** Councilmembers Crudgington, Shevlin, Spicer, Mayor Pro Tem Blackburn, Mayor Adams

**NOES:**

**ABSTAIN:**

**EXCUSED:**

ATTEST:

A handwritten signature in black ink, appearing to read 'Alice D. Atkins', written over a horizontal line.

Alice D. Atkins, CMC, City Clerk  
City of Monrovia



# **EXHIBIT 2**



OFFICE OF THE STATE CONTROLLER  
STATE-MANDATED COSTS CLAIMING INSTRUCTIONS NO. 2009-05  
LOCAL GOVERNMENT EMPLOYEE RELATIONS

AUGUST 3, 2009

REVISED JULY 1, 2016

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 can use for filing claims for the Local Government Employee Relations program. The 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 included as an integral part of the claiming instructions.

On December 4, 2006, the CSM adopted a Statement of Decision finding that the test claim legislation imposes a reimbursable state-mandated program on local 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, special district or other local agency subject to the jurisdiction of the Public Employment Relations Board (PERB) that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

The City of Los Angeles and the County of Los Angeles are not eligible claimants because they are specifically excluded from PERB's jurisdiction pursuant to GC section 3507.

Special districts, subject to tax and spend limitations pursuant to the provisions of articles XIII A and B of the California Constitution, are eligible to file a claim for reimbursement. To establish proof of eligibility and to minimize payment delays, the SCO requests that special district claimants submit a supporting document affirming that the special district received an annual allocation of property tax revenue from the county pursuant to article XIII A of the California Constitution. This may include a Board of Directors Resolution establishing the appropriation limit for the fiscal year being claimed, in compliance with article XIII B of the California Constitution.

**Reimbursement Claim Deadline**

Annual reimbursement claims for the **2015-16** fiscal year may be filed by **February 15, 2017**, without a late penalty. **Claims filed more than one year after the filing date 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, subdivision (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, subdivision (a), states that no claim may be filed pursuant to sections 17551 and 17561, unless such a claim exceeds one thousand dollars (**\$1,000**), provided that a county may submit a combined claim on behalf of direct service districts or special districts within their county if the combined claim exceeds **\$1,000**, even if the individual direct service district's or special district's claim does not each exceed **\$1,000**. The county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each direct service district or special district. These combined claims may be filed only when the county is the fiscal agent for the districts. A combined claim must show the individual claim costs for each eligible district. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a direct service district or special district provides a written notice of its intent to file a separate claim to the county and to the SCO, at least 180 days prior to the deadline for filing the claim.

## **Reimbursement of Claims**

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. 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 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, notices of order of suspension or revocation, sworn reports, arrest reports, notices to appear, employee time records, or time logs, 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 the 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 the SCO are subject to review to determine if costs are related to the mandate, are reasonable and not excessive, and the claim was prepared in accordance with the SCO's claiming instructions and the Ps & Gs adopted by the Commission. If any adjustments are made to a claim, a "Notice of Claim Adjustment" specifying the claim activity adjusted, the amount adjusted, and the reason for the adjustment, will be mailed within 30 days after payment of the claim.

On-site audits will be conducted by the SCO as deemed necessary. Pursuant to GC Section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a claimant is subject to audit by the SCO no later than three years after the date that 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 the 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 the 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 the SCO on request.

## **Record Retention**

All documentation to support actual costs claimed must be retained for a period of three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated or no payment was made at the time the claim was filed, the time for the SCO to initiate an audit will be from the date of initial payment of the claim. Therefore, all documentation to support actual costs claimed must be retained for the same period, and must be made available to the SCO on request.

## **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 online at the SCO's website: **[www.sco.ca.gov/ard\\_mancost.html](http://www.sco.ca.gov/ard_mancost.html)**.

Use the following mailing addresses:

If delivered by  
U.S. Postal Service:

Office of the State Controller  
Attn: Local Reimbursements Section  
Division of Accounting and Reporting  
P.O. Box 942850  
Sacramento, CA 94250

If delivered by  
other delivery services:

Office of the State Controller  
Attn: Local Reimbursements Section  
Division of Accounting and Reporting  
3301 C Street, Suite 700  
Sacramento, CA 95816



For more information, contact the Local Reimbursements Section by email at [LRSDAR@sco.ca.gov](mailto:LRSDAR@sco.ca.gov), by telephone at (916) 324-5729, or by writing to the address above.



## PARAMETERS AND GUIDELINES

Government Code Sections 3502.5 and 3508.5

Statutes 2000, Chapter 901 (SB 739)

California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070

Register 2001, Number 49

*Local Government Employee Relations*  
01-TC-30

### I. SUMMARY OF THE MANDATE

The test claim statute amended the Meyers-Milias-Brown Act (hereinafter the “MMBA”) regarding employer-employee relations between local public agencies and their employees. The test claim statute and its attendant regulations created an additional method for creating an agency shop arrangement, and expanded the jurisdiction of the Public Employment Relations Board (hereinafter “PERB”) to include resolving disputes and enforcing the statutory duties and rights of those public employers and employees subject to the MMBA.

On December 4, 2006, the Commission on State Mandates found that the test claim statute and regulations impose a partially reimbursable state-mandated program on local agencies for the following activities:

1. Deduct from an employees’ wages the payment of dues or service fees required pursuant to an agency shop arrangement that was established under subdivision (b) of Government Code section 3502.5, and transmit such fees to the employee organization. (Gov. Code § 3508.5, subd. (b)).
2. Receive from the employee any proof of in lieu fee payments made to charitable organizations required pursuant to an agency shop arrangement that was established under subdivision (b) of Government Code section 3502.5. (Gov. Code, § 3502.5, subd. (c)).
3. Follow PERB procedures in responding to charges and appeals filed with PERB, by an entity other than the local public agency employer, concerning an unfair labor practice, a unit determination, representation by an employee organization, recognition of an employee organization, or election. Mandated activities are:
  - a. procedures for filing documents or extensions for filing documents with PERB (Cal.Code Reg., tit. 8, §§ 32132, 32135 (Register 2001, No. 49));
  - b. proof of service (Cal. Code Regs., tit. 8, § 32140 (Register 2001, No. 49));



- c. responding to subpoenas and investigative subpoenas (Cal. Code Regs., tit. 8, §§ 32149, 32150 (Register 2001, No. 49));
- d. conducting depositions (Cal. Code Regs., tit. 8, § 32160 (Register 2001, No. 49));
- e. participate in hearings and responding as required by PERB agent, PERB Administrative Law Judge, or the five-member PERB (Cal. Code Regs., tit. 8, §§ 32168, 32170, 32175, 32176, 32180, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050 and 60070 (Register 2001, No. 49)); and
- f. filing and responding to written motions in the course of the hearing. (Cal. Code Regs. tit. 8, § 32190. (Register 2001, No. 49.)

## **II. ELIGIBLE CLAIMANTS**

Any county, city, or city and county, special district or other local agency subject to the jurisdiction of PERB that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs. However, the City of Los Angeles and the County of Los Angeles are not eligible claimants because they are specifically excluded from PERB jurisdiction pursuant to Government Code section 3507.

## **III. PERIOD OF REIMBURSEMENT**

Government Code section 17557 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 test claim for this mandate was filed by the test claimants, the County of Sacramento and the City of Sacramento, on August 1, 2002. Therefore, the period of reimbursement begins on July 1, 2001.

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

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

## **IV. REIMBURSABLE ACTIVITIES**

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

Evidence corroborating the source documents may include, but is not limited to, time sheets, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, calendars, and declarations. Declarations must include a certification or declaration stating, "I



certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct,” and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below.

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

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

**A. One Time Activities**

1. Establish procedures and documentation for deduction from employees’ wages the payment of dues, or service fees, including transmittal of such payments, and handling proof of in lieu fee payments made to charitable organizations as required by the agency shop agreement pursuant to Government Code sections 3502.5, subdivisions (b) and (c).
2. Develop and provide training for employees charged with responsibility for responding to PERB administrative actions, including attorneys, supervisory and management personnel. (One time per employee).
3. Establish procedures and systems for handling PERB matters, including calendaring, docketing and file management systems.

**B. On-Going Activities**

1. Deduct from employees’ wages the payment of dues or service fees required pursuant to an agency shop arrangement that was established under subdivision (b) of Government Code section 3502.5, and transmit such fees to the employee organization. (Gov. Code, §, 3508.5, subd. (b).)
2. On a monthly basis, receive from the employee proof of in lieu fee payments made to charitable organizations pursuant to an agency shop arrangement that was established by signed petition and election in Government Code section 3502.5, subdivision (b). (Gov. Code, § 3502.5, subd. (c).)
3. When a person or entity other than the public entity files with the PERB an unfair practice charge, unit determination, representation by an employee organization, , recognition of an employee organization, or an election request, or the public agency employer is ordered by PERB to join in a matter, the following activities are reimbursable:
  - a. filing documents or requests for extension of time to file documents with PERB (Cal. Code Regs., tit.8, §§ 32132, 32135);
  - b. proof of service, including mailing and service costs (Cal. Code Regs., tit. 8, § 32140);



- c. preparation for and participation in informal conferences as required by any PERB Board agents and PERB Administrative Law Judges to clarify issues and explore the possibility of a voluntary settlement including, but not limited to, preparation of briefs, documentation and evidence, exhibits, witnesses and expert witnesses (Cal. Code Regs., tit.8, §§ 32170, subd. (e) and 32650);
- d. responding to subpoenas and investigative subpoenas, including the time spent obtaining the information or documentation requested in the subpoena, and copying and service charges (Cal. Code Regs., tit. 8, §§ 32149, 32150);
- e. the conduct of depositions, including service of subpoenas, deposition reporter and transcription fees, expert witness fees, preparation for the deposition and the time of any governmental employee or attorney incurred in the conduct of the deposition (Cal. Code Regs., tit. 8, § 32160);
- f. preparation for and participation in any hearing as required by any PERB Board agent, PERB Administrative Law Judge, the five-member PERB, or the General Counsel, including preparation of answer to complaint or answer to amendment, witnesses, evidence, exhibits, expert witnesses, statements<sup>1,2</sup>, stipulated facts<sup>3</sup> and informational briefs, oral argument, response to exceptions, response to administrative appeal or compliance matter.

Effective July 1, 2001 through May 10, 2006: California Code of Regulations, title 8, §§ 32168, 32170, 32175, 32176, 32180, 32205, 32206, 32207, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, and 60070. (Register 2001, No. 49.)

Effective May 11, 2006: California Code of Regulations, title 8, §§ 32168, 32170, 32175, 32176, 32180, 32205, 32206, 32207, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980. (Register 2001, No. 49.)

Effective May 11, 2006, responses to petitions for board review pursuant to former sections 60010, 60030, 60050, and 60070 of the California Code of Regulations, title 8, are not reimbursable. (Register 2006, No. 15.)

- g. The preparation, research, and filing of motions, including correction of transcript and responding to written motions in the course of a hearing and immediately after. (Cal. Code Regs., tit. 8, § 32190, 32209.)

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<sup>1</sup> Section 32206.

<sup>2</sup> Section 32455 – preparation of written position statements or other documents filed with the General Counsel.

<sup>3</sup> Section 32207.



**C. Non-Reimbursable Activities**

1. The following activities initiated by the local public agency are *not* state-mandated activities:
  - a. file an unfair practice charge (Cal. Code of Regs., tit. 8, §§ 32602, 32604, 32615, 32621, 32625, 32650);
  - b. appeal of a ruling on a motion (Cal. Code of Regs., tit. 8, § 32200);
  - c. amend complaint (Cal. Code of Regs., tit. 8, §§ 32625, 32648);
  - d. appeal of an administrative decision, including request for stay of activity and appeal of dismissal (Cal. Code of Regs., tit. 8, §§ 32350, 32360, 32370, 32635, and 60035);
  - e. statement of exceptions to Board agent decision (Cal. Code of Regs., tit. 8, § 32300);
  - f. request for reconsideration (Cal. Code of Regs., tit. 8, § 32410); and,
  - g. request for injunctive relief (Cal. Code of Regs., tit. 8, § 32450).
2. Sections 3501, 3507.1 and 3509 of the Government Code do not apply to persons who are peace officers as defined in section 830.1 of the Penal Code. Therefore, increased costs related to peace officers are ineligible for reimbursement under this program. (Gov. Code, § 3511.)
3. Effective May 11, 2006, activities based on former sections 60010, 60030, 60050, and 60070 of California Code of Regulations, title 8, are not reimbursable.

**V. CLAIM PREPARATION AND SUBMISSION**

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

**A. Direct Cost Reporting**

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

**1. Salaries and Benefits**

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

**2. Materials and Supplies**

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



### 3. Contracted Services

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

### 4. Fixed Assets and Equipment

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

### 5. Travel

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

## B. Indirect Cost Rates

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

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the 2 CFR Part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) and the indirect shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B).) However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

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

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



1. The allocation of allowable indirect costs (as defined and described in 2 CRF Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) shall be accomplished by (1) separate a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

## **VI. RECORDS RETENTION**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>4</sup> is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## **VII. OFFSETTING REVENUES AND REIMBURSEMENTS**

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

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<sup>4</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.



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

#### **IX. REMEDIES BEFORE THE COMMISSION**

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

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

#### **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

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



<b>LOCAL GOVERNMENT EMPLOYEE RELATIONS CLAIM FOR PAYMENT</b>			For State Controller Use Only		<b>PROGRAM</b>	
			(19) Program Number 00298 (20) Date Filed (21) LRS Input		<b>298</b>	
(01) Claimant Identification Number			<b>Reimbursement Claim Data</b>			
(02) Claimant Name			(22) FORM 1, (04) A. 1.(g)			
County of Location			(23) FORM 1, (04) A. 2.(g)			
Street Address or P.O. Box			(24) FORM 1, (04) A. 3.(g)			
Suite			(25) FORM 1, (04) B. 1.(g)			
City			(26) FORM 1, (04) B. 2.(g)			
State			(27) FORM 1, (04) B. 3.(g)			
Zip Code			(28) FORM 1, (06)			
<b>Type of Claim</b>			(29) FORM 1, (07)			
(03) (09) Reimbursement <input type="checkbox"/>			(30) FORM 1, (09)			
(04) (10) Combined <input type="checkbox"/>			(31) FORM 1, (10)			
(05) (11) Amended <input type="checkbox"/>						
<b>Fiscal Year of Cost</b>						
(06) (12)						
<b>Total Claimed Amount</b>						
(07) (13)						
<b>Less: 10% Late Penalty</b> (refer to attached Instructions)			(14) (32)			
<b>Less: Prior Claim Payment Received</b>			(15) (33)			
<b>Net Claimed Amount</b>			(16) (34)			
<b>Due from State</b>			(17) (35)			
(08)			(18) (36)			
<b>Due to State</b>						
<b>(37) CERTIFICATION OF CLAIM</b>						
<p>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 Government Code.</p> <p>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.</p> <p>The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.</p> <p>I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>						
Signature of Authorized Officer						
Date Signed						
Telephone Number						
Email Address						
Type or Print Name and Title of Authorized Signatory						
(38) Name of Agency Contact Person for Claim						
Telephone Number						
Email Address						
Name of Consulting Firm / Claim Preparer						
Telephone Number						
Email Address						



<b>PROGRAM</b> <b>298</b>	<b>LOCAL GOVERNMENT EMPLOYEE RELATIONS</b> <b>CLAIM FOR PAYMENT</b> <b>INSTRUCTIONS</b>	<b>FORM</b> <b>FAM-27</b>
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- (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 address, city, State, and zip code.
- (03) to (08) Leave blank.
- (09) If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) If filing a combined reimbursement claim on behalf of districts within the county, enter an "X" in the box on line (10) Combined.
- (11) If filing an amended reimbursement claim, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed.
- (13) Enter the amount of the reimbursement claim as shown on Form 1 line (11). The 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 instructions. Annual reimbursement claims must be filed by **February 15**, or otherwise specified in the claiming instructions, following the fiscal year in which costs were incurred or the claims must be reduced by a late penalty. Enter zero if the claim filed on time. Otherwise, enter the penalty amount as a result of the calculation formula as follows:
- Late Initial Reimbursement Claims: Form FAM-27 line (13) multiplied by 10%, without limitation; or
  - Late Annual Reimbursement Claims: Form FAM-27, line (13) multiplied by 10%, late penalty not to exceed \$10,000.
- (15) Enter the amount of payment, if any, received for the claim. If no payment was received, enter zero.
- (16) Enter the net claimed amount by subtracting the sum of lines (14) and (15) from line (13).
- (17) If line (16), Net Claimed Amount, is positive, enter that amount on line (17), Due from State.
- (18) If line (16), Net Claimed Amount, is negative, enter that amount on line (18), Due to State.
- (19) to (21) Leave blank.
- (22) to (36) Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim, e.g., Form 1, (04) A. 1. (g), means the information is located on Form 1, block (04), line A. 1., column (g). 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.**
- (37) Read the statement of Certification of Claim. The claim must be signed and dated by the agency's authorized officer, type or print name and 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, the 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  
 Division of Accounting and Reporting  
 P.O. Box 942850  
 Sacramento, CA 94250

**Address, if delivered by other delivery service:**

Office of the State Controller  
 Attn: Local Reimbursements Section  
 Division of Accounting and Reporting  
 3301 C Street, Suite 700  
 Sacramento, CA 95816



<b>PROGRAM</b> <b>298</b>	<b>LOCAL GOVERNMENT EMPLOYEE RELATIONS CLAIM SUMMARY</b>	<b>FORM</b> <b>1</b>
(01) Claimant		(02) Fiscal Year 20__ / 20__
(03) Department		
<b>Direct Costs</b>	<b>Object Accounts</b>	
	(a) Salaries	(b) Benefits
	(c) Materials and Supplies	(d) Contract Services
	(e) Fixed Assets	(f) Travel
	(g) Total	
(04) Reimbursable Activities		
<b>A. One-Time Activities</b>		
1. Establish Procedures and Documentation		
2. Training for Employees		
3. Establish Procedures and Systems		
<b>B. Ongoing Activities</b>		
1. Deduction from Employees' Wages		
2. Receipt of Proof of In Lieu Payments		
3. Reimbursable Activities for PERB Matters		
(05) Total Direct Costs		
<b>Indirect Costs</b>		
(06) Indirect Cost Rate	[From ICRP or 10%]	%
(07) Total Indirect Costs	[Refer to Claim Summary Instructions]	
(08) Total Direct and Indirect Costs	[Line (05)(g) + line (07)]	
<b>Cost Reduction</b>		
(09) Less: Offsetting Revenues		
(10) Less: Other Reimbursements		
(11) Total Claimed Amount	[Line (08) - {(line (09) + line (10))}]	



<b>PROGRAM</b> <b>298</b>	<b>LOCAL GOVERNMENT EMPLOYEE RELATIONS</b> <b>CLAIM SUMMARY</b> <b>INSTRUCTIONS</b>	<b>FORM</b> <b>1</b>
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- (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 must be completed for each department.
- (04) For each reimbursable activity, enter the totals from Form 2, line (05), columns (d) through (i), to Form 1, block (04), columns (a) through (f), in the appropriate row. Total each row.
- (05) Total columns (a) through (g).
- (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)(g), and Total Indirect Costs, line (07).
- (09) If applicable, enter any revenue received by the claimant for this mandate from any state or federal source.
- (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.



<b>PROGRAM</b> <b>298</b>	<b>LOCAL GOVERNMENT EMPLOYEE RELATIONS</b> <b>ACTIVITY COST DETAIL</b>						<b>FORM</b> <b>2</b>			
(01) Claimant				(02) Fiscal Year 20__ / 20__						
(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed. <table style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 50%; vertical-align: top;"> <b>A. One-Time Activities</b>  <input type="checkbox"/> 1. Establish Procedures and Documentation  <input type="checkbox"/> 2. Training for Employees  <input type="checkbox"/> 3. Establish Procedures and Systems         </td> <td style="width: 50%; vertical-align: top;"> <b>B. Ongoing Activities</b>  <input type="checkbox"/> 1. Deduction from Employees' Wages  <input type="checkbox"/> 2. Receipt of Proof of In Lieu Payments  <input type="checkbox"/> 3. Reimbursable Activities for PERB Matters         </td> </tr> </table>									<b>A. One-Time Activities</b> <input type="checkbox"/> 1. Establish Procedures and Documentation <input type="checkbox"/> 2. Training for Employees <input type="checkbox"/> 3. Establish Procedures and Systems	<b>B. Ongoing Activities</b> <input type="checkbox"/> 1. Deduction from Employees' Wages <input type="checkbox"/> 2. Receipt of Proof of In Lieu Payments <input type="checkbox"/> 3. Reimbursable Activities for PERB Matters
<b>A. One-Time Activities</b> <input type="checkbox"/> 1. Establish Procedures and Documentation <input type="checkbox"/> 2. Training for Employees <input type="checkbox"/> 3. Establish Procedures and Systems	<b>B. Ongoing Activities</b> <input type="checkbox"/> 1. Deduction from Employees' Wages <input type="checkbox"/> 2. Receipt of Proof of In Lieu Payments <input type="checkbox"/> 3. Reimbursable Activities for PERB Matters									
<b>(04) Description of Expenses</b>				<b>Object Accounts</b>						
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel		
(05) Total <input type="checkbox"/> Subtotal <input type="checkbox"/> Page: ____ of ____										



<b>PROGRAM</b> <b>298</b>	<b>LOCAL GOVERNMENT EMPLOYEE RELATIONS</b> <b>ACTIVITY COST DETAIL</b> <b>INSTRUCTIONS</b>	<b>FORM</b> <b>2</b>
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year for which costs were incurred.
- (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.
- (04) The following table identifies the type of information required to support reimbursable costs. To itemize costs for the activity box 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 travel expenses. **The descriptions required in column (04)(a) must be of sufficient detail to explain the cost of activities or items being claimed.**

All documentation to support actual costs claimed must be retained for a period of three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated or no payment was made at the time the claim was filed, the time for the State Controller's Office (SCO) to initiate an audit will be from the date of initial payment of the claim. Therefore, all documentation to support actual costs claimed must be retained for the same period, and must be made available to the SCO on request.

Object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
Salaries	Employee Name and Title	Hourly Rate	Hours Worked	Salaries = Hourly Rate X Hours Worked						
Benefits	Activities Performed	Benefit Rate			Benefits = Benefit Rate X Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost = Unit Cost X Quantity Used				
Contract Services	Name of Contractor and Specific Tasks Performed	Hourly Rate	Hours Worked and Inclusive Dates of Service				Cost = Hourly Rate X Hours Worked			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost X Quantity	Usage					Cost = Total Cost X Usage		Copy of Contract and Invoices
Travel	Purpose of Trip, Name and Title, Destination, Departure Date, and Return Date	Per Diem Rate, Mileage Rate, and Travel Cost	Days, Miles, and Travel Mode						Total Travel Cost = Rate X Days or Miles	

- (05) Total line (04), columns (d) through (i), 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 the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to Form 1, block (04), columns (a) through (f) in the appropriate row.



# **EXHIBIT 3**



Buffy Bullis

In a message dated 9/30/2014 11:46:01 A.M. Pacific Daylight Time, [ASaida@sco.ca.gov](mailto:ASaida@sco.ca.gov) writes:

Hi Buffy,

We are bound by the legal authority of the parameters and guidelines and cannot accept costs that are outside of reimbursable fiscal years. As per the P's and G's, "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."

The city did not file a claim for fiscal year 2009-10 and the deadline to file a late claim for 2009-10 or 2011-12 has already passed. I reviewed the 2011-12 claim filed by the city and discovered that some of the costs incurred during 2011-12 have been correctly included with the 2011-12 claim but were also claimed in 2010-11. Please note, the actual costs incurred during fiscal year 2010-11 will be allowed and processed for payment upon availability of appropriation.

Thank you for your understanding.

**Afsana A. Saida**

Local Reimbursements Section

Division of Accounting and Reporting

State Controller's Office

Direct: (916) 324-7870

Fax: (916) 323-6527

State Mandated Programs

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**From:** Buffy Bullis [<mailto:bbullis@ci.monrovia.ca.us>]

**Sent:** Monday, September 29, 2014 5:09 PM

**To:** Saida, Afsana A.

**Cc:** [ACHinnCRS@aol.com](mailto:ACHinnCRS@aol.com); Carlos, Gwendolyn; Lal, Jay

**Subject:** RE: State Mandated Cost Program-Non Reimbursable Costs

Hi Afsana,

Thank you for your email. In reviewing the documentation submitted, I believe that the costs claimed are reimbursable under the parameters of the mandate and were submitted on time; however, I see that some costs were not filed on the correct paperwork. We respectfully request that you do not disallow our eligible FY 09-10 costs of \$50,459, but pay them from the correct fiscal year. It was a simple accounting/clerical error on the City's part. I understand that late claim penalties would apply to some of the FY 09-10 costs included in the wrong fiscal year claim.

Wednesday, October 01, 2014 AOL: AChinnCRS



Please accept my apologies for the inconvenience and I thank you for your assistance. Please feel free to contact me if you have any questions or if you need additional information.

Buffy J. Bullis

Finance Division Manager

City of Monrovia

Phone: (626) 932-5513; Fax: (626) 932-5567; Email: [bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)

**From:** [ASaida@sco.ca.gov](mailto:ASaida@sco.ca.gov) [mailto:[ASaida@sco.ca.gov](mailto:ASaida@sco.ca.gov)]

**Sent:** Monday, September 29, 2014 1:22 PM

**To:** Buffy Bullis

**Cc:** [ACHinnCRS@aol.com](mailto:ACHinnCRS@aol.com); [GCarlos@sco.ca.gov](mailto:GCarlos@sco.ca.gov); [ilal@sco.ca.gov](mailto:ilal@sco.ca.gov)

**Subject:** State Mandated Cost Program-Non Reimbursable Costs

Re: Local Government Employee Relations, Program No. 298, Fiscal Year 2010-11 Claim

Dear Ms. Bullis,

Please be informed that the City of Monrovia submitted a claim for fiscal year 2010-11 for the Local Government Employee Relations program. The city claimed \$229, 627 for contract services. During our desk review it was discovered that the city included \$82,272 of contract costs from fiscal years 2009-10 and 2011-12 with the claim. The city can only claim for costs incurred during 2010-11. The table below lists the costs claimed by fiscal year:

Fiscal Year	Cost Incurred	Note
2009-10	\$50,459	Non- Reimbursable
2010-11	\$147,355.29	
2011-12	\$31,812.65	Non-Reimbursable

The claim will be adjusted to exclude the non-reimbursable contract costs. Please let me know if you have any questions.

Thank you,

Afsana A. Saida

Local Reimbursements Section

Division of Accounting and Reporting

State Controller's Office

Direct: (916) 324-7870

Fax: (916) 323-6527

State Mandated Programs





September 8, 2016

Mr. Jay Lal  
Manager, Division of Accounting and Reporting  
State Controller's Office  
P.O. Box 942850  
Sacramento, CA 94250-5874

Dear Mr. Lal,

In September of 2014, your staff notified the City of Monrovia that the FY 2010-11 Local Government Employee Relations claim (Program 298) would be reduced by \$50,459 due to errors in filing the claim. Specifically, the City had accidentally filed a claim for FY 2009-10, FY 2010-11, and FY 2011-12 in one submission (under the FY 2010-11 period), rather than filing separate claims for each fiscal year. The FY 2011-12 claim was resolved, since the City was able to resubmit the claim in the subsequent year with no penalty; however, your office denied all costs submitted for the FY 2009-10 period in the amount of \$50,459.

At the time the claim was filed, the costs for FY 2009-10 were still eligible for filing and the City properly filed the claim on time. Had we known of the clerical error sooner, we would have immediately corrected the paperwork by submitting a separate late claim for FY 2009-10 in the amount of \$50,459 and attached a proper coversheet (FAM-27), understanding that a 10% late penalty would have been applied to the FY 2009-10 costs.

As soon as we were notified of the reductions, we promptly contacted your office and explained that the reduction was simply due to a clerical error. We also reassured your office that all costs included in the claim were actual eligible costs that were properly documented and submitted by the deadline. Your office responded that the cut would not be restored because the deadline to file FY 2009-10 claims had passed and that "Actual costs must be traceable and be supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities," as noted in the attached email correspondence. However, we believe that these requirements were, in fact, satisfied and that the City filed the claim in good faith.

We kindly ask that you not preclude the City from reimbursement due to a minor clerical error. Aside from the minor error of combining multiple years into one claim, the costs were properly submitted by the due date, were actual, traceable, and supported by source documents that were included in the claim. Additionally, we believe that the recent decision by the Commission on State Mandates regarding the Incorrect Reduction Claim (IRC) filed by the City of Los



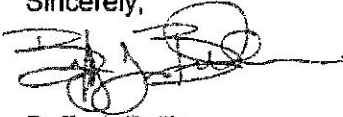
Angeles for their "FY 2003-04 Firefighter Cancer Presumption" claim is similar to our situation in that the claimant, the City, made a clerical error when transferring costs from a summary page to the total (FAM-27) page. The Commission ruled in favor of the City and said the Controller's decision to deny \$516,132 in disability benefit costs as "unclaimed" was incorrect as a matter of law and was lacking in evidentiary support because the details had all been submitted in the original claim, though not correctly transferred to the FAM-27. Reference: <http://csm.ca.gov/closedfiles/09-4081-I-01/doc12.pdf>.

Before we bring this matter before the Commission and file an Incorrect Reduction Claim (IRC), we wished to contact your office, once again, to ask that you reconsider the reduction made to our claim and ask that your office allow us to correct a simple clerical error. We are willing to provide amended paperwork to correct the error. Please note that all costs submitted were prepared in accordance with the claiming instructions, Statement of Decision, and the Parameters and Guidelines adopted by the Commission.

We kindly request reconsideration of your prior decision regarding the FY 2009-10 reimbursement claim in the amount of \$50,459 and understand that a 10% late penalty of \$5,045.90 would be applied. Please allow the City to remedy the claim reduction and correct the FY 2009-10 claim, however possible. Attached you will find the claim documentation and correspondence to assist in your analysis.

Should you have any questions, please contact me at (626) 932-5513 or our consultant, Annette Chinn, at (916) 939-7901.

Sincerely,



Buffy J. Bullis

Finance Division Manager

City of Monrovia

Phone: (626) 932-5513 | Fax (626) 932-5567 | Email: [bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)

c: Anne Kato, Chief Bureau of Payments  
Annette Chinn, Cost Recovery Systems, Inc.





**BETTY T. YEE**  
**California State Controller**  
Division of Accounting and Reporting

October 20, 2016

Ms. Buffy J. Bullis, Finance Division Manager  
City of Monrovia  
415 S. Ivy Ave  
Monrovia, CA 91016

Re: Local Government Employee Relations Claim for Fiscal Year 2010-11

Dear Ms. Bullis:

On September 20, 2016, I received your letter dated September 8, 2016, regarding your fiscal year 2010-11 Local Government Employee Relations mandate claim. As stated in my email dated September 22, 2016, I am sympathetic to the issue, but by law, I cannot apply costs to a prior fiscal year (2009-10) claim that was never submitted by the city. Additionally, it is past the filing period to file a fiscal year 2009-10 claim.

If you have any questions, please call me at (916) 324-0256.

Sincerely,

Jay Lal, Manager  
Local Reimbursements Section

cc: Annette Chinn, Cost Recovery Systems, Inc.



# **EXHIBIT 4**



# State Mandate Reimbursement Claims Receipt

City of Monrovia

January 30, 2012

<u>Mandate/Program</u>	<u>Amount Claimed</u>
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Mandate Reimbursement, Prog. 041

Actual 2010-11	\$ 3,142
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Absentee Ballots, Prog 002

Actual 2010-11	\$ 20,199
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Peace Officer Bill of Rights, Ch. Prog. 187

Actual 2010-11	\$ 2,249
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Domestic Viol. Arrest Policy, Prog. 167

Actual 2010-11	\$ 13,376
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Administrative License Suspension, Prog. 246

Actual 2010-11	\$ 6,327
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Crime Statistics Reporting, Prog. 310

Actual 2010-11	\$ 29,487
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Domestic Violence Victim Assistance, Prog. 274

Actual 2010-11	\$ 4,612
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Local Recreation Background Screening, Prog. 285

Actual 2010-11	\$ 1,271
----------------	----------

Local Government Employee Relations, Prog. 298

Actual 2010-11	\$ 229,627
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Identity Theft, Prog. 321

Actual 2002-03	\$ 4,920
Actual 2003-04	\$ 5,833
Actual 2004-05	\$ 8,556
Actual 2005-06	\$ 8,826
Actual 2006-07	\$ 11,180
Actual 2007-08	\$ 15,818
Actual 2008-09	\$ 24,572
Actual 2009-10	\$ 18,647
Actual 2010-11	\$ 23,486

Open Meetings Act, Prog. 219

Actual 2010-11	\$ 32,966
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JAN 27 2012

Total Claimed	\$ 465,094
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The following claims were submitted to and received by the State Controller's Office  
by Cost Recovery Systems on behalf of the City of Monrovia

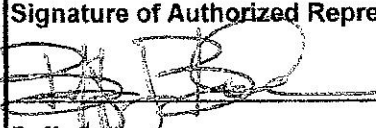
Signed by:

*Lindsey Bailey*

JAN 27 2012

Date:



<b>Claim for Payment</b> <b>Pursuant to Government Code Section 17561</b> <b>LOCAL GOVERNMENT EMPLOYEE RELATIONS</b>			<b>For State Controller Use Only</b>	
<b>(01) Claimant Identification Number</b> 9819542			<b>(19) Program Number:</b> 00298	<b>Program</b> <div style="font-size: 24pt; font-weight: bold;">298</div>
<b>(02) Claimant Name</b> City of Monrovia <b>Mailing Address</b> 415 S. Ivy Avenue <b>Street Address or P.O. Box</b> <b>City</b> Monrovia <b>State</b> CA <b>Zip Code</b> 91016			<b>(20) Date Filed</b> ____/____/____	
			<b>(21) LRS Input</b> ____/____/____	
			<b>(22) FORM-1, (04)(A)(1)(g)</b>	
			<b>(23) FORM-1, (04)(A)(2)(g)</b>	
			<b>(24) FORM-1, (04)(A)(3)(g)</b>	
<b>Type of Claim</b>			<b>(25) FORM-1, (04)(B)(1)(g)</b>	
<b>Estimated Claim</b> (03) Estimated <input type="checkbox"/>			<b>(26) FORM-1, (04)(B)(2)(g)</b>	
<b>Reimbursement Claim</b> (09) Reimbursement <input type="checkbox"/>			<b>(27) FORM-1, (04)(B)(3)(g)</b>	229,627
(04) Combined <input type="checkbox"/>			<b>(28) FORM-1, (06)</b>	10
(05) Amended <input type="checkbox"/>				
<b>Fiscal Year of Cost</b> (06) 2010-11			<b>(29) FORM-1, (07)</b>	
<b>Total Claimed</b> (07) \$229,627			<b>(30) FORM-1, (09)</b>	
<b>Less: 10% Late Penalty, but not to exceed \$1,000 (if applicable)</b>			<b>(31) FORM-1, (10)</b>	
<b>Less: Estimated Claim Payment Received</b>			<b>(32)</b>	
<b>Net Claimed Amount</b>			<b>(16)</b> \$229,627	
<b>Due from State</b> (08)			<b>(17)</b> \$229,627	
<b>Due to State</b> (09)			<b>(18)</b>	
<b>(38) CERTIFICATION OF CLAIM</b> <p>In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file 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 Government Code Sections 1090 to 1098, inclusive.</p> <p>I further certify that there was no application for nor any grant or payment received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documents currently maintained by the claimant.</p> <p>The amount for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statement. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>				
<b>Signature of Authorized Representative</b>  Buffy Bullis Finance Division Manager			<b>Date</b> Date Signed 1/19/12 Telephone Number (626) 932-5513 Email Address BBullis@ci.monrovia.ca.us	
<b>Name of Contact Person for Claim</b> Annette S. Chinn (CRS)			<b>Telephone Number</b> (916) 939-7901	
			<b>E-Mail Address</b> AChinnCRS@aol.com	



**MANDATED COSTS  
LOCAL GOVERNMENT EMPLOYEE RELATIONS  
CLAIM SUMMARY**

**FORM  
1**

<b>(01) Claimant</b> City of Monrovia	<b>(02) Type of Claim</b> Reimbursement <input type="checkbox"/> Estimated <input type="checkbox"/>	<b>Fiscal Year</b> 2010-11 (see FAM-27 for estimate)
--	---	--

**Claim Statistics**

(03) Leave Blank

Direct Costs	Object Accounts						
(04) Reimbursable Components	(a)	(b)	(c)	(d)	(e)	(f)	(g)
	Salaries	Benefits	Materials and Supplies	Contract Services	Fixed Assets	Travel	Total
<b>A. ONE-TIME ACTIVITIES</b>							
1. Establish Procedures & Documentation							
2. Training for Employees							
3. Establish Procedures and Systems							
<b>B. ONGOING ACTIVITIES</b>							
1. Deduction from Employee Wages							
2. Receipt of Proof in Lieu Payments							
3. Reimbursable Activities for PERB Matters				\$229,627			\$229,627
<b>(05) Total Direct Costs</b>				\$229,627			\$229,627

**Indirect Costs**

(06) Indirect Cost Rate (applied to salaries)	(from ICRP) (Applied to Salaries) (Applied to Salaries)	10.0%
(07) Total Indirect Costs	Line (06) x line (05)(a) or line(06) x [(line (05)(a) + line(05)(b)) ÷ (a) + line(05)(b)]	
(08) Total Direct and Indirect Costs	Line (05)(d) + line (07) (05)(d) + line (07)	\$229,627

**Cost Reductions**

(09) Less: Offsetting Savings, if applicable	
(10) Less: Other Reimbursements, if applicable	
<b>(11) Total Claimed Amount</b>	<b>\$229,627</b>



**MANDATED COSTS  
LOCAL GOVERNMENT EMPLOYEE RELATIONS  
CLAIM SUMMARY**

**FORM  
2**

(01) Claimant: City of Monrovia

(02) Fiscal Year Costs Were Incurred: 2010-11

(03) Reimbursable Components: Check only one box per form to identify the component being claimed

**ONE-TIME ACTIVITIES**

**ON-GOING ACTIVITIES**

- |   |  |
|---|--|
| <input type="checkbox"/> Establish Procedures & Document. | <input type="checkbox"/> Deductions from Employees' Wages                    |
| <input type="checkbox"/> Training for Employees           | <input type="checkbox"/> Receipt of Proof in Lieu Payments                   |
| <input type="checkbox"/> Establish Procedures & Systems   | <input checked="" type="checkbox"/> Reimbursable Activities for PERB Matters |

(04) Description of Expenses: Complete columns (a) through (f)

(a) Employee Names, Job Class., Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	Benefit Rate	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel	Total Salaries & Benefits
<u>Liebert Cassidy Whitmore (Contract Attorney)</u> Responded to several PERB matters.							\$229,627			
(05) Total							\$229,627			



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

DEPT. OF  
HUMAN RESOURCES  
CITY OF MONROVIA  
MAY 20 2009

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

May 31, 2009

Billed through 05/31/2009  
Client Info: MO040 00051 PB  
Invoice # 104477

PO# 900814  
Acct# 53123420-4028line 1 57  
Acct#  
Acct#  
Approved Theresa St. Peter *jsk*

RE: LA-CE-536-M

TOTAL FEES	\$519.00
TOTAL CHARGES FOR THIS BILL	\$519.00

PAID  
JUL 16 2009



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

PO# 1000077  
Acct# Line 1 53123420-4028  
Acct# \_\_\_\_\_  
Acct# \_\_\_\_\_  
Approved Theresa St. Peter June 30, 2009

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 06/30/2009  
Client Info: MO040 00051 PB  
Invoice # 105627

RE: LA-CE-536-M

TOTAL FEES	\$9,186.00
TOTAL DISBURSEMENTS	\$110.90
TOTAL CHARGES FOR THIS BILL	\$9,296.90

PAID  
AUG 13 2009



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Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

RECEIVED RECEIVED  
ADMIN SERVICES  
AUG 17 2009

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

City of Monrovia  
Human Resources Dept

July 31, 2009

Billed through 07/31/2009  
Client Info: MO040 00051 PB  
Invoice # 106608

PO# 1000077  
Acct# 53123420-4028 June 1/2  
Acct#  
Acct#  
Approved Theresa St. Peter jff

RE: LA-CE-536-M (MFA PERB Change)

TOTAL FEES	\$123.00
TOTAL DISBURSEMENTS	\$4.20
TOTAL CHARGES FOR THIS BILL	\$127.20

PAID  
AUG 27 2009



LIEBERT CASSIDY WHITMORE

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6033 West Century Blvd., Suite 500

Los Angeles, CA 90045

Tel: (310) 981-2000 Fax: (310) 337-0837

Tax ID: 95-3658973

PAID

SEP 28 2009

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

August 31, 2009

Billed through 08/31/2009  
Client Info: MO040 00051 PB  
Invoice # 107340

PO# 1000077  
Acct# 53123420 - 4028 4,308.95  
Acct#  
Acct#  
Approved Theresa St. Peter JPL

RE: LA-CE-536-M

TOTAL FEES	\$4,233.00
TOTAL DISBURSEMENTS	\$75.95
TOTAL CHARGES FOR THIS BILL	\$4,308.95

RECEIVED  
SEP 17 2009  
ACCOUNTS PAYABLE



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

PO# 1000077  
Acct# 53123420-4028 72.00

Acct# \_\_\_\_\_

Acct# \_\_\_\_\_

Approved

Theresa St. Peter JFL

September 30, 2009

Billed through 09/30/2009  
Client Info: MO040 00051 PB  
Invoice # 108785

RE: LA-CE-536-M

TOTAL FEES  
TOTAL CHARGES FOR THIS BILL

PAID

NOV 12 2009

\$72.00

\$72.00



LIEBERT CASSIDY WHITMORE

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6033 West Century Blvd , Suite 500  
Los Angeles, CA 90045  
Tel (310) 981-2000 Fax (310) 337-0837  
Tax ID 95-3658973

PO#

1000077

Acct#

53123120 - 4028 438.00

Acct#

Acct#

Approved

Theresa St Peter

October 31, 2009

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 10/31/2009  
Client Info MO040 00051 PB  
Invoice # 110362

RECEIVED

NOV 25 2009

City of Monrovia  
Human Resources Dept

RE: LA-CE-536-M

TOTAL FEES

\$438.00

TOTAL CHARGES FOR THIS BILL

\$438.00

RECEIVED  
ADMIN SERVICES  
DEC 02 2009

PAID

DEC 10 2009



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd Suite 500  
Los Angeles CA 90045  
Tel (310) 981-2000 Fax (310) 337-0837  
Tax ID 95-3658973

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

November 30, 2009

Billed through 11/30/2009  
Client Info MO040 00051 PB  
Invoice # 111332

PO# 1000077  
Acct# 53123420-4028 12,824.00  
Acct#  
Acct#  
Approved [Signature] 12/29/09

RE: LA-CE-536-M

TOTAL FEES	\$12,673 00
TOTAL DISBURSEMENTS	\$151 00
TOTAL CHARGES FOR THIS BILL	\$12,824.00

PAID

DEC 30 2009



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd , Suite 500  
Los Angeles, CA 90045  
Tel (310) 981-2000 Fax (310) 337-0837  
Tax ID 95-3658973

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 12/31/2009  
Client Info MO040 00051 PB  
Invoice # 112387

RE: LA-CE-536-M

TOTAL FEES	\$768 00
TOTAL DISBURSEMENTS	\$80 10
TOTAL CHARGES FOR THIS BILL	\$848.10

PAID

FEB 11 2010

CITY OF MONROVIA December 31, 2009

PO# 1000077  
WAL 153183420-14028 848 10  
Acc#  
Acc#  
Approved Theresa St Peter 2/9/10

RECEIVED  
ADMIN SERVICES

FEB 02 2010



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd , Suite 500  
Los Angeles, CA 90045  
Tel (310) 981-2000 Fax (310) 337-0837  
Tax ID 95-3658973

RECEIVED

MAR 01 2010

City of Monrovia  
Human Resources Dept

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

January 31, 2010

Billed through 01/31/2010  
Client Info MO040 00051 PB  
Invoice # 113431

PO# 1000077  
Acct# 5303420 4028 2010 00  
Acct#  
Acct#  
Approved: Theresa St Peter

RE: LA-CE-536-M

TOTAL FEES	\$2,016 00
TOTAL CHARGES FOR THIS BILL	\$2,016.00

PAID  
MAR 11 2010  
CITY OF MONROVIA



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd , Suite 500  
Los Angeles, CA 90045  
Tel (310) 981-2000 Fax (310) 337-0837  
Tax ID 95-3658973

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 02/28/2010  
Client Info MO040 00051 PB  
Invoice # 114428

RE: LA-CE-536-M

TOTAL FEES	\$2,568 00
TOTAL CHARGES FOR THIS BILL	\$2,568.00

February 28, 2010

**PAID**

APR 15 2010

CITY OF MONROVIA

PO# 1200077

Line 1 Acct# 53123420 - 4028 2,5708

Acct#

Acct#

Approved

Theresa St Peter

*[Signature]*

RECEIVED  
ADMIN SERVICES  
APR 01 2010



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd , Suite 500  
Los Angeles, CA 90045  
Tel (310) 981-2000 Fax (310) 337-0837  
Tax ID 95-3658973

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

February 28, 2010

Billed through 02/28/2010  
Client Info MO040 00057 PB  
Invoice # 114429

PAID  
APR 15 2010  
CITY OF MONROVIA

RE: LA-CE-591-M

PO# 10000-77  
Line 1 Acct# 53123420 - 40284,574.75  
Acct#  
Acct#  
Approved Theresa St Peter *[Signature]*

TOTAL FEES	\$4,512 00
TOTAL DISBURSEMENTS	\$62 75
TOTAL CHARGES FOR THIS BILL	\$4,574.75

RECEIVED  
ADMIN SERVICES  
APR 01 / 2010



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd , Suite 500  
Los Angeles, CA 90045  
Tel (310) 981-2000 Fax (310) 337-0837  
Tax ID 95-3658973

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 02/28/2010  
Client Info MO040 00056 PB  
Invoice # 114430

RE: LA-CE-593-M

TOTAL FEES	\$1,311.00
TOTAL CHARGES FOR THIS BILL	\$1,311.00

PAID  
February 28, 2010  
APR 15 2010  
CITY OF MONROVIA

PO# 1000077  
Acct# 53123420-4028 1311.00  
Acct#  
Acct#  
Approved J. H. Mc. St. Peter JFR

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ADMIN SERVICES  
APR 01 2010



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

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Tax ID 95-3658973

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

PO# 1000077

Acct# 53123420 - 4028 1159.70

Acct#

March 31, 2010

Acct#

Approved

THURSDAY APR 1 2010  
RJD

Billed through 03/31/2010  
Client Info MO040 00051 PB  
Invoice # 115383

RE: LA-CE-536-M

TOTAL FEES	\$1,080 00
TOTAL DISBURSEMENTS	\$79 70
TOTAL CHARGES FOR THIS BILL	\$1,159.70

RECEIVED  
ADMIN SERVICES  
APR 22 2010  
PAID  
APR 29 2010  
CITY OF MONROVIA



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

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Los Angeles, CA 90045  
Tel (310) 981-2000 Fax (310) 337-0837  
Tax ID 95-3658973

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

March 31, 2010

Billed through 03/31/2010  
Client Info MO040 00057 PB  
Invoice # 115384

PO# 1000077  
Acct# 53123420 - 4028 833 90  
Acct#  
Acct#  
Approved Theresa St Peter

RE: LA-CE-591-M

TOTAL FEES	\$816 00
TOTAL DISBURSEMENTS	\$17 90
TOTAL CHARGES FOR THIS BILL	\$833.90

RECEIVED  
ADMIN SERVICES  
APR 22 2010

PAID  
APR 22 2010  
CITY OF MONROVIA



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd , Suite 500  
Los Angeles, CA 90045  
Tel (310) 981-2000 Fax (310) 337-0837  
Tax ID 95-3658973

City of Monrovia  
Theresa St Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

March 31, 2010

Billed through 03/31/2010  
Client Info MO040 00056 PB  
Invoice # 115385

PO# 1000077  
Acct# 53123420-4028 37701  
Acct#  
Acct#  
Appro: Theresa St Peter Rfd

RE: LA-CE-593-M

TOTAL FEES	\$3,756.00
TOTAL DISBURSEMENTS	\$14.60
TOTAL CHARGES FOR THIS BILL	\$3,770.60

RECEIVED  
ADMIN SERVICES

APR 22 2010

PAID  
APR 29 2010  
CITY OF MONROVIA



**LIBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6035 West Century Blvd. Suite 500  
Los Angeles, CA 90045  
Tel: (310) 891-0033 Fax: (310) 837-0837  
Tax ID: 65-3688973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

May 31, 2010

Billed through: 05/31/2010  
Client Info: MO040 00058 PB  
Invoice #: 117960

PO# 1002077  
Acct# 53123420-4023 1500.00  
Acct#  
Acct#  
Approved: Theresa St. Peter 7/15/10

RE: UPC LACE610M

TOTAL FEES  
TOTAL CHARGES FOR THIS BILL

\$1,500.00

\$1,500.00

PAID

JUL 15 2010

CITY OF MONROVIA



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

June 30, 2010

Billed through 06/30/2010  
Client Info: MO040 00051 PB  
Invoice # 119273

RE: LA-CE-536-M

TOTAL FEES	\$1,878.00
TOTAL DISBURSEMENTS	\$177.90
<b>TOTAL CHARGES FOR THIS BILL</b>	<b>\$2,055.90</b>

**PAID**  
**AUG 12 2010**  
**CITY OF MONROVIA**



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

June 30, 2010

Billed through 06/30/2010  
Client Info: MO040 00058 PB  
Invoice # 119279

*53/23420-4628 2235.00*

RE: UPC LACE610M

TOTAL FEES	\$2,235.00
TOTAL CHARGES FOR THIS BILL	\$2,235.00

PAID  
AUG 12 2010  
CITY OF MONROVIA



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

8038 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 581-2000 Fax: (310) 537-0237  
Tax ID: 95-3659973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

July 31, 2010

Billed through 07/31/2010  
Client Info: MO040 00051 PB  
Invoice # 120287

1100073  
LWC 16510388-1000  
THOMAS ST. PETER  
9/1/10

RE: LA-CE-536-M

TOTAL FEES	\$7,401.00
TOTAL DISBURSEMENTS	\$12.00
TOTAL CHARGES FOR THIS BILL	\$7,413.00

PAID  
SEP 02 2010  
CITY OF MONROVIA



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

4130 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 951-2000 Fax: (310) 357-0527  
Tax ID: 95-3229973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

July 31, 2010

Billed through 07/31/2010  
Client info: MO010 00058 PB  
Invoice # 120291

1001160073  
53423420 7028

Theresa St. Peter

7/1/10

RE: UPC LACE610M

TOTAL FEES	\$1,914.00
TOTAL DISBURSEMENTS	\$119.10
TOTAL CHARGES FOR THIS BILL	\$2,063.10

PAID  
SEP 02 2010  
CITY OF MONROVIA



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

September 30, 2010

Billed through 09/30/2010  
Client Info: MO040 00051 PB  
Invoice # 122650

PO# 1100073  
Acct# 53123420 - 42109 339.00  
Acct#  
Acct#  
Approved Theresa St. Peter

RE: LA-CE-536-M

TOTAL FEES

\$339.00

TOTAL CHARGES FOR THIS BILL

\$339.00

RH

OCT 28 2010

PAID  
NOV 10 2010  
CITY OF MONROVIA



LIEBERT GASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

PAID

DEC 16 2010

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

CITY OF MONROVIA

October 31, 2010

Billed through 10/31/2010  
Client Info: MO040 00051 PB  
Invoice # 123768

1100073  
WHE3 53123400 - 4209 4,751.14  
THURCS ST RL  
RF

RE: LA-CE-536-M

TOTAL FEES	\$4,693.00
TOTAL DISBURSEMENTS	\$58.14
TOTAL CHARGES FOR THIS BILL	\$4,751.14



LIEBERT CASSIDY WHITMORE

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Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

October 31, 2010

Billed through 10/31/2010  
Client Info: MO040 00056 PB  
Invoice # 123772

Line 3 1106073  
53p340-4269 771.00  
Theresa St Peter

RE: LA-CE-593-M

TOTAL FEES	\$771.00
TOTAL CHARGES FOR THIS BILL	\$771.00

PAID  
DEC 16 2010  
CITY OF MONROVIA



LIEBERT CASSIDY WHITMORE

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Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

October 31, 2010

Billed through 10/31/2010  
Client Info: MO040 00057 PB  
Invoice # 123773

RE: LA-CE-591-M

TOTAL FEES

\$315.00

TOTAL CHARGES FOR THIS BILL

\$315.00

11000 TB  
line 3 53/23420 - 4269 3/5.02  
Theresa St. Peter

PAID  
DEC 16 2010  
CITY OF MONROVIA



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Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

November 30, 2010

Billed through 11/30/2010  
Client Info: MO040 00051 PB  
Invoice # 125055

RE: LA-CE-536-M

TOTAL FEES	\$4,293.00
TOTAL DISBURSEMENTS	\$10.00
TOTAL CHARGES FOR THIS BILL	\$4,303.00

RECEIVED  
ADMIN SERVICES  
DEC 2 2 2010

PAID  
DEC 30 2010  
CITY OF MONROVIA



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Los Angeles, CA 90045  
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Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

November 30, 2010

Billed through 11/30/2010  
Client Info: MO040 00056 PB  
Invoice # 125059

RE: LA-CE-593-M

TOTAL FEES	\$576.00
TOTAL DISBURSEMENTS	\$4.45
TOTAL CHARGES FOR THIS BILL	\$580.45

RECEIVED  
ADMIN SERVICES  
DEC 22 2010

PAID  
DEC 30 2010  
CITY OF MONROVIA



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Los Angeles, CA 90045  
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Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

November 30, 2010

Billed through 11/30/2010  
Client Info: MO040 00057 PB  
Invoice # 125060

RE: LA-CE-591-M

TOTAL FEES

\$54.00

TOTAL CHARGES FOR THIS BILL

\$54.00

PAID  
JAN 13 2011  
CITY OF MONROVIA

RECEIVED  
ADMIN SERVICES  
DEC 28 2010

1100073  
53123400 - 4269  
Theresa St. Peter



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Los Angeles, CA 90045  
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Tax ID: 95-3658973

December 31, 2010

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 12/31/2010  
Client Info: MO040 00051 PB  
Invoice # 126117

RE: LA-CE-536-M

TOTAL FEES

\$8,569.00

TOTAL DISBURSEMENTS

\$21.00

TOTAL CHARGES FOR THIS BILL

\$8,590.00

11000 73  
5812-420-4269 0570.00  
Theresa St. Peter  
PB 21



**LIBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

December 31, 2010

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 12/31/2010  
Client Info: MO040 00056 PB  
Invoice # 126120

*1000 73*  
*38123420-42649 3000.85*  
*Theresa St. Peter*  
*12/31/11*

RE: LA-CE-893-M

TOTAL FEES	\$2,977.00
TOTAL DISBURSEMENTS	\$29.85
TOTAL CHARGES FOR THIS BILL	\$3,006.85



**LIBERTY CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

8030 West Century Blvd. Suite 500  
Los Angeles, CA 90045  
Tel: (310) 884-2000 Fax: (310) 337-0037  
Tax ID: 95-3658973

December 31, 2010

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 12/31/2010  
Client Info: MO040 00057 PB  
Invoice # 126121

RE: LA-CE-591-M

TOTAL FEES

\$3,695.00

TOTAL CHARGES FOR THIS BILL

\$3,695.00

11000 13  
530200 9269 3695.00  
Theresa St. Peter  
12/2/11



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

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Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

December 31, 2010

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 12/31/2010  
Client Info: MO040 00058 PB  
Invoice # 126122

RE: UPC LACE610M

TOTAL FEES

\$280.00

TOTAL CHARGES FOR THIS BILL

\$280.00

RECEIVED  
ADMIN SERVICES  
FEB 10 2011

RECEIVED  
ADMIN SERVICES  
JAN 27 2011

PAID  
FEB 24 2011  
CITY OF MONROVIA

PO# 1100073  
Line 3-1100073  
Acct# 53123420-4269 280.00  
Acct#  
Acct#  
Approved: Theresa St. Peter 2/22/11



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

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Los Angeles, CA 90045  
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Tax ID: 95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 01/31/2011  
Client Info: MO040 00051 PB  
Invoice # 127262

PO# 1100073  
Line 3 53/234/20 - 4269 13,421.  
Acct#  
Acct#  
Approved Theresa St. Peter

January 31, 2011

3/7/11

RE: LA-CE-536-M

TOTAL FEES	\$13,416.00
TOTAL DISBURSEMENTS	\$5.00
TOTAL CHARGES FOR THIS BILL	\$13,421.00

RECEIVED  
ADMIN SERVICES

MAR 01 2011

PAID

MAR 10 2011

CITY OF MONROVIA



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A PROFESSIONAL LAW CORPORATION

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Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

January 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 01/31/2011  
Client Info: MO040 00056 PB  
Invoice # 127265

PO# 1100073  
Acct# 11003  
Acct# 53123420 - 4269 480.00  
Acct#  
Approved Theresa St Peter 3/1/11

RE: LA-CE-593-M

TOTAL FEES

\$480.00

TOTAL CHARGES FOR THIS BILL

\$480.00

RECEIVED  
ADMIN SERVICES

MAR 01 2011

PAID

MAR 10 2011

CITY OF MONROVIA



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A PROFESSIONAL LAW CORPORATION

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Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

January 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 01/31/2011  
Client Info: MO040 00057 PB  
Invoice # 127266

RE: LA-CE-591-M

TOTAL FEES	\$480.00
TOTAL DISBURSEMENTS	\$11.00
TOTAL CHARGES FOR THIS BILL	\$491.00

PO# 1100073  
Core 353123 420-4269 491.00  
Acct#  
Acct#  
Approved Theresa St. Peter 3/10/11

RECEIVED  
ADMIN SERVICES

MAR 01 2011

PAID

MAR 10 2011

CITY OF MONROVIA



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A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

February 28, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 02/28/2011  
Client Info: MO040 00051 PB  
Invoice # 128620

PO# 1100073  
Inv# 3  
Acct# 53123400-4209 1003.00  
Acct#  
Acct#  
Approved 

RE: LA-CE-536-M

TOTAL FEES

\$603.00

TOTAL CHARGES FOR THIS BILL

\$603.00

RECEIVED  
ADMIN SERVICES  
APR 04 2011

PAID  
APR 14 2011  
CITY OF MONROVIA



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Los Angeles, CA 90045  
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Tax ID: 95-3658973

March 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 03/31/2011  
Client Info: MO040 00051 PB  
Invoice # 129779

PO# 1100073  
Acct# 53123420 - 4209 wne3 10072.00  
Acct#  
Acct#  
Approved Theresa St. Peter

RE: LA-CE-536-M

TOTAL FEES  
TOTAL CHARGES FOR THIS BILL

5/11/11

\$6,072.00  
\$6,072.00

RECEIVED  
ADMIN SERVICES

MAY 02 2011

PAID

MAY 12 2011

CITY OF MONROVIA



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Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

March 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 03/31/2011  
Client Info: MO040 00056 PB  
Invoice # 129782

RE: LA-CE-593-M

TOTAL FEES  
TOTAL CHARGES FOR THIS BILL

PO# 1100073  
Acct# 53123420-4209 WWS 480.00  
Acct#  
Acct#  
Approved Theresa St. Peter  
\$480.00  
\$480.00

RECEIVED  
ADMIN SERVICES

MAY 02 2011

PAID

MAY 12 2011

CITY OF MONROVIA



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A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

March 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 03/31/2011  
Client Info: MO040 00057 PB  
Invoice # 129783

RE: LA-CE-591-M

TOTAL FEES

TOTAL CHARGES FOR THIS BILL

PO# 1100073  
W03-53123420-4209 @ 720.00  
Acct#

Acct#

Acct#

Approved Theresa St. Peter

RECEIVED  
ADMIN SERVICE  
\$720.00  
MAY 02 2011 \$720.00

PAID  
MAY 12 2011  
CITY OF MONROVIA



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

March 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 03/31/2011  
Client Info: MO040 00066 JSI  
Invoice # 129788

PO# 1100073  
Inv# 53123420 - 4269 4964.00  
Acct#  
Acct#  
Approved Theresa St. Peter

RE: LAFF UPC No. 5  
LA-CE-655-M

TOTAL FEES	\$4,962.00
TOTAL DISBURSEMENTS	\$2.60
TOTAL CHARGES FOR THIS BILL	\$4,964.60



RECEIVED  
ADMIN SERVICES  
MAY 02 2011

PAID  
MAY 12 2011  
CITY OF MONROVIA



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

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Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

PAID

JUN 16 2011

CITY OF MONROVIA

April 30, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 04/30/2011  
Client Info: MO040 00051 PB  
Invoice # 131201

RECEIVED

MAY 24 2011

City of Monrovia  
Human Resources Dept.

RE: LA-CE-

\$12,517.00

TOTAL FEES

\$52.95

TOTAL DISBURSEMENTS

\$12,569.95

TOTAL CHARGES FOR THIS BILL

PO# 01100073-00  
Acct# 53123420-4269 (Lure #3) \$12,569.95  
Acct#  
Acct#  
Approved Theresa St. Peter

PB 6/15/11



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

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Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973


April 30, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 04/30/2011  
Client Info: MO040 00056 PB  
Invoice # 131204

RE: LA-CE-593-M

TOTAL FEES	\$2,600.00
TOTAL DISBURSEMENTS	\$133.35
TOTAL CHARGES FOR THIS BILL	\$2,733.35

PO# 01100073-00  
Acct# 53123420-4069(Limit 8) + 2733.35  
Acct# \_\_\_\_\_  
Acct# \_\_\_\_\_  
Approved Theresa St. Peter 

PAID

JUN 16 2011

CITY OF MONROVIA



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

April 30, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 04/30/2011  
Client Info: MO040 00057 PB  
Invoice # 131205

RE: LA-CE-591-M

TOTAL FEES \$1,878.00  
TOTAL CHARGES FOR THIS BILL \$1,878.00

PO# 01100073-DD  
Acct# 503123420-4269 (direct) \$1,878.00  
Acct#  
Acct#  
Approved Theresa St. Peter

*[Signature]*

PAID

JUN 16 2011

CITY OF MONROVIA



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

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Tax ID: 95-3658973

April 30, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 04/30/2011  
Client Info: MO040 00058 PB  
Invoice # 131206

RE: UPC LACE610M

TOTAL FEES \$110.00  
TOTAL CHARGES FOR THIS BILL \$110.00

PO# 01100013-10  
Acct# 53123420-42121 (line#3) \$110.00-  
Acct#  
Acct#  
Approved 1 hour, STP

(PPL)

PAID

JUN 16 2011



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

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Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973

April 30, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 04/30/2011  
Client Info: MO040 00066 JS1  
Invoice # 131211

RECEIVED

MAY 24 2011

City of Monrovia  
Human Resources Dept.

RE: LA-CE-665-M

TOTAL FEES

\$168.00

TOTAL CHARGES FOR THIS BILL

\$168.00

PO# 01100073-DD  
Acct# 52123420-4209 (Inv#3) \$168-  
Acct# \_\_\_\_\_  
Acct# \_\_\_\_\_  
Approved Theresa St. Peter

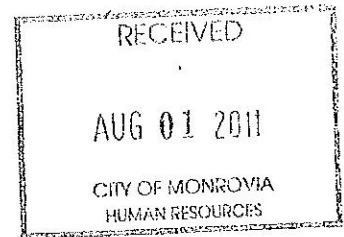
PAID  
JUN 16 2011  
CITY OF MONROVIA



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973



May 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 05/31/2011  
Client Info: MO040 00051 PB  
Invoice # 133790

PO# 110073  
Acct# 53123420-4269 UN  
Acct# 838  
Acct# [Signature]  
Approved [Signature]

RE: LA-CE-536-M

TOTAL FEES

TOTAL DISBURSEMENTS

TOTAL CHARGES FOR THIS BILL

CITY OF MONROVIA

\$36,980.00

\$1,492.80

\$38,472.80

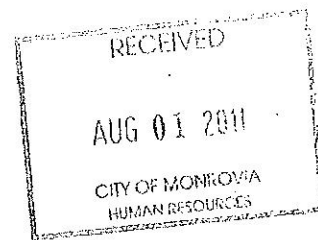
RECEIVED  
ADMIN SERVICES  
JUL 21 2011



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
 Los Angeles, CA 90045  
 Tel: (310) 981-2000 Fax: (310) 337-0560  
 Tax ID: 95-3658973



May 31, 2011

City of Monrovia  
 Theresa St. Peter  
 Human Resources Director  
 415 South Ivy Street  
 Monrovia, CA 91016

Billed through: 05/31/2011  
 Client/Matter No.: MO040 00051 PB  
 Invoice #: 133790

**PAID**

SEP 01 2011

RE: LA-CE-536-M

CITY OF MONROVIA.

**BILLING SUMMARY**

TOTAL FEES	\$36,980.00
TOTAL DISBURSEMENTS	\$1,492.80
TOTAL CHARGES FOR THIS BILL	\$38,472.80

**FOR PROFESSIONAL SERVICES RENDERED**

Hours	Amount
4.00	960.00
1.40	378.00
4.30	1,032.00
0.60	144.00
1.70	408.00
0.70	168.00
0.70	168.00
5.00	1,200.00
1.90	456.00
1.30	312.00
3.40	918.00

05/01/2011	JSI	CONTINUE WORKING ON RAPP CROSS- EXAMINATION .	4.00	960.00
05/02/2011	PB	PREP FOR HEARING BY REVIEWING DOCUMENTS FOR EXHIBIT BOOK AND FOR CATE CROSS EXAMINATION .	1.40	378.00
05/02/2011	JSI	WORK ON SEVERAL CASE PREPARATION ISSUES INCLUDING WITNESS EXAMINATION .	4.30	1,032.00
05/02/2011	JSI	EXCHANGE NUMEROUS EMAIL WITH CHIEF DONOVAN RE QUESTIONS RE CROSS EXAMINATION .	0.60	144.00
05/02/2011	JSI	WORK ON DOCUMENT ORGANIZATION FOR HEARING .	1.70	408.00
05/02/2011	JSI	READ MR. OCHOA AND MS. ST. PETER TESTIMONY .	0.70	168.00
05/02/2011	JSI	STRATEGIZE RE CASE PREPARATION .	0.70	168.00
05/03/2011	JSI	CONTINUE WORKING ON CHIEF DONOVAN DIRECT EXAMINATION AND ADDING ALL EXHIBITS .	5.00	1,200.00
05/03/2011	JSI	TELEPHONE CONFERENCE WITH CHIEF DONOVAN IN PREPARATION FOR HEARING .	1.90	456.00
05/03/2011	JSI	CONTINUE WORKING ON DOCUMENTS FOR HEARING .	1.30	312.00
05/04/2011	PB	MEETINGS WITH SCOTT OCHOA, THERESA, AND MARY ANN RE THEIR TESTIMONY .	3.40	918.00



Client/Matter/Invoice No.: MO040 00051 133790

05/04/2011	PB	PREPARE OPENING STATEMENT AND CONSIDER STRATEGY RE CROSS EXAM RE MORTON AND CATE.	0.60	162.00
05/04/2011	JSI	DRAFT AND SEND EMAIL TO CHIEF DONOVAN RE ENCLOSED TESTIMONY.	0.10	24.00
05/04/2011	JSI	CONTINUE WORKING ON AND FINALIZE CHIEF DONOVAN'S 72 PAGE DIRECT EXAMINATION.	10.90	2,616.00
05/05/2011	GS	REVIEW OF DOCUMENTS FOR ORGANIZATION OF BINDER REGARDING THE LETTER FROM THE MONROVIA FIREFIGHTERS FOR HEARING	0.20	20.00
05/05/2011	JSI	WORK ON ADDING TO RAPP'S TESTIMONY AND MODIFYING SAME IN LIGHT OF JULY 2 LETTER AND FINALIZE THE FORTY PLUS PAGE CROSS EXAMINATION.	7.50	1,800.00
05/05/2011	JSI	READ JULY 2 LETTER FROM MORTON AND COORDINATE RE ADDING TO EXHIBIT BINDER.	0.30	72.00
05/05/2011	JSI	TELEPHONE CONFERENCE WITH CHRIS DONOVAN RE HIS TESTIMONY.	0.60	144.00
05/05/2011	JSI	EXCHANGE EMAILS WITH MS. ST. PETER REGARDING FACTULA INFORMATION.	0.30	72.00
05/06/2011	PB	PREP CROSS EXAMINATION OF MIKE CATE.	2.10	567.00
05/06/2011	JSI	TWO TELEPHONE CONFERENCES WITH FABRIZIO AND DRAFT EMAIL RE ENCLOSED DOCUMENT AND FORWARD SAME TO HIM.	0.50	120.00
05/06/2011	JSI	COMMENCE WORKING ON OPENING STATEMENT.	3.00	312.00
05/06/2011	JSI	WORK ON AND FINALIZE HABERELE DIRECT EXAMINATION.	2.50	600.00
05/06/2011	JSI	WORK ON FABRIZIO DIRECT EXAMINATION AND FINALIZE SAME.	5.00	1,200.00
05/07/2011	PB	PREP OPENING STATEMENT.	0.30	81.00
05/07/2011	JSI	CONTINUE AND COMPLETE DRAFTING THE OPENING STATEMENT.	5.60	1,344.00
05/08/2011	JSI	TRAVEL SD TO LA AND PICK UP DOCUMENTS (NO CHARGE)	3.60	No Charge
05/08/2011	JSI	FINALIZE OPENING STATEMENT.	1.50	360.00
05/08/2011	JSI	TRAVEL OFFICE TO GLENDALE FOR HEARING.	0.70	168.00
05/08/2011	JSI	FINALIZE DOCUMENT REVIEW AND PREPARATION FOR HEARING.	1.50	360.00
05/09/2011	PB	PERB HEARING DAY 1.	8.20	2,214.00
05/09/2011	JSI	WORK ON REVISING CROSS EXAMINATION QUESTIONS FOR RAPP BASED ON HIS DIRECT EXAMINATION TESTIMONY.	3.30	792.00
05/09/2011	JSI	ATTEND DAY ONE PERB HEARING.	7.50	1,800.00
05/10/2011	PB	HEARING DAY 2.	8.20	2,214.00
05/10/2011	JSI	PREP CHIEF DONOVAN'S DIRECT EXAMINATION BASED ON TODAY'S TESTIMONY AND RULINGS AND FOCUSING OF CERTAIN ISSUES.	3.90	936.00
05/10/2011	JSI	ATTEND DAY TWO PERB HEARING.	7.50	1,800.00
05/10/2011	JSI	TELEPHONE CONFERENCES WITH SCOTT HABERLE RE ISSUES RAISED AT PERB HEARING.	0.70	168.00
05/10/2011	JSI	SEVERAL TELEPHONE CALLS WITH CHIEF DONOVAN IN PREPARATION FOR HIS TESTIMONY TOMMOROW.	0.70	168.00



Client/Matter/Invoice No.: MO040 00051 133790

05/11/2011	PB	TRAVEL TO AND FROM HEARING DAY 3 REDUCED FOR CALLS .	1.50	405.00
05/11/2011	PB	HEARING DAY 3 .	8.10	2,187.00
05/11/2011	JSI	TELEPHONE CONFERENCE WITH SCOTT HABERLE RE TESTIMONY OF ASSOCIATION WITNESS .	0.50	120.00
05/11/2011	JSI	SEVERAL TELEPHONE CONFERENCES WITH CHRIS FABRIZIO AND WORK ON REVISING HIS DIRECT EXAMINATION AND REVIEW CERTAIN DOCUMENTS .	3.90	936.00
05/11/2011	JSI	ATTEND DAY THREE OF PERB HEARING AND MEET WITH CHIEF DONOVAN BEFOREHAND .	8.50	2,040.00
05/12/2011	PB	HEARING DAY 4 AND PREP WITH SCOTT OCHOA .	7.90	2,133.00
05/12/2011	JSI	ATTEND DAY FOUR OF PERB HEARING .	7.30	1,752.00
05/12/2011	JSI	TELEPHONE CONFERENCE WITH CHIEF DONOVAN RE HEARING .	0.90	216.00
05/12/2011	JSI	TELEPHONE SCOTT HABERLE RE WILL NOT CALL HIM AS WITNESS TOMORROW AND RELATED ISSUES .	0.30	72.00
05/12/2011	JSI	EXCHANGE EMAIL WITH AND TELEPHONE CONFERENCE WITH CHRIS FABRIZIO .	0.30	72.00
05/13/2011	PB	TRAVEL TO AND FROM HEARING TODAY DAY 5 REDUCED FOR CALLS .	1.50	405.00
05/13/2011	JSI	TRAVEL LOS ANGELES TO SAN DIEGO (NO CHARGE) .	2.70	No Charge
05/13/2011	JSI	TELEPHONE CONFERENCE WITH CHIEF DONOVAN RE UPDATE ON HEARING AND COMPLETION OF SAME .	0.30	72.00
05/13/2011	JSI	RETURN TRAVEL FROM PERB TO LOS ANGELES OFFICE .	1.00	240.00
05/18/2011	JSI	TELEPHONE CONFERENCE WITH CHRIS DONOVAN RE COMMENTS BY ALJ ON RESOLUTION RE PARTIES RELATIONSHIP AND TIMING ISSUES .	0.30	72.00
			155.10	\$36,980.00

## Timekeeper Summary

SAKAMOTO, GARY  
ISLAS, JUDITH  
ISLAS, JUDITH  
BROWN, PETER

Total fees for this matter

Hours	Rate	Amount
PAID 0.20	100.00	\$20.00
SEP 01 2011 6.30	0.00	\$0.00
105.40	240.00	\$25,296.00
CITY OF MONROVIA 43.20	270.00	\$11,664.00
155.10		\$36,980.00

## DISBURSEMENTS

Amount

05/08/2011 EMBASSY SUITES HOTEL  
05/31/2011 PHOTOCOPIES

Total disbursements for this matter

1,114.80  
378.00  
\$1,492.80



Monrovia, City of

Client/Matter/Invoice No.:

MO040

00051

133790

Page 4

Accounts Receivable Aging

<u>Under 31 Days</u>	<u>31 - 60 Days</u>	<u>61-90 Days</u>	<u>91-120 Days</u>	<u>Over 120 Days</u>
\$0.00	\$12,569.95	\$0.00	\$0.00	\$0.00

PAID

SEP 01 2011

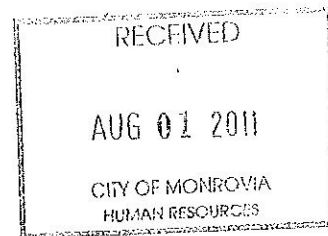
CITY OF MONROVIA



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973



May 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 05/31/2011  
Client Info: MO040 00056 PB  
Invoice # 133792

RE: LA-CE-593-M

TOTAL FEES

TOTAL DISBURSEMENTS

TOTAL CHARGES FOR THIS BILL

PO# 1105073  
Acct# 521 23420-4269 unit  
Acci# \$SD2

Acct# [Signature]  
Approved [Signature] 8/31/11

\$4,908.00

\$117.90

\$5,025.90

PAID

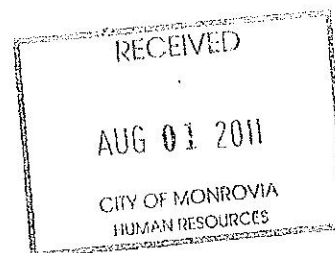
SEP 01 2011

CITY OF MONROVIA



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0560  
Tax ID: 95-3658973

May 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016Billed through 05/31/2011  
Client/Matter No.: MO040 00056 PB  
Invoice # 133792

RE: LA-CE-593-M

**BILLING SUMMARY**

TOTAL FEES	\$4,908.00
TOTAL DISBURSEMENTS	\$117.90
TOTAL CHARGES FOR THIS BILL	\$5,025.90

**PAID**

SEP 01 2011

**FOR PROFESSIONAL SERVICES RENDERED**

	CITY OF MONROVIA	Hours	Amount
05/04/2011 PB TRAVEL TO AND FROM CITY FOR MEETINGS WITH THERESA, SCOTT AND MARY ANN LUTZ RE TESTIMONY - REDUCED FOR CALLS .		1.40	378.00
05/04/2011 PB PREP TESTIMONY OF MARY ANN LUTZ .		0.10	27.00
05/04/2011 PB PREP FOR MEETINGS WITH SCOTT OCHOA AND MARY ANN LUTZ FOR TESTIMONY .		0.50	135.00
05/06/2011 PB PREP TESTIMONY OF MARY ANN LUTZ .		0.10	27.00
05/06/2011 PB PREP FOR HEARING BY REVIEWING SHAWN MORTON LETTER TO CHRIS FROM 2007 TO USE IN CROSS .		0.20	54.00
05/06/2011 PB PREP CROSS EXAMINATION OF SHAWN MORTON .		1.90	513.00
05/09/2011 PB T THERESA RE TESTIMONY .		0.10	27.00
05/09/2011 PB PREP FOR HEARING TODAY .		0.50	135.00
05/10/2011 PB TRAVEL TO AND FROM THE HEARING DAY 2 AT PERB IN GLENDALE .		2.10	567.00
05/10/2011 PB T SCOTT OCHOA RE HIS TESTIMONY .		0.10	27.00
		6.20	1,674.00



Monrovia, City of

Client/Matter/Invoice No.:

MO040

00056

133792

Page 2

### Timekeeper Summary

ISLAS, JUDITH

BROWN, PETER

Total fees for this matter

Hours	Rate	Amount
5.60	240.00	\$1,344.00
13.20	270.00	\$3,564.00
<u>18.80</u>		<u>\$4,908.00</u>

### DISBURSEMENTS

05/31/2011

PHOTOCOPIES

Total disbursements for this matter

Amount

117.90

\$117.90

### Accounts Receivable Aging

Under 31 Days  
\$0.00

31 - 60 Days  
\$2,733.35

61-90 Days  
\$0.00

91-120 Days  
\$0.00

Over 120 Days  
\$0.00

PAID

SEP. 01 2011

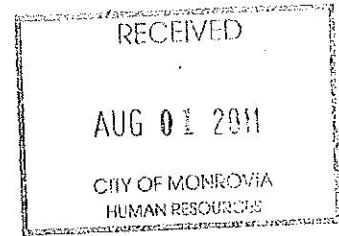
CITY OF MONROVIA



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0837  
Tax ID: 95-3658973



May 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 05/31/2011  
Client Info: MO040 00057 PB  
Invoice # 133793

PO# 11000013  
Acct# 53123420-4269  
Acct#  
Acct#  
Approved [Signature]  
8/31/11

RE: LA-CE-591-M

TOTAL FEES  
TOTAL CHARGES FOR THIS BILL

RECEIVED  
ADMIN SERVICES  
JUL 21 2011

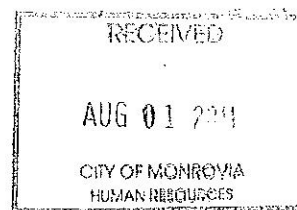
\$1,728.00  
\$1,728.00

PAID  
SEP 01 2011  
CITY OF MONROVIA



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0560  
Tax ID: 95-3658973

May 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016Billed through 05/31/2011  
Client/Matter No.: MO040 00057 PB  
Invoice # 133793

RE: LA-CE-591-M

**BILLING SUMMARY**TOTAL FEES \$1,728.00  
TOTAL CHARGES FOR THIS BILL \$1,728.00**PAID**

SEP 01 2011

**FOR PROFESSIONAL SERVICES RENDERED**

CITY OF MONROVIA	Hours	Amount
05/04/2011 PB T THERESA RE HER TESTIMONY .	0.10	27.00
05/04/2011 PB PREP TESTIMONY OF THERESA ST. PETER .	0.50	135.00
05/06/2011 PB PREP TESTIMONY OF THERESA ST. PETER .	0.70	189.00
05/08/2011 PB PREP FOR HEARING TOMORROW .	1.10	297.00
05/09/2011 PB TRAVEL TO AND FROM PERB FOR HEARING TODAY .	1.80	486.00
05/12/2011 PB TRAVEL TO AND FROM HEARING DAY 4 .	1.70	459.00
05/13/2011 PB PREP FOR THERESA'S TESTIMONY TODAY .	0.50	135.00
	<u>6.40</u>	<u>\$1,728.00</u>

**Timekeeper Summary**

BROWN, PETER

Total fees for this matter

Hours	Rate	Amount
6.40	270.00	\$1,728.00
<u>6.40</u>		<u>\$1,728.00</u>



**LIEBERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 West Century Blvd., Suite 500  
Los Angeles, CA 90045  
Tel: (310) 981-2000 Fax: (310) 337-0560  
Tax ID: 95-3658973

May 31, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Billed through 05/31/2011  
Client/Matter No.: MO040 00058 PB  
Invoice # 133794

RE: UPC LACE610M

**BILLING SUMMARY**

TOTAL FEES	\$288.00
TOTAL CHARGES FOR THIS BILL	\$288.00

**FOR PROFESSIONAL SERVICES RENDERED**

		Hours	Amount
05/18/2011	JSI	0.90	216.00
READ UPC CHARGES 610 AND 655 AND ASSESS WHETHER SAFETY NOTICES RELATE TO THESE CHARGES AND DRAFT MEMO RE SAME AND READ ADDITIONAL NOTICES.			
05/18/2011	JSI	0.30	72.00
READ SAFETY NOTICES FORWARDED BY MS. ST. PETER AND CHIEF DONOVAN'S MEMO TO FIRE PERSONNEL AND CHECK UPC 610 IN RELATION TO SAME.			
			<b>PAID</b>
			JUL 28 2011
			CITY OF MONROVIA
<hr/>			<hr/>
1.20			\$288.00

**Timekeeper Summary**

	Hours	Rate	Amount
ISLAS, JUDITH	1.20	240.00	\$288.00
Total fees for this matter	<hr/> 1.20		<hr/> \$288.00



**LCSW LIENERT CASSIDY WHITMORE**

A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Invoice 136308  
June 30, 2011

Client/Matter No.: MO040-00051  
Re: LA-CE-536-M


PAID  
SEP 21 2011  
CITY OF MONROVIA

For Professional Services Rendered Through 6/30/2011

**Billing Summary**

Total Fees	16,692.00
Total Disbursements	2,349.15
Total Charges for this Bill	19,041.15



 LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6933 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2030  
Cal. Tex. I.D. #95-3658973

Invoice 136312  
June 30, 2011

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Client/Matter No.: MO040-00056  
Re: L.A.-CE-593-M

For Professional Services Rendered Through 6/30/2011

Total Fees	408.00
Total Charges for this Bill	408.00

PAID  
SEP 21 2011  
CITY OF MONROVIA



**LCW** LIBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Invoice 136313  
June 30, 2011

Client/Matter No.: MO040-00057  
Re: LA-CE-591-M


For Professional Services Rendered Through 6/30/2011

**Billing Summary**

Total Fees	1,200.00
Total Charges for this Bill	1,200.00

**PAID**  
SEP 21 2011  
CITY OF MONROVIA



 LIBERTY CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-581-2050  
Fed. Tax ID: 855-5655973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Invoice 136317  
June 30, 2011

Client/Matter No.: MO040-00066  
Re: L.A.-CE-655-M

For Professional Services Rendered Through 6/30/2011

Total Fees	338.00
Total Disbursements	1.00
Total Charges for this Bill	339.00

PAID  
SEP 21 2011  
CITY OF MONROVIA



**LCW** LIEBERT CASSIDY WHITMORE

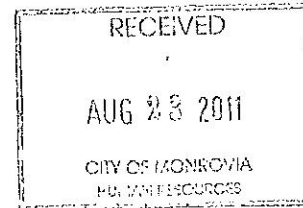
A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Invoice 138098  
July 31, 2011

RECEIVED  
ADMIN SERVICES  
SEP 14 2011



Client/Matter No.: MO040-00051  
Re: LA-CE-536-M

For Professional Services Rendered Through 7/31/2011

**Billing Summary**

Total Fees	9,152.00
Total Disbursements	17.40
Total Charges for this Bill	9,169.40

PAID  
SEP 21 2011  
CITY OF MONROVIA

PO# 01200073-00 line 13/  
Acct# 531 83420-4200 \$ 916940  
Acct# \_\_\_\_\_  
Acct# \_\_\_\_\_  
Approved [Signature] 9/20/11



**LIBRARY CASHIER WHITEHOUSE**

10777 MONROVIA BLVD. SUITE 100

500 W. Century Blvd. Suite 100

Los Angeles, CA 90045

Phone: (213) 485-1100

City of Monrovia

Human Resources Director

445 South Hwy Street

Monrovia, CA 91016

Phone: (213) 485-1100

July 31, 2011

RECEIVED  
ADMIN SERVICES  
SEP 1 2011

City of Monrovia  
Human Resources Director  
445 South Hwy Street  
Monrovia, CA 91016

Client Matter No: MON44-MC016  
Re: LA-CF-593-M

For Professional Services Rendered Through 7/31/2011

Bill To: City of Monrovia, 445 South Hwy Street, Monrovia, CA 91016

Total Fees	3,710.00
Total Charges for this Bill	3,710.00

NO: 01200072-10  
ACCT: 5212340-45641210  
DATE: 7/31/2011  
AMOUNT: 3,710.00  
APPROVED: [Signature]  
CITY OF MONROVIA

PAID  
SEP 21 2011  
CITY OF MONROVIA





A PROFESSIONAL LAW CORPORATION

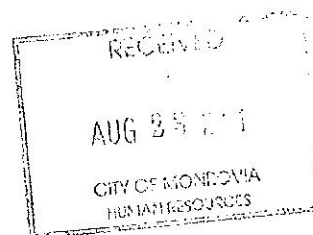
6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

RECEIVED  
ADMIN SERVICES  
SEP 14 2011

Invoice 138101  
July 31, 2011

Client/Matter No.: MO040-00057  
Re: LA-CE-591-M



For Professional Services Rendered Through 7/31/2011

Billing Summary

Total Fees	3,259.50
Total Charges for this Bill	3,259.50

PO# 01805073-00  
Acct# 53123420-4209 unit # \$ 3259.50  
Acct#  
Acct#  
Approved [Signature]

PAID  
SEP 21 2011  
CITY OF MONROVIA



**LCW** LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION


6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Client/Matter No.: MO040-00066  
Re: LA-CE-665-M

RECEIVED  
ADMIN SERVICES  
SEP 14 2011

Invoice 138105  
July 31, 2011

PO# 018 00073-00  
Acci# 531 73420-4209 11.25  
Acci#  
Acci#  
Approved 

For Professional Services Rendered Through 7/31/2011

**Billing Summary**

Total Fees	1,270.00
Total Disbursements	9.35
Total Charges for this Bill	1,279.35

PAID

SEP 21 2011

CITY OF



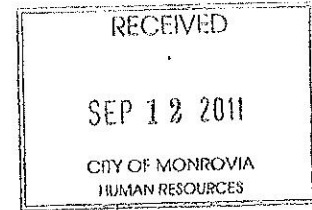
**LCW** LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Client/Matter No.: MO040-00051  
Re: LA-CE-536-M



Invoice 138981  
August 31, 2011

PO# 012 DDDT3 - 10  
Acct# 53173420 - 4269 \$10,519.00  
Acct# \_\_\_\_\_  
Acct# \_\_\_\_\_  
Approved [Signature] 9/20/11

For Professional Services Rendered Through 8/31/2011

**Billing Summary**

Total Fees	10,445.50
Total Disbursements	73.50
Total Charges for this Bill	10,519.00

**RECEIVED  
ADMIN SERVICES**

SEP 19 2011

**PAID**

SEP 21 2011

CITY OF MONROVIA



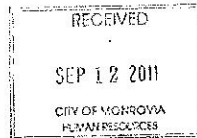
**LCW** LIBERTY CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

4033 W Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-581-2020  
FCL L.A. ID: 495-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Client/Matter No.: MO040-00056  
Re: L.A.-CE-593-M



Invoice 138984  
August 31, 2011

PO# 01200073-05  
Acct# 52122420-4200 9550.50  
Acct# \_\_\_\_\_  
Acct# \_\_\_\_\_  
Approved: [Signature]

For Professional Services Rendered Through 8/31/2011

**Billing Summary**

Total Fees	556.50
Total Charges for this Bill	556.50

RECEIVED  
ADMIN SERVICES  
SEP 19 2011

PAID  
SEP 21 2011  
CITY OF MONROVIA



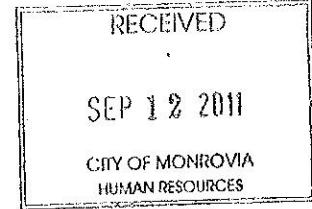
**LCW** LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Client/Matter No.: MO040-00057  
Re: LA-CE-591-M



Invoice 138985  
August 31, 2011

PO# 012 D0013-00  
Acct# 531 23420-42099 1139.50  
Acct# \_\_\_\_\_  
Acct# \_\_\_\_\_  
Approved: [Signature]

For Professional Services Rendered Through 8/31/2011

**Billing Summary**

Total Fees	1,139.50
Total Charges for this Bill	1,139.50

RECEIVED  
ADMIN SERVICES

SEP 19 2011

PAID  
SEP 21 2011  
CITY OF MONROVIA



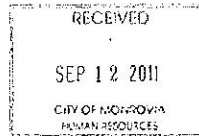
**LCW** Liebert Cassidy Whitmore

A PROFESSIONAL LAW CORPORATION

7013 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2060  
Fed. Tax ID: #95-3855973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Client/Matter No.: MO040 60066  
Re: LA-CE-665-M



Invoice 138989  
August 31, 2011

PO# 01700073-00  
Acct# 52173420-426992150  
Acct# \_\_\_\_\_  
Acct# \_\_\_\_\_  
Approved [Signature] 9-20-11

For Professional Services Rendered Through 8/31/2011

**Billing Summary**

Total Fees	26.50
Total Charges for this Bill	26.50

RECEIVED  
ADMIN SERVICES

SEP 19 2011

PAID

SEP 21 2011

CITY OF MONROVIA



**LCW** LIBERT CASSIDY WHITMORE

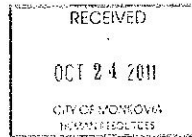
A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-931-2000  
Fed. Tax ID #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Invoice 140549  
September 30, 2011

PAID  
OCT 31 2011



Clear Matter No. MOU10-00057

For Professional Services Rendered Through 9/30/2011

**Billing Summary**

Total Fees	291.50
Total Disbursements	26.40
Total Charges for this Bill	317.90

PO# 01200073-10  
Acct# 52123420-4269 \$ 317.90  
Acct# \_\_\_\_\_  
Acct# \_\_\_\_\_  
Approved [Signature]

PAID  
NOV 10 2011  
CITY OF MONROVIA





LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax ID. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Invoice 143852  
November 30, 2011

Client/Matter No.: MO040-00058  
Re: UPC LACE610M

For Professional Services Rendered Through 11/30/2011

**Billing Summary**

Total Fees	1,802.00
Total Disbursements	3.00
<b>Total Charges for this Bill</b>	<b>1,805.00</b>

1200073  
Unl 153123420 - 4269 1805.00





LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Invoice 143852  
November 30, 2011

Client/Matter No.: MO040-00058  
Re: UPC LACE610M

For Professional Services Rendered Through 11/30/2011

#### Billing Summary

Total Fees	1,802.00
Total Disbursements	3.00
<b>Total Charges for this Bill</b>	<b>1,805.00</b>

#### Fees

Date	Atty	Description	Hours	Amount
11/08/11	JSI	REVIEW COMPLAINT AND NOTICE RE WITHDRAWAL OF CHARGES AND CHECK CHARGES TO IDENTIFY WITHDRAWN AND REMAINING CHARGES AND DRAFT EMAIL TO MS. ST. PETER RE SAME.	0.50	132.50
11/10/11	JSI	EXCHANGE EMAILS WITH MR. OCHOA RE ALLEGATIONS IN THE COMPLAINT AND DRAFT ANSWER RESPONDING TO THE ALLEGATIONS IN THE COMPLAINT.	1.30	344.50
11/10/11	JSI	EXCHANGE EMAILS WITH MS. ST. PETER RE ANSWER TO COMPLAINT AND RELATED FACTS.	0.30	79.50
11/14/11	JSI	DRAFT AFFIRMATIVE DEFENSES TO BE INCLUDED IN ANSWER TO COMPLAINT AND CHECK TIMELINESS, DRAFT VERIFICATION OF COMPLAINT, CHECK CERTAIN PERB REGULATIONS RE ANSWER AND TIME TO FILE AND REVIEW AND FINALIZE ANSWER	1.30	344.50
11/14/11	JSI	DRAFT AND SEND EMAIL TO MR. OCHOA AND MS. ST. PETER RE COMPLAINT AND ANSWER TO COMPLAINT AND VERIFICATION.	0.30	79.50
11/14/11	JSI	EXCHANGE EMAIL WITH MR. OCHOA RE ANSWER TO PERB COMPLAINT, HIS REVIEW AND COMMENTS ON SAME AND EXECUTION OF VERIFICATION.	0.30	79.50
11/15/11	JSI	TELEPHONE CONFERENCE WITH MR. OCHOA AND CHIEF DONOVAN RE PERB COMPLAINT AND BACKGROUND.	0.30	79.50
11/15/11	JSI	CHECK ON STATUS OF TIMING ON JUDGE ALLEN'S DECISIONS IN RESPONSE TO MR. OCHOA'S INQUIRY AND SEND EMAIL TO MR. OCHOA AND CHIEF DONOVAN RE SAME.	0.30	79.50
11/15/11	JSI	EXCHANGE EMAIL WITH RACHAEL HUGHES RE MR. OCHOA'S	0.10	26.50



Liebert Cassidy Whitmore

City of Monrovia  
I.D. MO040-00058 - PB  
Re: UPC LACE6J0M

November 30, 2011

Invoice 143852

Page 3

Date	Atty	Description	Hours	Amount
		VERIFICATION.		
11/15/11	JSI	FINALIZE ANSWER.	0.70	185.50
11/15/11	JSI	DRAFT AND SEND EMAIL TO MS. TELLEZ RE INFORMAL CONFERENCE AND AVAILABILITY ON SCHEDULED DATE AND ENCLOSED NOTICE.	0.30	79.50
11/16/11	JSI	DRAFT AND SEND EMAIL TO MS. TELLEZ RE POSSIBLE DATES FOR PERB HEARING AND WITNESSES/INDIVIDUALS NEEDED AT THE HEARING.	0.30	79.50
11/16/11	JSI	DRAFT AND SEND EMAIL TO MS. TELLEZ ENCLOSING CITY'S ANSWER TO PERB COMPLAINT.	0.10	26.50
11/17/11	JSI	READ EMAIL FROM MR. COHEN RE REQUEST TO CHANGE INFORMAL CONFERENCE DATE.	0.10	26.50
11/17/11	JSI	COMMUNICATE WITH MS. TELLEZ INCLUDING EMAIL EXCHANGE RE ALTERNATE DATES FOR INFORMAL PERB CONFERENCE.	0.30	79.50
11/18/11	JSI	EXCHANGE EMAIL WITH MR. COHEN RE HIS REQUEST FOR CONTINUANCE OF INFORMAL PERB CONFERENCE; FORWARD TO MS. TELLEZ.	0.30	79.50
<b>Total Fees</b>			<b>6.80</b>	<b>1,802.00</b>

**Fee Recap**

		Hours	Rate	Amount
JUDITH ISLAS	OF COUNSEL	6.80	265.00	1,802.00
<b>Totals</b>		<b>6.80</b>		<b>1,802.00</b>

**Disbursements**

Date	Description	Amount
11/30/11	FAXES	3.00
<b>Total Disbursements</b>		<b>3.00</b>

**Aged Accounts Receivable**

Under 31 Days	31 - 60 Days	61 - 90 Days	91 - 120 Days	Over 120 Days	Total Due
1,805.00	0.00	0.00	0.00	0	1,805.00



LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION  
6033 W. Century Boulevard, Suite 500  
Los Angeles, California 90045  
Tel: (310) 981-2000 • Fax: (310) 337-0837  
www.lcwlegal.com

FAX COVER SHEET

DATE: November 15, 2011 CLIENT-MATTER NUMBER: MO040-058

To:

NAME:	FAX NO.:	PHONE NO.:
Ellen Wu PERB	(818) 551-2820	

FROM: Judith S. Islas PHONE: (310) 981-2038

RE: *Monrovia Firefighters Assoc, IAFF Local 2415 v. City of Monrovia*

NUMBER OF PAGES WITH COVER PAGE: 6	Originals Will Follow By Regular Mail
------------------------------------	---------------------------------------

Message:

Please see attached Answer to Complaint.

*The information contained in this facsimile message is information protected by attorney-client and/or the attorney/work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via U.S. Postal Service.*

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420890.1 MO040-058

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**LAW** LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax ID. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Invoice 143856  
November 30, 2011

1260073  
we 5313420.4269 30.0

Client/Matter No.: MO040-00066  
Re: LA-CE-665-M



For Professional Services Rendered Through 11/30/2011

**Billing Summary**

Total Fees	30.00
Total Charges for this Bill	30.00



A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5th Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

City of Monrovia  
Theresa St. Peter  
Human Resources Director  
415 South Ivy Street  
Monrovia, CA 91016

Invoice 143856  
November 30, 2011

Client/Matter No.: MO040-00066  
Re: LA-CF-665-M

For Professional Services Rendered Through 11/30/2011

**Billing Summary**

Total Fees	30.00
Total Charges for this Bill	30.00

**Fees**

Date	Atty	Description	Hours	Amount
11/07/11	PB	REVIEW LETTER FROM COHEN REVIEWING CHARGES FROM UNFAIR PRACTICE CHARGE.	0.10	30.00
Total Fees			0.10	30.00

**Fee Recap**

	Hours	Rate	Amount
PETER BROWN PARTNER	0.10	300.00	30.00
Totals	0.10		30.00

**Aged Accounts Receivable**

Under 31 Days	31 - 60 Days	61 - 90 Days	91 - 120 Days	Over 120 Days	Total Due
30.00	0.00	0.00	0.00	0	30.00



### 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, 2017, I served the:

- **Notice of Complete Incorrect Reduction Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued September 29, 2017**
- **Incorrect Reduction Claim (IRC) filed by City of Monrovia (Claimant) on August 15, 2017**

*Local Government Employee Relations, 17-0130-I-01*

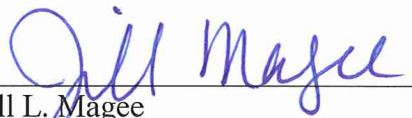
Government Code Sections 3502.5(b) and 3508.5(c): Statutes 2000, Chapter 901 (SB 739); California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070; Register 2001, Number 49.

Fiscal Year: 2010-2011

City of Monrovia, 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, 2017 at Sacramento, California.



Jill L. Magee

Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562



# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 9/28/17

**Claim Number:** 17-0130-I-01

**Matter:** Local Government Employee Relations

**Claimant:** City of Monrovia

### 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.)

**Socorro Aquino, State Controller's Office**

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SAquino@sco.ca.gov

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**Buffy Bullis, Administrative Services Director/Finance Director, City of Monrovia**

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**Annette Chinn, Cost Recovery Systems, Inc.**

**Claimant Representative**

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Phone: (916) 939-7901

achinnrs@aol.com



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Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
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**Christian Osmena**, *Department of Finance*  
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Phone: (916) 445-3274  
Derk.Symons@dof.ca.gov





**Exhibit B**

**BETTY T. YEE**  
**California State Controller**

**RECEIVED**  
December 22, 2017  
**Commission on  
State Mandates**

December 22, 2017

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

**SUBJECT: Incorrect Reduction Claim (IRC)  
Local Government Employee Relations, 17-0130-I-01  
Government Code Section 3502.5(b) and 3508.5(c):  
Statutes 2000, Chapter 901 (SB 739);  
California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149,  
32150, 32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206,  
32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644,  
32649, 32680, 32980, 60010, 60030, 60050, 60070;  
Register 2001, Number 49.  
Fiscal Year 2010-2011  
City of Monrovia, Claimant**

Dear Ms. Halsey:

The State Controller's Office is transmitting our response to the above-named IRC.

If you have any questions, please contact me by telephone at (916) 324-5919.

Sincerely,

Evelyn Calderon-Yee  
Chief, Bureau of Payments

Enclosures

cc: Shawn Silva, Senior Staff Counsel, State Controller's Office  
Jim Spano, Assistant Chief, Division of Audits, State Controller's Office

Local Government Programs and Services Division  
MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250  
3301 C Street, Suite 700, Sacramento, CA 95816



**RESPONSE BY THE STATE CONTROLLER'S OFFICE TO THE  
INCORRECT REDUCTION CLAIM BY  
CITY OF MONROVIA**

**Local Government Employee Relations**

**Table of Contents**

<b><u>Description</u></b>	<b><u>References</u></b>
Declaration (Affidavit of Bureau Chief)	Tab 1
SCO Analysis and Response	Tab 2
City's reimbursement claims timely filed with SCO - for fiscal years (FYs) 2010-11 and 2011-12 (no FY 2009-10 claim filed)	Tab 3
City's transmittal of claims filed with SCO for various programs including Local Government Employee Relations claim for FY 2010-11 (with SCO stamped received on 1/27/12)	Tab 4
Summary of the City's invoices included in the FY 2010-11 claim and FY 2011-12 claim	Tab 5
Parameters and Guidelines - Local Government Employee Relations program (pgs. 1-2)	Tab 6
SCO and City email correspondences from 9/29/2014 through 9/22/2016; and SCO final claim adjustment letter sent to the City on 10/31/2014	Tab 7
City's incorrect reduction claim letter filed with CSM dated 8/10/2017	Tab 8



# Tab 1



1 **OFFICE OF THE STATE CONTROLLER**  
Local Government Programs and Services Division  
2 3301 C Street, Suite 740  
Sacramento, CA 95816  
3 Telephone No.: (916) 324-5919  
4

5 BEFORE THE  
6 COMMISSION ON STATE MANDATES  
7 STATE OF CALIFORNIA

8 INCORRECT REDUCTION CLAIM (IRC)  
9 ON:

10 *Local Government Employee Relations*

11 Government Code Sections 3502.5(b) and  
12 3508.5(c); Statutes 2000, Chapter 901 (SB739);  
California Code of Regulations, Title 8,  
13 Sections 32132, 32135, 32140, 32149, 32150,  
32160, 32168, 32170, 32175, 32176, 32180,  
14 32190, 32205, 32206, 32207, 32209, 32210,  
32212, 32310, 32315, 32375, 32455, 32620,  
15 32644, 32649, 32680, 32980, 60010, 60030,  
60050, 60070; Register 2001, Number 49

16 CITY OF MONROVIA, Claimant  
17

No.: IRC 17-0130-I-01

AFFIDAVIT OF BUREAU CHIEF

18 I, Evelyn Calderon-Yee, make the following declarations:

- 19 1) I am an employee of the State Controller's Office (SCO) and am over the age of  
20 18 years.  
21 2) I am currently employed as a bureau chief.  
22 3) I am a California Certified Public Accountant.  
23 4) I am a Certified Internal Auditor.  
24 5) I reviewed the work performed by the SCO analyst.  
25



1 6) Any attached copies of records are true copies of records, as provided by the City of Monrovia  
2 or retained at our place of business.

3 7) The records include claims for reimbursement, along with any attached supporting  
4 documentation, emails, or other documents relating to the above-entitled IRC.

5 8) A review of the claims for fiscal year 2010-11 commenced in September 2014 and was  
6 completed on October 31, 2014 (issuance of adjustment letter).

7 I do declare that the above declarations are made under penalty of perjury and are true and correct  
8 to the best of my knowledge, and that such knowledge is based on personal observation,  
9 information, or belief.

10 Date: December 22, 2017

11 OFFICE OF THE STATE CONTROLLER

12 By: 

13 Evelyn Calderon-Yee, Chief  
14 Bureau of Payments  
15 Local Government Programs and Services Division  
16 State Controller's Office  
17  
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# Tab 2



**STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE  
TO THE INCORRECT REDUCTION CLAIM BY THE  
CITY OF MONROVIA  
For Fiscal Year 2010-11**

**Local Government Employee Relations**

**Government Code Sections 3502.5(b) and 3508.5(c): Statutes 2000, Chapter 901 (SB 739);  
California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160,  
32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310,  
32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070;  
Register 2001, Number 49**

**Summary**

The City of Monrovia (City) submitted a reimbursement claim for the Local Government Employee Relations program for the 2010-11 fiscal year (FY) totaling \$229,627 (Tab 3). The claim was filed by a consultant, Cost Recovery Systems, Inc. (CRS), on behalf of the City with the State Controller's Office (SCO) on January 27, 2012 (Tab 4). In September 2014, SCO initiated its desk review on the claim for the period of July 1, 2010 through June 30, 2011. SCO determined that \$147,355 was allowable and \$82,272 was unallowable, which is illustrated in Table 1. On September 29, 2014, SCO notified the City by email and on October 31, 2014 by adjustment notification letter that the total costs of \$82,272 were unallowable for FY 2009-10 and FY 2011-12 because the costs were outside of the 2010-11 reimbursable fiscal year (Tab 7). Then, on August 10, 2017, the City submitted an Incorrect Reduction Claim (IRC) to the Commission on State Mandates (Commission). The City claimed that SCO did not review the claim and notify them timely in order for them to correct and amend their claim within the deadline to file; therefore, the unallowable costs of \$50,489 for FY 2009-10 should be allowed (Tab 8). SCO disagrees with the City. The claim was reviewed timely and was correctly reduced by the total unallowable amount of \$82,272.

**Table 1: Allowable versus unallowable costs for the FY 2010-11 claim**

<b>Costs Incurred in FY</b>	<b>Costs Claimed in FY 2010-11</b>	<b>Allowable Amount</b>	<b>Unallowable Amount*</b>
2009-10	\$ 50,489	-	\$ 50,489
2010-11	\$ 147,355	\$ 147,355	-
2011-12	\$ 31,813	-	\$ 31,813
Total	\$ 229,627	\$ 147,355	\$ 82,272

\*SCO determined costs outside the reimbursable fiscal year of 2010-11 to be unallowable.



## SCO Analysis

1. The City stated that SCO did not review the claim and notify them timely to allow for the submission of a FY 2010-11 amended claim and a new claim for FY 2009-10 for \$50,489 within the filing deadline. The City filed the FY 2010-11 claim on January 27, 2012. In order to file a late claim for FY 2009-10 to include the \$50,489, the late claim was due by February 15, 2012. During the claim submission period each February, SCO is limited to receipting, managing, and logging several thousand claims into the local reimbursement system to produce a mandatory report for the Legislature by April 30<sup>th</sup>. Comprehensive desk reviews begin after April 30<sup>th</sup> each year. Even if SCO reviewed the claim immediately in May 2012, the City would not have been able to make the FY 2009-10 late claim deadline since it was already after February 15, 2012. Additionally, SCO has two years to complete the review. The City never filed a FY 2009-10 claim. Table 2 illustrates that SCO reviewed the claim within a reasonable time and within the allowed timeframe.

**Table 2: Claims received timeline**

Claim Year	Claim Submission Deadline	Late Claim Submission Deadline	Date Claim Received	Deadline Date to Start Audit	Allowable Audit Period	Desk Review Notification Date	Actual Allowed Review Period*
2009-10	2-15-11	2-15-12	No Claim Filed				
2010-11	2-15-12	2-15-13	1-27-12	Three years from date of the receipt of the claim. However, if no appropriation or payment has been made, the start date to initiate the audit begins from the date of the initial payment.	1-27-12 to current	9-29-14	September 2014 to August 2016

\* According to GC 17558.5(a), an audit shall be completed no later than two years after the date the audit began.

2. Government Code section 17558.5 provides that audit of claims must be initiated within three years after the claim is filed or last amended. However, if no funds are appropriated or no payment is made, the start date to initiate an audit does not begin until a payment is made. To date, no appropriation or payment has been made for the FY 2010-11 claim. Furthermore, SCO must complete the audit no later than two years from the audit start date. Since our desk review was initiated in September 2014, we had until August 2016 to complete the review. SCO was within its statutory authority to initiate a desk review in September 2014.
3. The City filed a timely FY 2010-11 claim on January 27, 2012 (Tab 4), but included multiple fiscal years of service contract costs in its FY 2010-11 claim, which included incurred costs of \$50,489 for FY 2009-10 and \$31,813 for FY 2011-12 as reflected in Table 1 (Tab 5). By including multiple years, the City is not in compliance with the Commission's Parameters and



Guidelines (Ps and Gs), which require one fiscal year per claim (Tab 6). Therefore, the City's claim for FY 2010-11 should be limited to their actual FY 2010-11 costs of \$147,355.

Additionally, our comprehensive desk review found that the City claimed some costs twice. Some contract costs were incurred in FY 2011-12; however, the City claimed these costs, totaling \$22,829, in both the FY 2010-11 claim and FY 2011-12 claim (Tab 5).

4. The City cited a Draft Proposed Decision regarding the City of Los Angeles' IRC for the Firefighters Cancer Presumption Claim (09-4081-I-01). The Commission found that SCO should have allowed for the correction of a "mere arithmetic error." That argument is irrelevant in this case because the inclusion of multiple fiscal years in a single claim is not a "mere arithmetic error"; it is instead a matter of non-compliance with the Ps and Gs as specified in Section III, Period of Reimbursement, which states in part that, "actual costs for one fiscal year shall be included in each claim" (Tab 6).

### **Conclusion**

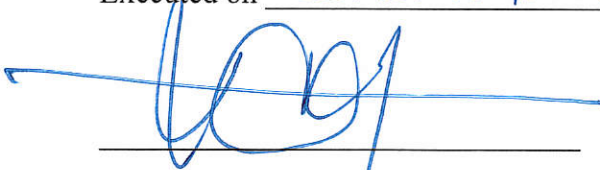
The City claimed that SCO did not review the claim and notify them timely in order for them to correct and amend their claim within the deadline to file; therefore, the unallowable costs of \$50,489 for FY 2009-10 should be allowed. SCO disagrees with the City. The claim was reviewed timely and was correctly reduced. Based on the filing date of the City's FY 2010-11 claim and the SCO's claim submission process, the City would not have been able to meet the February 15, 2012 late claim deadline to file a FY 2009-10 claim for \$50,489.

SCO respectfully requests that the Commission finds that (1) SCO timely reviewed and correctly denied the City of Monrovia's costs for FY 2009-10 in the amount of \$50,489; and (2) SCO correctly reduced the City of Monrovia's FY 2010-11 claim from \$229,627 to \$147,355 due to noncompliance with Section III, Period of Reimbursement, of the Commission's Ps and Gs.

### **Certification**

I hereby certify by my signature below that the statements made in this document are true and correct of my own knowledge, or, as to all other matter, I believe them to be true and correct based upon information and belief.

Executed on December 22, 2017, at Sacramento, California, by:



Evelyn Calderon-Yee, Chief  
Bureau of Payments  
Local Government Programs and Services Division  
State Controller's Office



# **Tab 3**



# **Fiscal Year 2010-11 Claim**



# Claim for Payment

## For State Controller Use Only

### Pursuant to Government Code Section 17561 LOCAL GOVERNMENT EMPLOYEE RELATIONS

(19) Program Number: 00298

Program

(20) Date Filed

1/30/12

298

(21) LRS Input

(22) FORM-1, (04)(A)(1)(g)

(23) FORM-1, (04)(A)(2)(g)

(24) FORM-1, (04)(A)(3)(g)

(25) FORM-1, (04)(B)(1)(g)

(26) FORM-1, (04)(B)(2)(g)

(27) FORM-1, (04)(B)(3)(g)

229,627

(28) FORM-1, (06)

10

(1) Claimant Identification Number 9819542

(02) Claimant Name City of Monrovia

Mailing Address 415 S. Ivy Avenue

Street Address or P.O. Box

City Monrovia

State CA Zip Code 91016

Type of Claim

Estimated Claim

Reimbursement Claim

(03) Estimated

☐

(09) Reimbursement

☐

(04) Combined

☐

(10) Combined

☐

(05) Amended

☐

(11) Amended

☐

Fiscal Year of Cost

(06)

(12)

2010-11

(29) FORM-1, (07)

Total Claimed

(07)

(13)

\$229,627

(30) FORM-1, (09)

Less: 10% Late Penalty, but not to exceed \$1,000 (if applicable)

(14)

(31) FORM-1, (10)

is: Estimated Claim Payment Received

(15)

(32)

Net Claimed Amount

(16)

\$229,627

(32)

Due from State

(08)

(17)

\$229,627

(33)

Due to State

(09)

(18)

(34)

#### (38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file 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 Government Code Sections 1090 to 1098, inclusive.

I further certify that there was no application for nor any grant or payment received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documents currently maintained by the claimant.

The amount for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statement. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Representative

Date

Date Signed

1/19/12

Puffy Bullis

Telephone Number (626) 932-5513

Insurance Division Manager

Email Address BBullis@ci.monrovia.ca.us

Name of Contact Person for Claim

Telephone Number

E-Mail Address

Annette S. Chinn (CRS)

(916) 939-7901

ACHinnCRS@aol.com



**MANDATED COSTS  
LOCAL GOVERNMENT EMPLOYEE RELATIONS  
CLAIM SUMMARY**

**FORM  
1**

Claimant City of Monrovia	(02) Type of Claim Reimbursement <input type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 2010-11 <small>(see FAM-27 for estimate)</small>
------------------------------	--	--

**Claim Statistics**

(03) Leave Blank

Direct Costs	Object Accounts						
(04) Reimbursable Components	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(f) Travel	(g) Total
<b>A. ONE-TIME ACTIVITIES</b>							
1. Establish Procedures & Documentation							
2. Training for Employees							
3. Establish Procedures and Systems							
<b>B. ONGOING ACTIVITIES</b>							
1. Deduction from Employee Wages							
2. Receipt of Proof in Lieu Payments							
3. Reimbursable Activities for PERB Matters				\$229,627			\$229,627
(05) Total Direct Costs				\$229,627			\$229,627

**Indirect Costs**

(06) Indirect Cost Rate (applied to salaries)	<small>(from ICRP) (Applied to Salaries) (Applied to Salaries)</small>	10.0%
(07) Total Indirect Costs	<small>Line (06) x line (05)(a) or line(06) x [line (05)(a) + line(05)(b)]</small>	
(08) Total Direct and Indirect Costs	<small>Line (05)(d) + line (07) (05)(d) + line (07)</small>	\$229,627

**Cost Reductions**

(09) Less: Offsetting Savings, if applicable	
(10) Less: Other Reimbursements, if applicable	
(11) Total Claimed Amount	<small>Line (08) - (line(09) + Line(10)) line(09) + Line(10)]</small> <b>\$229,627</b>



**MANDATED COSTS  
LOCAL GOVERNMENT EMPLOYEE RELATIONS  
CLAIM SUMMARY**

**FORM**

**2**

(01) Claimant: City of Monrovia

(02) Fiscal Year Costs Were Incurred:

2010-11

(03) Reimbursable Components: Check only one box per form to identify the component being claimed

**ONE-TIME ACTIVITIES**

**ON-GOING ACTIVITIES**

☐ Establish Procedures & Document.

☐ Deductions from Employees' Wages

☐ Training for Employees

☐ Receipt of Proof in Lieu Payments

☐ Establish Procedures & Systems

☒ Reimbursable Activities for PERB Matters

(04) Description of Expenses: Complete columns (a) through (f)

(a) Employee Names, Job Class., Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	Benefit Rate	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel	Total Salaries & Benefits
<u>Liebert Cassidy Whitmore (Contract Attorney)</u> Responded to several PERB matters.							\$229,627			
(05) Total							\$229,627			



# **Fiscal Year 2011-12 Claim**



# Claim for Payment

## Pursuant to Government Code Section 17561 LOCAL GOVERNMENT EMPLOYEE RELATIONS

For State Controller Use Only

(19) Program Number: 00298

(20) Date Filed **JAN 30 2013**

(21) LRS Input \_\_\_\_/\_\_\_\_/\_\_\_\_

Program

**298**

(1) Claimant Identification Number 9819542

(2) Claimant Name City of Monrovia

Mailing Address 415 S. Ivy Avenue

Street Address or P.O. Box

City Monrovia

State CA Zip Code 91016

(22) FORM-1, (04)(A)(1)(g)

(23) FORM-1, (04)(A)(2)(g)

(24) FORM-1, (04)(A)(3)(g)

Type of Claim

Estimated Claim

Reimbursement Claim

(03) Estimated ☐

(09) Reimbursement ☐

(04) Combined ☐

(10) Combined ☐

(05) Amended ☐

(11) Amended ☐

(25) FORM-1, (04)(B)(1)(g)

(26) FORM-1, (04)(B)(2)(g)

(27) FORM-1, (04)(B)(3)(g)

(28) FORM-1, (06)

42,727

88

Fiscal Year of Cost

(06)

(12)

2011-12

(29) FORM-1, (07)

Total Claimed

(07)

(13)

\$43,908

(30) FORM-1, (09)

1,181

Less: 10% Late Penalty, but not to exceed \$1,000 (if applicable)

(14)

(31) FORM-1, (10)

Less: Estimated Claim Payment Received

(15)

(32)

Net Claimed Amount

(16)

\$43,908

(32)

Due from State

(08)

(17)

\$43,908

(33)

Due to State

(09)

(18)

(34)

### (38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file 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 Government Code Sections 1090 to 1098, inclusive.

I further certify that there was no application for nor any grant or payment received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documents currently maintained by the claimant.

The amount for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statement. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Representative

Date

Buffy Bullis

Date Signed

Telephone Number (353) 932-5506

Email Address BBullis@ci.monrovia.ca.us

Finance Division Manager

Name of Contact Person for Claim

Telephone Number

E-Mail Address

Annette S. Chinn (CRS)

(916) 939-7901

AChinnCRS@aol.com

Revised (12/09)

Form FAM-27



**MANDATED COSTS  
LOCAL GOVERNMENT EMPLOYEE RELATIONS  
CLAIM SUMMARY**

**FORM  
1**

<b>(01) Claimant</b> City of Monrovia	<b>(02) Type of Claim</b> Reimbursement <input type="checkbox"/> Estimated <input type="checkbox"/>	<b>Fiscal Year</b> 2011-12 (see FAM-27 for estimate)
--	---	--

**Claim Statistics**

(03) Leave Blank

Direct Costs	Object Accounts						
(04) Reimbursable Components	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(f) Travel	(g) Total
<b>A. ONE-TIME ACTIVITIES</b>							
1. Establish Procedures & Documentation							
2. Training for Employees							
3. Establish Procedures and Systems							
<b>B. ONGOING ACTIVITIES</b>							
1. Deduction from Employee Wages							
Receipt of Proof in Lieu Payments							
3. Reimbursable Activities for PERB Matters	\$1,339	\$477		\$40,911			\$42,727
<b>(05) Total Direct Costs</b>	\$1,339	\$477		\$40,911			\$42,727

**Indirect Costs**

<b>(06) Indirect Cost Rate (applied to salaries)</b>	(from ICRP) (Applied to Salaries) Applied to Salaries
(07) Total Indirect Costs	88.2%
Line (06) x line (05)(a) or line(06) x [line (05)(a) + line(05)(b)]	
(08) Total Direct and Indirect Costs	\$1,181
Line (05)(d) + line (07) (05)(d) + line (07)	
(09) Less: Offsetting Savings, if applicable	
(10) Less: Other Reimbursements, if applicable	
<b>(11) Total Claimed Amount</b>	\$43,908
Line (08)- (line(09) + Line(10)) line(09) + Line(10))	



FORM  
2

2011-12

☒ Reimbursable Activities for PERB Matters

[illegible]



# Tab 4



# State Mandate Reimbursement Claims Receipt

City of Monrovia

January 30, 2012

<u>Mandate/Program</u>	<u>Amount Claimed</u>
<b>Mandate Reimbursement, Prog. 041</b>	
Actual 2010-11	\$ 3,142
<b>Absentee Ballots, Prog 002</b>	
Actual 2010-11	\$ 20,199
<b>Peace Officer Bill of Rights, Ch. Prog. 187</b>	
Actual 2010-11	\$ 2,249
<b>Domestic Viol. Arrest Policy, Prog. 167</b>	
Actual 2010-11	\$ 13,376
<b>Administrative License Suspension, Prog. 246</b>	
Actual 2010-11	\$ 6,327
<b>Crime Statistics Reporting, Prog. 310</b>	
Actual 2010-11	\$ 29,487
<b>Domestic Violence Victim Assistance, Prog. 274</b>	
Actual 2010-11	\$ 4,612
<b>Local Recreation Background Screening, Prog. 285</b>	
Actual 2010-11	\$ 1,271
<b>Local Government Employee Relations, Prog. 298</b>	
Actual 2010-11	\$ 229,627
<b>Identity Theft, Prog. 321</b>	
Actual 2002-03	\$ 4,920
Actual 2003-04	\$ 5,833
Actual 2004-05	\$ 8,556
Actual 2005-06	\$ 8,826
Actual 2006-07	\$ 11,180
Actual 2007-08	\$ 15,818
Actual 2008-09	\$ 24,572
Actual 2009-10	\$ 18,647
Actual 2010-11	\$ 23,486
<b>Open Meetings Act, Prog. 219</b>	
Actual 2010-11	\$ 32,966
<hr/>	
<b>Total Claimed</b>	<b>\$ 465,094</b>

The following claims were submitted to and received by the State Controller's Office  
by Cost Recovery Systems on behalf of the City of Monrovia

Signed by:

*Linnay Bailey*

JAN 27 2012

Date:



# **Tab 5**



**City of Monrovia**  
**Summary of Invoices Included in FY 2010-11 Claim**

<b>Invoice Number</b>	<b>Invoice Date</b>	<b>Amount</b>	<b>Grand Total</b>
104477	5/31/2009	519.00	
105627	6/30/2009	9,296.90	
106608	7/31/2009	127.20	
107340	8/31/2009	4,308.95	
108785	9/30/2009	72.00	
110362	10/31/2009	438.00	
111332	11/30/2009	12,824.00	
112387	12/31/2009	848.10	
113431	1/31/2010	2,016.00	
114428	2/28/2010	2,568.00	
114429	2/28/2010	4,574.75	
114430	2/28/2010	1,311.00	
115383	3/31/2010	1,159.70	
115384	3/31/2010	833.90	
115385	3/31/2010	3,770.60	
117960	5/31/2010	1,500.00	
119273	6/30/2010	2,055.90	
119279	6/30/2010	2,235.00	
Subtotal			<b>\$50,459.00</b>
120287	7/31/2010	7,413.00	
120291	7/31/2010	2,063.10	
122650	9/30/2010	339.00	
123768	10/31/2010	4,751.14	
123772	10/31/2010	771.00	
123773	10/31/2010	315.00	
125055	11/30/2010	4,303.00	
125059	11/30/2010	580.45	
125060	11/30/2010	54.00	
126117	12/31/2010	8,590.00	
126120	12/31/2010	3,006.85	
126121	12/31/2010	3,695.00	
126122	12/31/2010	280.00	
127262	1/31/2011	13,421.00	
127265	1/31/2011	480.00	
127266	1/31/2011	491.00	
128620	2/28/2011	603.00	
129779	3/31/2011	6,072.00	
129782	3/31/2011	480.00	



**City of Monrovia**  
**Summary of Invoices Included in FY 2010-11 Claim**

Invoice Number	Invoice Date	Amount	Grand Total
129783	3/31/2011	720.00	
129788	3/31/2011	4,964.60	
131201	4/30/2011	12,569.95	
131204	4/30/2011	2,733.35	
131205	4/30/2011	1,878.00	
131206	4/30/2011	110.00	
131211	4/30/2011	168.00	
133790	5/31/2011	38,472.80	
133792	5/31/2011	5,025.90	
133793	5/31/2011	1,728.00	
133794	5/31/2011	288.00	
136308	6/30/2011	19,041.15	
136312	6/30/2011	408.00	
136313	6/30/2011	1,200.00	
136317	6/30/2011	339.00	
Subtotal			<b>\$147,355.29</b>
138098	7/31/2011	9,169.40 <sup>1</sup>	
138100	7/31/2011	3,710.00	
138101	7/31/2011	3,259.50	
138105	7/31/2011	1,279.35 <sup>1</sup>	
138981	8/31/2011	10,519.00 <sup>1</sup>	
138984	8/31/2011	556.50	
138985	8/31/2011	1,139.50	
138989	8/31/2011	26.50 <sup>1</sup>	
140549	9/30/2011	317.90	
143852	11/30/2011	1,805.00 <sup>1</sup>	
143856	11/30/2011	30.00 <sup>1</sup>	
Subtotal			<b>\$31,812.65</b>
<b>Total Fiscal Year 2010-11 Claim</b>			<b>\$229,626.94</b>

Notations:

<sup>1</sup> Total of \$22,829.25 FY 2011-12 invoices included in both the FY 2010-11 and FY 2011-12 claims



**City of Monrovia**  
**Summary of Invoices Included in FY 2011-12 Claim**

Invoice Number	Invoice date	Amount
138098	7/31/2011	9,169.40 <sup>1</sup>
138105	7/31/2011	1,279.35 <sup>1</sup>
138981	8/31/2011	10,519.00 <sup>1</sup>
138989	8/31/2011	26.50 <sup>1</sup>
143852	11/30/2011	1,805.00 <sup>1</sup>
143856	11/30/2011	30.00 <sup>1</sup>
145173	12/31/2011	371.00
146342	1/31/2012	60.00
146343	1/31/2012	2,737.00
147477	2/29/2012	12.00
148326	3/31/2012	3,232.65
149932	4/30/2012	3,762.00
42901	5/15/2012	390.20
152236	5/31/2012	198.00
153434	6/30/2012	7,093.30
153438	6/30/2012	226.00
		<b>\$40,911.40</b>

Notation:

<sup>1</sup> Total of \$22,829.25 FY 2011-12 invoices included in both the FY 2010-11 and FY 2011-12 claims



# **Tab 6**



Corrected: June 16, 2009  
Adopted: May 29, 2009

## PARAMETERS AND GUIDELINES

Government Code Sections 3502.5 and 3508.5

Statutes 2000, Chapter 901 (SB 739)

California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070

Register 2001, Number 49

*Local Government Employee Relations*  
01-TC-30

### I. SUMMARY OF THE MANDATE

The test claim statute amended the Meyers-Milias-Brown Act (hereinafter the "MMBA") regarding employer-employee relations between local public agencies and their employees. The test claim statute and its attendant regulations created an additional method for creating an agency shop arrangement, and expanded the jurisdiction of the Public Employment Relations Board (hereinafter "PERB") to include resolving disputes and enforcing the statutory duties and rights of those public employers and employees subject to the MMBA.

On December 4, 2006, the Commission on State Mandates found that the test claim statute and regulations impose a partially reimbursable state-mandated program on local agencies for the following activities:

1. Deduct from an employees' wages the payment of dues or service fees required pursuant to an agency shop arrangement that was established under subdivision (b) of Government Code section 3502.5, and transmit such fees to the employee organization. (Gov. Code § 3508.5, subd. (b)).
2. Receive from the employee any proof of in lieu fee payments made to charitable organizations required pursuant to an agency shop arrangement that was established under subdivision (b) of Government Code section 3502.5. (Gov. Code, § 3502.5, subd. (c)).
3. Follow PERB procedures in responding to charges and appeals filed with PERB, by an entity other than the local public agency employer, concerning an unfair labor practice, a unit determination, representation by an employee organization, recognition of an employee organization, or election. Mandated activities are:
  - a. procedures for filing documents or extensions for filing documents with PERB (Cal.Code Reg., tit. 8, §§ 32132, 32135 (Register 2001, No. 49));
  - b. proof of service (Cal. Code Regs., tit. 8, § 32140 (Register 2001, No. 49));



- c. responding to subpoenas and investigative subpoenas (Cal. Code Regs., tit. 8, §§ 32149, 32150 (Register 2001, No. 49));
- d. conducting depositions (Cal. Code Regs., tit. 8, § 32160 (Register 2001, No. 49));
- e. participate in hearings and responding as required by PERB agent, PERB Administrative Law Judge, or the five-member PERB (Cal. Code Regs., tit. 8, §§ 32168, 32170, 32175, 32176, 32180, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050 and 60070 (Register 2001, No. 49)); and
- f. filing and responding to written motions in the course of the hearing. (Cal. Code Regs. tit. 8, § 32190. (Register 2001, No. 49.)

## **II. ELIGIBLE CLAIMANTS**

Any county, city, or city and county, special district or other local agency subject to the jurisdiction of PERB that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs. However, the City of Los Angeles and the County of Los Angeles are not eligible claimants because they are specifically excluded from PERB jurisdiction pursuant to Government Code section 3507.

## **III. PERIOD OF REIMBURSEMENT**

Government Code section 17557 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 test claim for this mandate was filed by the test claimants, the County of Sacramento and the City of Sacramento, on August 1, 2002. Therefore, the period of reimbursement begins on July 1, 2001.

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

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

## **IV. REIMBURSABLE ACTIVITIES**

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

Evidence corroborating the source documents may include, but is not limited to, time sheets, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, calendars, and declarations. Declarations must include a certification or declaration stating, "I



# Tab 7



# Emails



**Saida, Afsana A.**

---

**From:** Saida, Afsana A.  
**Sent:** Monday, September 29, 2014 1:22 PM  
**To:** 'bbullis@ci.monrovia.ca.us'  
**Cc:** 'ACHinnCRS@aol.com' (ACHinnCRS@aol.com); Carlos, Gwendolyn; Lal, Jay  
**Subject:** State Mandated Cost Program-Non Reimbursable Costs

Re: Local Government Employee Relations, Program No. 298, Fiscal Year 2010-11 Claim

Dear Ms. Bullis,

Please be informed that the City of Monrovia submitted a claim for fiscal year 2010-11 for the Local Government Employee Relations program. The city claimed \$229, 627 for contract services. During our desk review it was discovered that the city included \$82,272 of contract costs from fiscal years 2009-10 and 2011-12 with the claim. The city can only claim for costs incurred during 2010-11. The table below lists the costs claimed by fiscal year:

Fiscal Year	Cost Incurred	Note
2009-10	\$50,459	Non- Reimbursable
2010-11	\$147,355.29	
2011-12	\$31,812.65	Non-Reimbursable

The claim will be adjusted to exclude the non-reimbursable contract costs. Please let me know if you have any questions.

**Thank you,**

**Afsana A. Saida**

Local Reimbursements Section

Division of Accounting and Reporting

State Controller's Office

Direct: (916) 324-7870

Fax: (916) 323-6527

State Mandated Programs



**Saida, Afsana A.**

---

**From:** Buffy Bullis [mailto:[bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)]

**Sent:** Monday, September 29, 2014 5:09 PM

**To:** Saida, Afsana A. <[ASaida@sco.ca.gov](mailto:ASaida@sco.ca.gov)>

**Cc:** AChinnCRS@aol.com; Carlos, Gwendolyn <[GCarlos@sco.ca.gov](mailto:GCarlos@sco.ca.gov)>; Lal, Jay <[jlal@sco.ca.gov](mailto:jlal@sco.ca.gov)>

**Subject:** RE: State Mandated Cost Program-Non Reimbursable Costs

Hi Afsana,

Thank you for your email. In reviewing the documentation submitted, I believe that the costs claimed are reimbursable under the parameters of the mandate and were submitted on time; however, I see that some costs were not filed on the correct paperwork. We respectfully request that you do not disallow our eligible FY 09-10 costs of \$50,459, but pay them from the correct fiscal year. It was a simple accounting/clerical error on the City's part. I understand that late claim penalties would apply to some of the FY 09-10 costs included in the wrong fiscal year claim.

Please accept my apologies for the inconvenience and I thank you for your assistance. Please feel free to contact me if you have any questions or if you need additional information.

Buffy J. Bullis

Finance Division Manager

City of Monrovia

Phone: (626) 932-5513; Fax: (626) 932-5567; Email: [bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)



**Saida, Afsana A.**

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**From:** Saida, Afsana A.

**Sent:** Tuesday, September 30, 2014 11:46 AM

**To:** 'Buffy Bullis' <bbullis@ci.monrovia.ca.us>

**Cc:** AChinnCRS@aol.com; Carlos, Gwendolyn <GCarlos@sco.ca.gov>; Lal, Jay <jlal@sco.ca.gov>

**Subject:** RE: State Mandated Cost Program-Non Reimbursable Costs

Hi Buffy,

We are bound by the legal authority of the parameters and guidelines and cannot accept costs that are outside of reimbursable fiscal years. As per the P's and G's, "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."

The city did not file a claim for fiscal year 2009-10 and the deadline to file a late claim for 2009-10 or 2011-12 has already passed. I reviewed the 2011-12 claim filed by the city and discovered that some of the costs incurred during 2011-12 have been correctly included with the 2011-12 claim but were also claimed in 2010-11. Please note, the actual costs incurred during fiscal year 2010-11 will be allowed and processed for payment upon availability of appropriation.

Thank you for your understanding.

**Afsana A. Saida**

Local Reimbursements Section

Division of Accounting and Reporting

State Controller's Office

Direct: (916) 324-7870

Fax: (916) 323-6527

State Mandated Programs



**Saida, Afsana A.**

---

**From:** Lal, Jay  
**Cc:** Speciale, Dennis; Delfin, Marieta E.; Carlos, Gwendolyn  
**Subject:** RE: State Mandated Cost Program-Non Reimbursable Costs

**From:** Lal, Jay  
**Sent:** Thursday, October 2, 2014 9:05 AM  
**To:** Saida, Afsana A. <ASaida@sco.ca.gov>  
**Cc:** Speciale, Dennis <DSpeciale@sco.ca.gov>; Delfin, Marieta E. <MDelfin@sco.ca.gov>; Carlos, Gwendolyn <GCarlos@sco.ca.gov>  
**Subject:** FW: State Mandated Cost Program-Non Reimbursable Costs

FYI

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**From:** Lal, Jay  
**Sent:** Wednesday, October 01, 2014 2:18 PM  
**To:** 'ACHinnCRS@aol.com'  
**Subject:** RE: State Mandated Cost Program-Non Reimbursable Costs

Good Afternoon Annette,

I am sympathetic to the issue at hand, but by law I cannot apply costs to a prior year claim that was not submitted. Also, the deadline has passed for submission. Sorry.

---

**From:** AChinnCRS@aol.com [mailto:AChinnCRS@aol.com]  
**Sent:** Wednesday, October 01, 2014 12:14 PM  
**To:** Lal, Jay  
**Subject:** Re: State Mandated Cost Program-Non Reimbursable Costs

Hi Jay,

I would imagine as Reimbursements Division Manager, you would have the authority to allow a simply clerical error to be corrected without having to bother the Commission on State Mandates with an Incorrect Reduction Claim of this nature. If simple errors such as this will have to be appealed, we'll soon clogged up their calendar with many frivolous complaints.

The costs were eligible and timely submitted - I just mistakenly didn't separate the two fiscal years in question for 09-10 and 10-11 into two forms.

I have always been very professional and responsive to your staff's requests and would really appreciate a little leeway on this.

Thank you,

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

phone (916) 939-7901  
: (916) 939-7801



**Saida, Afsana A.**

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**From:** Saida, Afsana A.

**Sent:** Tuesday, October 7, 2014 10:49 AM

**To:** 'Buffy Bullis' <[bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)>

**Subject:** RE: State Mandated Cost Program-Non Reimbursable Costs

Hi Buffy,

I am sorry to let you know that we cannot accept the invoices from prior fiscal years.

Thank you,

**Afsana A. Saida**

Local Reimbursements Section

Division of Accounting and Reporting

State Controller's Office

Direct: (916) 324-7870

Fax: (916) 323-6527

State Mandated Programs

---

**From:** Buffy Bullis [<mailto:bbullis@ci.monrovia.ca.us>]

**Sent:** Thursday, October 02, 2014 5:50 PM

**To:** Saida, Afsana A.

**Cc:** [ACHinnCRS@aol.com](mailto:ACHinnCRS@aol.com)

**Subject:** RE: State Mandated Cost Program-Non Reimbursable Costs

Hi Afsana,

It was nice speaking with you today. Attached are the invoices I had mentioned during our phone conversation. If possible, since these invoices were paid during the 2010-2011 fiscal year, would you please ask your supervisor to consider allowing these to be added to our existing claim? The three additional bills are as follows:

\$1,500, Invoice #117960 - pay date July 16, 2010

\$2,235, Invoice #119279 - pay date Aug 12, 2010

\$2,055.90 Invoice # 119273 0 pay date Aug 12, 2010

Thank you for your consideration.

Buffy J. Bullis

Finance Division Manager

City of Monrovia

Phone: (626) 932-5513; Fax: (626) 932-5567; Email: [bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)



**Saida, Afsana A.**

---

**From:** Lal, Jay  
**Sent:** Thursday, September 22, 2016 2:32 PM  
**To:** Carlos, Gwendolyn; Saida, Afsana A.  
**Subject:** FW: City of Monrovia - Local Government Employee Relations claim for fiscal year 2010-11

FYI

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**From:** Lal, Jay  
**Sent:** Thursday, September 22, 2016 2:30 PM  
**To:** 'bbullis@ci.monrovia.ca.us'  
**Cc:** Kato, Anne  
**Subject:** City of Monrovia - Local Government Employee Relations claim for fiscal year 2010-11

Good Afternoon Ms. Bullis,

I just received your letter dated September 8, 2016, regarding your fiscal year 2010-11 Local Government Employee Relations program claim. As discussed in September and October of 2014, I am sympathetic to the issue, but by law, I cannot apply costs to a prior year claim that was not submitted. If you have any questions, please call me at (916) 324-0256. Thank you.



# **Adjustment Letter**





JOHN CHIANG  
California State Controller  
Division of Accounting and Reporting  
OCTOBER 31, 2014

9819542  
00298  
2014/10/31

CITY FINANCE OFFICER  
CITY OF MONROVIA  
415 SO IVY AVENUE  
MONROVIA CA 91016

DEAR CLAIMANT:

RE: LOC GOVT EMPL RELATE: 901/00-L

WE HAVE REVIEWED YOUR 2010/2011 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED 229,627.00

ADJUSTMENT TO CLAIM:

OUTSIDE OF REIMBURSABLE F.Y. - 82,272.00

TOTAL ADJUSTMENTS - 82,272.00

AMOUNT DUE CLAIMANT \$ 147,355.00

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT AFSANA SAIDA AT (916) 324-7870 OR IN WRITING AT THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875. DUE TO INSUFFICIENT APPROPRIATION, THE BALANCE DUE WILL BE FORTHCOMING WHEN ADDITIONAL FUNDS ARE MADE AVAILABLE.

SINCERELY,

JAY LAL, MANAGER

LOCAL REIMBURSEMENT SECTION  
P.O. BOX 942850 SACRAMENTO, CA 94250-5875



# Tab 8





August 10, 2017

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

Re: Incorrect Reduction Claim for Local Government Employee Relations Program,  
City of Monrovia

Dear Ms. Halsey,

The City of Monrovia is requesting to appeal the decision of the State Controller's Office (SCO) to deny reimbursement of \$50,459 in state mandated costs for FY 2009-10 for the Local Government Employee Relations Program No. 298. The City requests that the Commission on State Mandates review and consider this Incorrect Reduction Claim (IRC) to reverse the reduction made to the City's claim.

The City believes that the SCO's decision to reduce the claim is not justified and is unfair because the SCO's accounting division waited almost three years to audit the City's claim to determine that the claim would be reduced by \$50,459 due to clerical errors (described further in this letter). Because the SCO waited almost three years to audit the claim and notify the City of the error, the City was unable to correct the claim as the filing period had passed. After multiple requests to the SCO, the City was denied an opportunity to revise/amend the claim. It is important to note that, had the City known of the clerical error sooner (not three years later), the City would have immediately corrected and resubmitted the claim within the filing period. Furthermore, the City believes that state mandated costs should not be denied on the basis of a clerical error and that the City should be given an opportunity to amend a claim that contains actual, eligible, state mandated costs.

This IRC letter provides a summary of the claim, a chronology of events, a relevant case study, and an overview of the City's compliance with the state mandate guidelines.

The following documents are attached to assist with your review:

1. Original Claim for the Local Government Employee Relations (Dated 1/30/2012)
2. Backup Documentation of Invoices (Submitted with Original Claim on 1/30/2012)
3. Email Notification from SCO Regarding Claim Reduction and Email Correspondences (Dated 9/29/2014 - 9/30/2014)
4. Final Written Appeal Letter to the State Controller's Office (dated 9/8/2016)
5. State Controller's Office Denial Letter (dated 10/20/2016)



**Summary of SB90 Claim - Local Government Employee Relations Program No. 298  
Original Claim Submitted on 1/19/2012**

<b>Fiscal Year</b>	<b>Cost Incurred</b>	<b>Notes</b>
2009-10	\$50,459	The FY 2009-10 claim was denied because it was mistakenly recorded in FY 2010-11 instead of FY 2009-10 and the filing period for FY 2009-10 had passed by the time the City was notified of the reduction on 9/29/2014.
2010-11	\$147,355	The FY 2010-11 claim was approved as part of the original claim because it was recorded in the correct fiscal year 2010-11
2011-12	\$31,813	The FY 2011-12 claim was denied because it was mistakenly recorded in FY 2010-11 instead of FY 2011-12; however, the City was able to resubmit the claim separately in the subsequent year.
<b>Total Claim</b>	<b>\$229,627</b>	Total amount submitted.
2009-10 Reduction	\$50,459	Total amount denied.
<b>Total Amount Recovered</b>	<b>\$179,168</b>	Total amount approved. This includes the FY 2010-11 claim that was originally approved and the FY 2011-12 claim that was revised and resubmitted.

As indicated in the summary above, the FY 2009-10 cost was the only portion of the claim that was not resolved or recovered due to the State Controller's Office (SCO) denial of the claim. The City of Monrovia is filing the Incorrect Reduction Claim (IRC) to reverse the FY 2009-10 \$50,459 reduction made to the City's claim.

**Chronology:**

- **January 30, 2012** - City timely submitted the FY 2010-11 claims for State Reimbursement.

The City submitted an SB 90 Claim for the Local Government Employee Relations Program No. 298 for three fiscal years (FY 2009-10, FY 2010-11, and FY 2011-12) under one submittal (FY 2010-11 FAM-27.) At the time, the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible.

- **September 29, 2014** - State Controller's Office auditor notified the City of the claim reduction.

The State Controller's Office waited almost three years to audit the City's claim. On September 29, 2014, Ms. Afsana Saida, SCO Auditor, notified the City of Monrovia that the FY 2010-11 Local Government Employee Relations claim would be reduced by \$50,459, due to errors in filing the claim for FY 2009-10, FY 2010-11, and FY 2011-12 in one submission (under the FY 2010-11 period), rather than filing separate claims for each fiscal year. It is important to note that, had the City known of the clerical error sooner, the City would have corrected and resubmitted the claim for FY 2009-10.



- **September 29, 2014** - City Finance Director, Ms. Buffy Bullis, responds to the SCO.

Ms. Bullis emailed the SCO a message requesting correction of the clerical error and restoration of the \$50,459 reduction (less applicable late penalties) for the FY 2009-10 costs that were submitted.

- **September 30, 2014** - State Controller's Offices' desk auditor denies the City's request.

Ms. Afsana Saida emailed the City a response denying the City's request to correct the clerical error and restore the eligible FY 2009-10 costs of \$50,459. Ms. Afsana Saida indicated that the reduction would not be restored because all "Actual costs must be traceable and be supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities," as noted in the attached email correspondence. However, the City believes that these requirements were, in fact, satisfied and that the City filed the claim in good faith. The claim included *valid and traceable* costs through proper documentation of actual and eligible invoices.

Ms. Bullis followed up with a phone call to Mr. Jay Lal, SCO Accounting Division Manager; however, the request to correct the clerical error was denied. The City was informed that the cut would not be restored because the deadline to file the FY 2009-10 claims had passed. However, had the City known of or been notified of the clerical error sooner (not almost three years after the original claim submittal), the City would have corrected the paperwork within the allowable timeframe by submitting a separate late claim for FY 2009-10.

- **September 8, 2016** - City Finance Director, Ms. Buffy Bullis, makes a final written appeal to SCO.

Ms. Bullis mailed Mr. Jay Lal, SCO Accounting Division Manager, a final written appeal to request reconsideration of the denial and allow the City to correct the FY 2009-10 claim and recover the state mandated costs for that period.

- **October 20, 2016** - State Controller's Office again denies request for reconsideration.

Mr. Jay Lal, SCO Accounting Division Manager, mails a written letter denying the City's request for reconsideration of the denied FY 2009-10 costs.

- **August 10, 2017** - City Files an Incorrect Reduction Claim

This Incorrect Reduction Claim is filed on time as local agencies (the City) can submit the IRC to the Commission on State Mandates within three years from the date of the State Controller's notice. The original notice submitted by the State Controller's Office was submitted to the City on September 29, 2014, as noted above, and sets the IRC deadline to September 29, 2017.



### Relevant Case Study:

On March 18, 2016, the Commission on State Mandates issued a Draft Proposed Decision regarding the City of Los Angeles Incorrect Reduction Claim for Firefighter Cancer Presumption Claim (09-4081-I-01). The City of Monrovia has observed similarities between this IRC case and the one detailed above. In the City of Los Angeles case, they had also attached documented costs to their claims; however, had made a clerical error in transferring those cost to their FAM-27 coversheet. The Commission found that the State Controller's Office should have allowed for the correction of a "mere arithmetic error". This case is similar in that the costs were all eligible, properly documented at the time of filing and the error was due to a simple clerical error. Had the SCO's office notified the City of Los Angeles immediately, the City could have still had time to provide separate coversheets and submit the corrected paperwork. Reference: <https://www.csm.ca.gov/matters/09-4081-I-01/doc7.pdf>

### Compliance with State Mandate Requirements:

The City believes the FY 2009-10 expenses in the amount of \$50,459 are legitimate, valid, and reimbursable based on the following state mandate requirements:

- "Government Code (GC) sections 17500 through 17617 provide for the reimbursement of costs incurred by local agencies for costs mandated by the State. These are costs that local agencies are required to incur after July 1, 1980, as a result of any statute enacted after January 1, 1975, or any executive order implementing such statute which mandates a new program or higher level of service of an existing program." (The City's costs claimed were eligible, documented, and incurred to comply with a State Mandated Program.)
- "Reimbursement claims are defined as any claim filed with the State Controller's Office (SCO) for reimbursement of costs incurred for which an appropriation is made for the purpose of paying the claim. All claims received by the SCO will be reviewed to verify all actual costs claimed. An adjustment of the claim will be made if the amount claimed is determined to be excessive, improper, or unreasonable." (The City's costs were not found to be excessive, improper, or unreasonable. The FY 2010-11 and FY 2001-12 costs were not questioned.)
- "Each local agency, to which the mandate is applicable, shall submit claims for the costs of the initial fiscal years to the SCO within 120 days of the issuance date for the claiming instructions, pursuant to GC section 17561(d)(1)(A)." (The City's costs were submitted to the State by the deadline.)
- "In order for the SCO to authorize the payment of a claim, the Certification of Claim, Form FAM-27, must be properly filled out, signed in blue ink, and dated by the agency's authorized officer." (The City believes the wording here is important. It does not say "in order for the State to APPROVE COSTS", instead it states "Authorize Payment". Granted – the Form FAM-27 was not filled in properly; however – if a claimant had, for example, filed the FAM-27 in black ink instead of blue ink, should that preclude them from obtaining reimbursement for properly documented and timely submitted eligible costs? The City believes that the actual submission and its attached support is the claim – and not just the properly completed coversheet. Clerical errors should not be grounds for denial of constitutionally guaranteed, mandated costs reimbursements.)



At this time, the City of Monrovia kindly requests that your Commission consider this Incorrect Reduction Claim and overturn the State Controller's Office decision to deny the claim and allow the City to correct a simple clerical error. The City is willing to provide amended paperwork to correct the error. Please note that all costs submitted were prepared in accordance with the claiming instructions, Statement of Decision, and the Parameters and Guidelines adopted by the Commission.

Attached are City correspondences with the State and claim documentation, which we feel explains the circumstances of this case. Should you have any questions, please contact me at (626) 932-5513 or our consultant, Annette Chinn, at (916) 939-7901.

Sincerely,



Buffy Bullis

Administrative Service Director/Finance Director

City of Monrovia

Phone: (626) 932-5513 | Fax (626) 932-5567 | Email: [bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)

c: Anne Kato, Chief Bureau of Payments  
Annette Chinn, Cost Recovery Systems, Inc.



## 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 27, 2017, I served the:

- **State Controller's Office (Controller's) Comments on the Incorrect Reduction Claim filed December 22, 2017**

*Local Government Employee Relations*, 17-0130-I-01

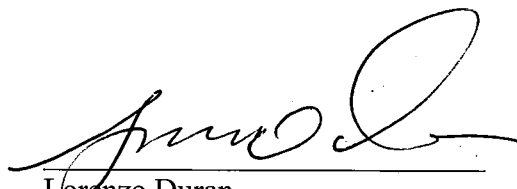
Government Code Sections 3502.5(b) and 3508.5(c); Statutes 2000, Chapter 901 (SB 739); California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070; Register 2001, Number 49.

Fiscal Year: 2010-2011

City of Monrovia, 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 December 27, 2017 at Sacramento, California.



Lorenzo Duran  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562



# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 12/21/17

**Claim Number:** 17-0130-I-01

**Matter:** Local Government Employee Relations

**Claimant:** City of Monrovia

### 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.)

**Socorro Aquino, State Controller's Office**

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**Lacey Baysinger, State Controller's Office**

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

**Buffy Bullis, Administrative Services Director/Finance Director, City of Monrovia**

415 S. Ivy Ave, Monrovia, CA 91016

Phone: (626) 932-5513

bbullis@ci.monrovia.ca.us

**Allan Burdick,**

7525 Myrtle Vista Avenue, Sacramento, CA 95831

Phone: (916) 203-3608

allanburdick@gmail.com

**Gwendolyn Carlos, State Controller's Office**

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-0706

gcarlos@sco.ca.gov

**Annette Chinn, Cost Recovery Systems, Inc.**

**Claimant Representative**

705-2 East Bidwell Street, #294, Folsom, CA 95630

Phone: (916) 939-7901

achinnrcs@aol.com



**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 324-4112  
Adagan@sco.ca.gov

**J. Felix De La Torre**, General Counsel, *Public Employment Relations Board (D-12)*  
1031 18th Street, Sacramento, CA 95811  
Phone: (916) 322-3198  
fdelatorre@perb.ca.gov

**Marieta Delfin**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 322-4320  
mdelfin@sco.ca.gov

**Donna Ferebee**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*  
1112 I Street Bridge, Suite 200, Sacramento, CA 95814  
Phone: (916) 442-7887  
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
heather.halsey@csm.ca.gov

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Hill@dof.ca.gov

**Justyn Howard**, Program Budget Manager, *Department of Finance*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-1546  
justyn.howard@dof.ca.gov

**Edward Jewik**, *County of Los Angeles*  
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012  
Phone: (213) 974-8564  
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
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jkanemasu@sco.ca.gov

**Andy Nichols**, *Nichols Consulting*  
1857 44th Street, Sacramento, CA 95819



Phone: (916) 455-3939  
andy@nichols-consulting.com

**Christian Osmena**, *Department of Finance*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-0328  
christian.osmena@dof.ca.gov

**Arthur Palkowitz**, *Artiano Shinoff*  
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106  
Phone: (619) 232-3122  
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Steven.Pavlov@dof.ca.gov

**Keith Petersen**, *SixTen & Associates*  
P.O. Box 340430, Sacramento, CA 95834-0430  
Phone: (916) 419-7093  
kbsixten@aol.com

**Jai Prasad**, *County of San Bernardino*  
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018  
Phone: (909) 386-8854  
jai.prasad@atc.sbcounty.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
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camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
carla.shelton@csm.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*  
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 323-5849  
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-0254  
DSpeciale@sco.ca.gov

**Derk Symons**, Staff Finance Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Derk.Symons@dof.ca.gov





June 30, 2020

**Exhibit C**

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

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: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**

*Local Government Employee Relations, 17-0130-I-01*

Government Code Sections 3502.5 and 3508.5: Statutes 2000, Chapter 901 (SB 739); California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070; Register 2001, Number 49.

Fiscal Year: 2010-2011

City of Monrovia, Claimant

Dear Ms. Chinn and Ms. Sidarous:

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

**Written Comments**

Written comments may be filed on the Draft Proposed Decision by **July 21, 2020**. 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.<sup>1</sup>

You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Refer to [http://www.csm.ca.gov/dropbox\\_procedures.php](http://www.csm.ca.gov/dropbox_procedures.php) on the Commission's website for electronic filing instructions. (Cal. Code Regs., tit. 2, § 1181.3.)

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<sup>1</sup> 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.



Ms. Chinn and Ms. Sidarous

June 30, 2020

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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, September 25, 2020**, at 10:00 a.m. via Zoom. The Proposed Decision will be issued on or about September 11, 2020.

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,

A handwritten signature in blue ink, appearing to read "Heather Halsey", with a stylized flourish at the end.

Heather Halsey  
Executive Director



**ITEM \_\_\_\_**  
**INCORRECT REDUCTION CLAIM**  
**DRAFT PROPOSED DECISION**

Government Code Sections 3502.5 and 3508.5

Statutes 2000, Chapter 901 (SB 739)

California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160,  
32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310,  
32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070

Register 2001, Number 49

*Local Government Employee Relations*

Fiscal Year 2010-2011

17-0130-I-01

City of Monrovia, Claimant

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**EXECUTIVE SUMMARY**

**Overview**

This Incorrect Reduction Claim (IRC) challenges the State Controller's Office (Controller's) reduction of costs claimed for fiscal year 2010-2011, but incurred in fiscal year 2009-2010, by the City of Monrovia (claimant) for the *Local Government Employee Relations* program. In January 2012, the claimant filed a reimbursement claim requesting reimbursement for contracted legal services related to the *Local Government Employee Relations* program, totaling \$229,627. The cover sheet and each page of the claim form (FAM-27) indicates that the claim was filed for fiscal year 2010-2011. However, attached to the reimbursement claim are invoices for legal services incurred in fiscal years 2009-2010, 2010-2011, and 2011-2012, totaling \$229,627. The Controller reduced the costs incurred in fiscal years 2009-2010 and 2011-2012 from the 2010-2011 claim, and notified the claimant of the reduction on September 29, 2014, after the statutory deadline to submit a reimbursement claim for fiscal year 2009-2010 had passed.

This IRC challenges only the reduction of \$50,459 (less an undisputed 10 percent penalty) incurred in fiscal year 2009-2010.<sup>1</sup> Although the claimant never filed a 2009-2010 reimbursement claim, the claimant requests that the Commission find that the Controller incorrectly denied the claimant's request to accept the 2010-2011 reimbursement claim, which contained documentation supporting costs actually incurred in fiscal year 2009-2010, as a late-

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<sup>1</sup> Exhibit A, IRC, pages 4, 45 (September 8, 2016 letter from the claimant to the Controller acknowledging that the late penalty would apply to the claimed costs for fiscal year 2009-2010).



filed 2009-2010 reimbursement claim, because of an alleged “clerical error” in filing a multi-year claim.

As indicated herein, staff recommends that the Commission deny this IRC.

### **Procedural History**

On January 27, 2012, the claimant filed its fiscal year 2010-2011 reimbursement claim and included documentation for costs incurred in fiscal years 2009-2010 and 2011-2012.<sup>2</sup>

The claimant filed its fiscal year 2011-2012 reimbursement claim on January 30, 2013.<sup>3</sup>

In an email dated September 29, 2014, the Controller notified the claimant of the reduction of costs incurred during fiscal years 2009-2010 and 2011-2012, that were included on the fiscal year 2010-2011 form.<sup>4</sup> In a reply email dated September 29, 2014, the claimant requested that the claimant’s fiscal year 2009-2010 costs of \$50,459 not be disallowed due to the its “simple accounting/clerical error.”<sup>5</sup>

In a September 30, 2014 email, the Controller stated that it was bound by the claiming requirements in the Parameters and Guidelines, and that the claimant did not file a reimbursement claim for fiscal year 2009-2010, and that the deadline to do so had passed.<sup>6</sup>

In an October 31, 2014 adjustment letter, the Controller formally notified the claimant of the reduction for costs incurred in fiscal year 2009-2010.<sup>7</sup> In a September 8, 2016 letter, the claimant asked the Controller to reconsider its reduction for fiscal year 2009-2010.<sup>8</sup> In its reply letter of October 20, 2016, the Controller denied the claimant’s request to reconsider the reduction.<sup>9</sup>

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<sup>2</sup> The claimant states that the filing date is January 30, 2012, (Exhibit A, IRC, pages 5, 50), but the Controller states that the filing date is January 27, 2012 (Exhibit B, Controller’s Comments on the IRC, page 8). The record indicates that the claim was signed on January 19, 2012, and shows an “LRS Input” date from the Controller on January 30, 2012 (Exhibit B, Controller’s Comments on the IRC, page 12).

<sup>3</sup> Exhibit B, Controller’s Comments on the IRC, page 16 (fiscal year 2011-2012 reimbursement claim).

<sup>4</sup> Exhibit A, IRC, page 44 (email from the Controller). The original reduction was for costs incurred in fiscal years 2009-2010 and 2011-2012, but because the claimant refiled its 2011-2012 claim, only the reduction for costs incurred in fiscal year 2009-2010 is in dispute.

<sup>5</sup> Exhibit A, IRC, pages 43-44; Exhibit B, Controller’s Comments on the IRC, page 31 (email from the claimant to the Controller).

<sup>6</sup> Exhibit A, IRC, page 43. Exhibit B, Controller’s Comments on the IRC, page 32 (email from the Controller to the claimant).

<sup>7</sup> Exhibit B, Controller’s Comments on the IRC, page 37.

<sup>8</sup> Exhibit A, IRC, pages 45-46 (Claimant’s letter to Controller).

<sup>9</sup> Exhibit B, Controller’s Comments on the IRC, page 33 (Controller’s email to claimant).



The claimant filed the IRC on August 15, 2017,<sup>10</sup> and the Controller filed comments on the IRC on December 22, 2017.<sup>11</sup>

Commission staff issued the Draft Proposed Decision on June 30, 2020.<sup>12</sup>

### **Commission Responsibilities**

Government Code section 17561(d) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs if the Controller determines that the claim is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.<sup>13</sup> The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitution and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."<sup>14</sup>

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.<sup>15</sup>

The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.<sup>16</sup> In addition, section 1185.1(f)(3) and 1185.2(d) and (e) of the Commission's regulations requires that any assertions

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<sup>10</sup> Exhibit A, IRC.

<sup>11</sup> Exhibit B, Controller's Comments on the IRC, page 1.

<sup>12</sup> Exhibit C, Draft Proposed Decision.

<sup>13</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

<sup>14</sup> *County of Sonoma v. Commission on State Mandates* (2000), 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>15</sup> *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984; *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

<sup>16</sup> *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.



of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>17</sup>

### **Claims**

The following chart provides a brief summary of the claims and issues raised and staff's recommendation.

<b>Issue</b>	<b>Description</b>	<b>Staff Recommendation</b>
Did the claimant timely file the IRC?	At the time the claimant was notified of the reduction of costs incurred in fiscal year 2009-2010, section 1185.1 of the Commission's regulations required IRCs to be filed no later than three years after the Controller's final audit report, or other notice of adjustment that complies with Government Code section 17558.5(c). <sup>18</sup>	<i>Timely filed</i> – The Controller notified the claimant of its desk review by a September 29, 2014 email. The notification complies with Government Code section 17558.5(c). The IRC was filed on June 8, 2017, less than three years from the date the Controller notified the claimant of the desk review, so the IRC is timely filed.
Is the Controller's reduction of \$50,459 from the claim filed for fiscal year 2010-2011 correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support?	In its 2010-2011 reimbursement claim, the claimant included costs incurred in 2009-2010 and 2011-2012. The claimant disputes the reduction of costs incurred in 2009-2010. The claimant alleges that it committed a "clerical error" in its multi-year filing as follows: "[a]t the time [when the 2010-2011 claim was filed], the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to	<i>Correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support</i> – The Government Code does not allow multi-year annual reimbursement claims, and places the burden on the claimant to file reimbursement claims by the statutory deadline for costs incurred in a single fiscal year. Moreover, the Parameters and Guidelines require source documentation for one fiscal year, and are

<sup>17</sup> 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.

<sup>18</sup> Former California Code of Regulations, title 2, sections 1185.1(c), 1185.2(a) (Register 2014, No. 21). Section 1185.1(c) was amended, operative October 1, 2016, to clarify the notice requirement.



Issue	Description	Staff Recommendation
	<p>the ineligible.”<sup>19</sup> Based on this alleged clerical error, the claimant argues that the Controller should accept the 2010-2011 claim as a late 2009-2010 claim and allow the costs claimed.</p> <p>Government Code section 17560(a) provides that a claimant may “file an annual reimbursement claim that details the costs actually incurred for that fiscal year.” In addition, the Parameters and Guidelines for this program require that “actual costs for one fiscal year shall be included in each claim,” and that “[a]ctual 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.”<sup>20</sup></p> <p>The law allows relief from an order taken against a party as a result of a clerical error,<sup>21</sup></p>	<p>regulatory and are binding on the claimant.<sup>23</sup></p> <p>Here, the claimant’s 2010-2011 reimbursement claim includes costs totaling \$50,459, which are supported by invoices showing that the costs were incurred in fiscal year 2009-2010, and not in fiscal year 2010-2011.<sup>24</sup> The claimant admits that the costs were incurred in fiscal year 2009-2010, and not in fiscal year 2010-2011.<sup>25</sup> Thus, the \$50,459 are not “actual costs” for the 2010-2011 claim year.</p> <p>In addition, the courts have made it clear that “clerical errors,” which can be subject to later correction, do <i>not</i> include errors made because of a failure to correctly interpret the law or apply the facts.<sup>26</sup> Based on this record, the claimant erred in its interpretation of the law that a multi-year filing would be</p>

<sup>19</sup> Exhibit A, IRC, page 5.

<sup>20</sup> Exhibit A, IRC, page 29 (Parameters and Guidelines).

<sup>21</sup> Code of Civil Procedure section 473.

<sup>23</sup> Exhibit A, IRC, page 29 (Parameters and Guidelines). *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1201; *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 798; Government Code sections 17561(d)(1), 17564(b), and 17571.

<sup>24</sup> Exhibit A, IRC, pages 53-70 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2009-2010, totaling \$50,459).

<sup>25</sup> Exhibit A, IRC, pages 43-44 (September 29, 2014 email from claimant to Controller); Exhibit B, Controller’s Comments on the IRC, page 31 (email from the claimant to the Controller).

<sup>26</sup> *In re Eckstrom’s Estate* (1960) 54 Cal.2d 540, 545.



Issue	Description	Staff Recommendation
	but courts have made it clear that “clerical errors,” which can be subject to later correction, do <i>not</i> include errors made because of a failure to correctly interpret the law or apply the facts. <sup>22</sup>	acceptable. <sup>27</sup> There is no evidence that the claimant committed a “clerical error.”  Therefore, the reduction is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

### **Staff Analysis**

**A. The claimant timely filed this IRC within three years from the date the claimant first received from the Controller a final state audit report, letter, or other written notice of adjustment to a reimbursement claim.**

At the time the claimant was notified of the Controller’s Desk Review, section 1185.1 of the Commission’s regulations required IRCs to be filed no later than three years after the Controller’s final audit report, or other notice of adjustment that complies with Government Code section 17558.5(c). The Controller notified the claimant of the reduction by email, addressed to the claimant’s Financial Division Manager and dated September 29, 2014. The notification specifies the claim components and amounts adjusted, and the reasons for the adjustments,<sup>28</sup> and thereby complies with the notice requirements in section 17558.5(c). Because the claimant filed the IRC on August 15, 2017, less than three years from the date of the Controller’s emailed notice, staff finds that the IRC was timely filed.

**B. The Controller’s reduction of \$50,459 (less an undisputed 10 percent penalty) from the claim filed for fiscal year 2010-2011 is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support because the documentation provided with the claim does not support that those costs were incurred in fiscal year 2010-2011, as required by Government Code section 17560 and the Parameters and Guidelines, and there is no evidence of a clerical error that could be subject to correction.**

The claimant filed a 2010-2011 annual reimbursement claim, with the face sheet and each page of the claim form (FAM-27) showing that the claim, totaling \$229,627, was for 2010-2011 fiscal year costs.<sup>29</sup> The claim, however, included documentation supporting costs incurred in fiscal

<sup>22</sup> *In re Eckstrom’s Estate* (1960) 54 Cal.2d 540, 545.

<sup>27</sup> Exhibit A, IRC, page 5. The IRC states that “[a]t the time [it filed the 2010-2011 claim], the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible.”

<sup>28</sup> Exhibit A, IRC, page 44 (email from the Controller).

<sup>29</sup> Exhibit A, IRC, pages 50-52 (2010-2011 reimbursement claim).



years 2009-2010 through 2011-2012.<sup>30</sup> The Controller approved reimbursement for the 2010-2011 costs, and reduced the costs for 2009-2010 and 2011-2012 because reimbursement claims for those fiscal years had not been filed and the 2009-2010 and 2011-2012 documentation did not support that costs were incurred in fiscal year 2010-2011.<sup>31</sup> The claimant only disputes the reduction of the fiscal year 2009-2010 costs totaling \$50,459.<sup>32</sup>

The Government Code does not allow filing multi-year annual reimbursement claims, and has always placed the burden on the claimant to file annual reimbursement claims by the statutory deadline for costs incurred in a single fiscal year.<sup>33</sup> Government Code 17560(a) provides that reimbursement for state-mandated costs may be claimed in an annual reimbursement claim “that details the costs actually incurred for that fiscal year.” In addition, the Parameters and Guidelines for the *Local Government Employee Relations* mandate state: “Actual costs for *one fiscal year* shall be included in each claim.”<sup>34</sup> The Parameters and Guidelines further state that “[t]o be eligible for mandated cost reimbursement for any given fiscal year, only actual costs may be claimed,” and that “[a]ctual 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.”<sup>35</sup> Parameters and guidelines are regulatory and are binding on the claimant.<sup>36</sup>

Here, the 2010-2011 reimbursement claim includes costs totaling \$50,459, which are supported by invoices showing that the costs were incurred in fiscal year 2009-2010, and not in fiscal year 2010-2011.<sup>37</sup> The claimant admits that the costs were incurred in fiscal year 2009-2010, and not

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<sup>30</sup> Exhibit A, IRC, pages 53-70 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2009-2010, totaling \$50,459); pages 71-111 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2010-2011, totaling \$147,355.29); and pages 112-120 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2011-2012, totaling \$31,812.65). Exhibit B, Controller’s Comments on the IRC, pages 22-24 (Controller’s Summary of Invoices Included in FY 2010-11 Claim).

<sup>31</sup> Exhibit A, IRC, page 44 (email from the Controller).

<sup>32</sup> Exhibit A, IRC, page 4.

<sup>33</sup> Government Code sections 17560 and 17568 (that were originally added by Stats. 1986, ch. 879).

<sup>34</sup> Exhibit A, IRC, page 29 (Parameters and Guidelines). Emphasis added.

<sup>35</sup> Exhibit A, IRC, page 29 (Parameters and Guidelines).

<sup>36</sup> *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1201; *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 798; Government Code sections 17561(d)(1), 17564(b), and 17571.

<sup>37</sup> Exhibit A, IRC, pages 53-70 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2009-2010, totaling \$50,459).



in fiscal year 2010-2011.<sup>38</sup> Thus, the \$50,459 are not “actual costs” for the 2010-2011 claim year. Therefore, the Controller’s reduction of costs from the claim filed for fiscal year 2010-2011 is correct as a matter of law because the documentation provided with the claim does not support that costs were incurred in fiscal year 2010-2011, as required by Government Code section 17560 and the Parameters and Guidelines.

However, the claimant alleges that it committed a “clerical error” in its multi-year filing, which the Controller should allow to be corrected. The claimant states: “[a]t the time [when it filed the 2010-2011 claim], the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible.”<sup>39</sup> Based on this “clerical error,” the claimant argues that the Controller should accept the 2010-2011 claim as a late 2009-2010 claim and allow the costs because: (1) it claimed costs that were eligible, documented, and incurred to comply with a state-mandated program; (2) its costs were not found to be excessive, improper or unreasonable; (3) its fiscal year 2009-2010 costs were submitted to the State (in the 2010-2011 reimbursement claim) by the late-claim deadline; and (4) although its FAM-27 form was not filled out properly, its actual submission and its attached support means the claim was properly documented.<sup>40</sup>

The law in civil actions allows relief from an order taken against a party as a result of a clerical error, but courts have made it clear that “clerical errors,” which can otherwise be subject to later correction, do *not* include errors made because of a failure to correctly interpret the law or apply the facts.<sup>41</sup> The record indicates that the claimant erred in its interpretation of the law that a multi-year filing would be acceptable.<sup>42</sup> There is no evidence that the claimant made a “clerical error,”

Nor does the law authorize deeming a claim as timely filed when it was not, even when notice is timely provided that a claim would be filed.<sup>43</sup>

Based on this record, the only reimbursement claim filed was for fiscal year 2010-2011, which was correctly reduced by the Controller based on the documentation for actual costs incurred in that fiscal year.

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<sup>38</sup> Exhibit A, IRC, pages 43-44 (September 29, 2014 email from claimant to Controller); Exhibit B, Controller’s Comments on the IRC, page 31 (email from the claimant to the Controller).

<sup>39</sup> Exhibit A, IRC, page 5.

<sup>40</sup> Exhibit A, IRC, page 7.

<sup>41</sup> Code of Civil Procedure section 473(b); *In re Eckstrom’s Estate* (1960) 54 Cal.2d 540, 545.

<sup>42</sup> Exhibit A, IRC, page 5. The IRC states that “[a]t the time [it filed the 2010-2011 claim], the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible.”

<sup>43</sup> Code of Civil Procedure section 473. *Nathanson v. Superior Court* (1974) 12 Cal.3d 355, 364-367, 369-370.



**Conclusion**

Staff concludes that the Controller's reduction is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

**Staff Recommendation**

Staff recommends that the Commission adopt the Proposed Decision to deny the IRC. Staff further recommends that the Commission authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.



BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

**IN RE INCORRECT REDUCTION CLAIM**

Government Code Sections 3502.5 and 3508.5; Statutes 2000, Chapter 901 (SB 739)

California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070, Register 2001, Number 49

Fiscal Year 2010-2011

Filed on August 15, 2017

City of Monrovia, Claimant

Case No.: 17-0130-I-01

*Local Government Employee Relations*

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)*

**DECISION**

The Commission in State Mandates (Commission) heard and decided this Incorrect Reduction Claim (IRC) during a regularly scheduled hearing on September 25, 2020. [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 to [approve/partially approve/deny] the IRC by a vote of [vote will be included in the adopted Decision], as follows:

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



## **Summary of the Findings**

This IRC challenges the Controller's reduction of costs claimed for fiscal year 2010-2011, but incurred in fiscal year 2009-2010, by the City of Monrovia (claimant) for the *Local Government Employee Relations* program. In January 2012, the claimant filed a reimbursement claim requesting reimbursement for contracted legal services related to the *Local Government Employee Relations* program, totaling \$229,627. The cover sheet and each page of the claim form (FAM-27) indicates that the claim was filed for fiscal year 2010-2011. However, attached to the reimbursement claim are invoices for legal services incurred in fiscal years 2009-2010, 2010-2011, and 2011-2012, totaling \$229,627. The Controller reduced the costs incurred in fiscal years 2009-2010 and 2011-2012 from the 2010-2011 claim, and notified the claimant of the reduction on September 29, 2014, after the statutory deadline to submit a reimbursement claim for fiscal year 2009-2010 had passed.

This IRC challenges only the reduction of \$50,459 (less an undisputed late penalty) incurred in fiscal year 2009-2010.<sup>44</sup> Although the claimant never filed a 2009-2010 reimbursement claim, the claimant requests that the Commission find that the Controller incorrectly denied its request to accept the 2010-2011 reimbursement claim, which contained documentation supporting costs actually incurred in fiscal year 2009-2010, as a late 2009-2010 reimbursement claim under Government Code section 17568, because of an alleged "clerical error" by filing a multi-year claim.<sup>45</sup>

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

The Commission further finds that the Controller's reduction to the fiscal year 2010-2011 claim (for costs incurred in 2009-2010) is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. The Government Code does not allow filing multi-year annual reimbursement claims, and has always placed the burden on the claimant to file annual reimbursement claims by the statutory deadline for costs incurred in a single fiscal year.<sup>46</sup> In addition, the Parameters and Guidelines for the *Local Government Employee Relations* mandate state that "[a]ctual costs for *one fiscal year* shall be included in each claim," and that "[a]ctual costs must be traceable and supported by source documents that show the validity of such costs,

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<sup>44</sup> Exhibit A, IRC, pages 4, 45 (September 8, 2016 letter from the claimant to the Controller acknowledging that the late penalty would apply to the claimed costs for fiscal year 2009-2010).

<sup>45</sup> Government Code section 17560(a) states that "[a] local agency or school district may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year. Government Code section 17568 allows a valid reimbursement claim to be submitted after that deadline, and in such cases, the Controller is required to reduce the claim by ten percent. Section 17568 further states, however, that "*in no case* shall a reimbursement claim be paid that is submitted more than one year after the deadline in Government Code section 17560."

<sup>46</sup> Government Code sections 17560 and 17568 (that were originally added by Stats. 1986, ch. 879).



when they were incurred, and their relationship to the reimbursable activities.”<sup>47</sup> Parameters and guidelines are regulatory in nature and are binding on the claimant.<sup>48</sup> Here, the claimant’s 2010-2011 reimbursement claim includes costs totaling \$50,459, which are supported by invoices showing that the costs were incurred in fiscal year 2009-2010, and not in fiscal year 2010-2011.<sup>49</sup> The claimant admits that the costs were incurred in fiscal year 2009-2010, and not in fiscal year 2010-2011.<sup>50</sup> Thus, the \$50,459 are not “actual costs” for the 2010-2011 claim year.

However, the claimant alleges that it committed a “clerical error” in its multi-year filing, which the Controller should allow to be corrected. The claimant states: “[a]t the time [when it filed the 2010-2011 claim], the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible.”<sup>51</sup> Based on this “clerical error,” the claimant argues that the Controller should accept the 2010-2011 claim as a late 2009-2010 claim and allow the \$50,459 incurred in fiscal year 2009-2010 because: (1) it claimed costs that were eligible, documented, and incurred to comply with a state-mandated program; (2) its costs were not found to be excessive, improper or unreasonable; (3) its fiscal year 2009-2010 costs were submitted to the State (in the 2010-2011 reimbursement claim) by the late-claim deadline; and (4) although its FAM-27 form was not filled out properly, its actual submission and its attached support means the claim was properly documented.<sup>52</sup> The law allows relief from an order taken against a party as a result of a clerical error,<sup>53</sup> but courts have made it clear that “clerical errors,” which can otherwise be subject to later correction, do *not* include errors made because of a failure to correctly interpret the law or apply the facts.<sup>54</sup> Based on this record, the claimant erred in its interpretation of the law that a multi-year filing would be acceptable.<sup>55</sup> There is no evidence that the claimant made a “clerical error.”

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<sup>47</sup> Exhibit A, IRC, page 29 (Parameters and Guidelines).

<sup>48</sup> *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1201; *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 798; Government Code sections 17561(d)(1), 17564(b), and 17571.

<sup>49</sup> Exhibit A, IRC, pages 53-70 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2009-2010, totaling \$50,459).

<sup>50</sup> Exhibit A, IRC, pages 43-44 (September 29, 2014 email from claimant to Controller); Exhibit B, Controller’s Comments on the IRC, page 31 (email from the claimant to the Controller).

<sup>51</sup> Exhibit A, IRC, page 5.

<sup>52</sup> Exhibit A, IRC, page 7.

<sup>53</sup> Code of Civil Procedure section 473(b).

<sup>54</sup> *In re Eckstrom’s Estate* (1960) 54 Cal.2d 540, 545.

<sup>55</sup> Exhibit A, IRC, page 5. The IRC states that “[a]t the time [when it filed the 2010-2011 claim], the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible.”



Nor does the law authorize deeming a claim as timely filed when it was not, even when notice is timely provided that a claim would be filed.<sup>56</sup>

The record indicates that the only reimbursement claim filed was for fiscal year 2010-2011, which was correctly reduced by the Controller based on the documentation of actual costs incurred in that fiscal year.

Therefore, the Commission denies this IRC and finds that the Controller's reduction is correct as a matter of law and not arbitrary, capricious or entirely lacking in evidentiary support.

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<sup>56</sup> Code of Civil Procedure section 473. *Nathanson v. Superior Court* (1974) 12 Cal.3d 355, 364-367, 369-370.



## COMMISSION FINDINGS

### I. Chronology

- 01/27/2012 The claimant filed its fiscal year 2010-2011 reimbursement claim that included costs and documentation for fiscal years 2009-2010 and 2011-2012.<sup>57</sup>
- 01/30/2013 The claimant filed its fiscal year 2011-2012 reimbursement claim.<sup>58</sup>
- 09/29/2014 The Controller notified the claimant via email of the reduction of costs incurred for fiscal years 2009-2010 and 2011-2012 that were included on the fiscal year 2010-2011 form.<sup>59</sup>
- 09/29/2014 The claimant emailed the Controller to request that the claimant's costs of \$50,459 incurred in fiscal year 2009-2010 not be disallowed due to its "simple accounting/clerical error."<sup>60</sup>
- 09/30/2014 The Controller emailed the claimant stating that it was bound by the claiming requirements in the Parameters and Guidelines, and that the claimant did not file a reimbursement claim for fiscal year 2009-2010, and that the deadline to do so had passed.<sup>61</sup>
- 10/31/2014 The Controller formally notified the claimant of the reduction for costs incurred in fiscal year 2009-2010 via an adjustment letter.<sup>62</sup>

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<sup>57</sup> The claimant states that the filing date is January 30, 2012, (Exhibit A, IRC, pages 5, 50), but the Controller states that the filing date is January 27, 2012 (Exhibit B, Controller's Comments on the IRC, page 8). The record indicates that the claim was signed on January 19, 2012, and shows an "LRS Input" date from the Controller on January 30, 2012 (Exhibit B, Controller's Comments on the IRC, page 12).

<sup>58</sup> Exhibit B, Controller's Comments on the IRC, page 16 (fiscal year 2011-2012 reimbursement claim).

<sup>59</sup> Exhibit A, IRC, page 44 (email from the Controller). The original reduction was for costs incurred in fiscal years 2009-2010 and 2011-2012, but because the claimant refiled its 2011-2012 claim, only the reduction for costs incurred in fiscal year 2009-2010 is in dispute.

<sup>60</sup> Exhibit A, IRC, pages 43-44; Exhibit B, Controller's Comments on the IRC, page 31 (email from the claimant to the Controller). In its comments on the IRC, the Controller said the amount in dispute is \$50,489 (see Exhibit B, Controller's Comments on the IRC, page 7). However, the documentation the Controller attached to its comments comports with the documentation of the claimant that the amount is \$50,459 (see Exhibit B, Controller's Comments on the IRC, page 22 (summary of invoices) and page 30 (email from the Controller to the claimant)).

<sup>61</sup> Exhibit A, IRC, page 43. Exhibit B, Controller's Comments on the IRC, page 32 (email from the Controller to the claimant).

<sup>62</sup> Exhibit B, Controller's Comments on the IRC, page 37.



09/08/2016 The date of the claimant's letter asking the Controller to reconsider its reduction for fiscal year 2009-2010 costs.<sup>63</sup>

10/20/2016 The Controller denied the claimant's request to reconsider the reduction.<sup>64</sup>

08/15/2017 The claimant filed the IRC.<sup>65</sup>

12/22/2017 The Controller filed comments on the IRC.<sup>66</sup>

06/30/2020 Commission staff issued the Draft Proposed Decision.<sup>67</sup>

## **II. Background**

### **A. The Local Government Employee Relations Program**

The test claim statute and regulations in *Local Government Employee Relations* amended the Meyers-Milias-Brown Act (MMBA) regarding relations between local public agencies and their employees, by adding a method for creating an agency shop arrangement, and expanding the jurisdiction of the Public Employment Relations Board to include resolving disputes and enforcing the statutory duties and rights of those public employers and employees subject to the MMBA. The Commission partially approved the Test Claim on December 4, 2006, for the following reimbursable activities:

1. Deduct from employees' wages the payment of dues or service fees required pursuant to an agency shop arrangement that was established under subdivision (b) of Government Code section 3502.5, and transmit such fees to the employee organization. (Gov. Code § 3508.5, subd. (b).)
2. Receive from the employee any proof of in lieu fee payments made to charitable organizations required pursuant to an agency shop arrangement that was established under subdivision (b) of Government Code section 3502.5. (Gov. Code § 3502.5, subd. (c).)
3. Follow PERB procedures in responding to charges filed with PERB, by an entity *other than* the local public agency employer, concerning an unfair labor practice, a unit determination, representation by an employee organization, recognition of an employee organization, or an election. Mandated activities are:
  - a. procedures for filing documents or extensions for filing documents with PERB (Cal. Code Regs., tit.8, §§ 32132, 32135 (Register 2001, No. 49));
  - b. proof of service (Cal. Code Regs., tit. 8, § 32140 (Register 2001, No. 49));
  - c. responding to subpoenas and investigative subpoenas (Cal. Code Regs., tit. 8, §§ 32149, 32150 (Register 2001, No. 49));

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<sup>63</sup> Exhibit A, IRC, pages 45-46 (Claimant's letter to Controller).

<sup>64</sup> Exhibit B, Controller's Comments on the IRC, page 33 (Controller's email to claimant).

<sup>65</sup> Exhibit A, IRC.

<sup>66</sup> Exhibit B, Controller's Comments on the IRC, page 1.

<sup>67</sup> Exhibit C, Draft Proposed Decision.



- d. conducting depositions (Cal. Code Regs., tit. 8, § 32160 (Register 2001, No. 49));
- e. participating in hearings and responding as required by PERB agent, PERB Administrative Law Judge, or the five-member PERB (Cal. Code Regs., tit. 8, §§ 32168, 32170, 32175, 32176, 32180, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, and 60070 (Register 2001, No. 49)); and
- f. filing and responding to written motions in the course of the hearing (Cal. Code Regs., tit. 8, § 32190 (Register 2001, No. 49)).

The Commission adopted the Parameters and Guidelines for this program on May 29, 2009, authorizing reimbursement, beginning July 1, 2001, for the above activities and certain one-time activities. The Parameters and Guidelines were corrected on June 16, 2009.<sup>68</sup> According to the Parameters and Guidelines: “Actual costs for one fiscal year shall be included in each claim.”<sup>69</sup> The Parameters and Guidelines further state:

To be eligible for mandated cost reimbursement for any given fiscal year, only actual costs may be claimed .... 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.<sup>70</sup>

## **B. Summary of the Controller’s Audit**

In January 2012, the claimant filed a reimbursement claim requesting reimbursement for the claimant’s payments for contracted legal services related to the *Local Government Employee Relations* program.<sup>71</sup> The cover sheet and each page of the claim form (FAM-27) indicates that the claim is for fiscal year 2010-2011.<sup>72</sup> The reimbursement claim form states that “Liebert Cassidy Whitmore (Contract Attorney) Responded to several PERB matters,” and \$229,627 was claimed for those costs.<sup>73</sup> The reimbursement claim form was signed under penalty of perjury by the claimant’s Finance Division Manager, and identified “Annette S. Chinn (CRS)” as the contact person for the claim.<sup>74</sup> Attached to the reimbursement claim are invoices from Liebert

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<sup>68</sup> Exhibit A, IRC, pages 28, 31 (Parameters and Guidelines). The correction is not relevant to this IRC because the provisions regarding filing annual costs and actual costs were not corrected.

<sup>69</sup> Exhibit A, IRC, page 29 (Parameters and Guidelines).

<sup>70</sup> Exhibit A, IRC, page 29 (Parameters and Guidelines).

<sup>71</sup> Exhibit A, IRC, pages 50-120 (2010-2011 reimbursement claim). The claimant states that the filing date is January 30, 2012, (Exhibit A, IRC, pages 5, 50), but the Controller states that the filing date is January 27, 2012 (Exhibit B, Controller’s Comments on the IRC, pages 8, 12). The claim was signed on January 19, 2012, and shows an “LRS Input” date from the Controller on January 30, 2012 (Exhibit B, Controller’s Comments on the IRC, page 12).

<sup>72</sup> Exhibit A, IRC, pages 50-52 (2010-2011 reimbursement claim).

<sup>73</sup> Exhibit A, IRC, pages 50, 52 (2010-2011 reimbursement claim).

<sup>74</sup> Exhibit A, IRC, page 50 (2010-2011 reimbursement claim). Annette S. Chinn of Cost Recovery Systems, Inc., is the claimant’s representative for this IRC. (Exhibit A, IRC, page 1.)



Cassidy Whitmore showing costs incurred for legal services in fiscal years 2009-2010, 2010-2011, and 2011-2012, totaling \$229,627.<sup>75</sup>

In September 2014, the Controller initiated a desk review of the 2010-2011 reimbursement claim.<sup>76</sup> In an email dated September 29, 2014, the Controller notified the claimant that \$147,355.29 was allowable as costs incurred in fiscal year 2010-2011, but the costs incurred in fiscal years 2009-2010 and 2011-2012 would be denied because “the city can only claim for costs incurred during 2010-2011.”<sup>77</sup> The email states:

Please be informed that the City of Monrovia submitted a claim for fiscal year 2010-11 for the Local Government Employee Relations program. The city claimed \$229,627 for contract services. During our desk review it was discovered that the city included \$82,272 of contract costs from fiscal years 2009-10 and 2011-12 with the claim. The city can only claim costs incurred during 2010-11. The table below lists the costs claimed by fiscal year:

Fiscal Year	Costs Incurred	Note
2009-10	\$50,459	Non-Reimbursable
2010-11	\$147,355.29	
2011-12	\$31,812.65	Non-Reimbursable

The claim will be adjusted to exclude the non-reimbursable contract costs.<sup>78</sup>

In a reply email dated September 29, 2014, the claimant’s Finance Division Manager requested that the \$50,459 incurred in fiscal year 2009-2010 not be disallowed due to a “simple accounting/clerical error” of claiming those costs on the wrong fiscal year claim, as follows:

Thank you for your email. In reviewing the documentation submitted, I believe that the costs claimed are reimbursable under the parameters of the mandate and were submitted on time; however, I see that some costs were not filed on the correct paperwork. We respectfully request that you do not disallow our eligible FY 09-10 costs of \$50,459, but pay them from the correct fiscal year. It was a simple accounting/clerical error on the City’s part. I understand that late claim penalties would apply to some of the FY 09-10 costs included in the wrong fiscal year claim.

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<sup>75</sup> Exhibit A, IRC, pages 53-70 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2009-2010, totaling \$50,459); pages 71-111 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2010-2011, totaling \$147,355.29); and pages 112-120 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2011-2012, totaling \$31,812.65). Exhibit B, Controller’s Comments on the IRC, pages 22-24 (Controller’s Summary of Invoices Included in FY 2010-11 Claim).

<sup>76</sup> Exhibit B, Controller’s Comments on the IRC, page 7.

<sup>77</sup> Exhibit A, IRC, page 44; Exhibit B, Controller’s Comments on the IRC, page 30 (email from the Controller to the claimant).

<sup>78</sup> Exhibit A, IRC, page 44 (email from the Controller).



Please accept my apologies for the inconvenience and I thank you for your assistance. Please feel free to contact me if you have any questions or if you need additional information.<sup>79</sup>

In an email dated September 30, 2012, the Controller replied that it was bound by the Parameters and Guidelines and could not accept a claim outside of the reimbursable fiscal years, and that the claimant did not file a claim for fiscal year 2009-2010, as follows:

We are bound by the legal authority of the parameters and guidelines and cannot accept costs that are outside of reimbursable fiscal years. As per the P's and G's, "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."

The city did not file a claim for fiscal year 2009-10 and the deadline to file a late claim for 2009-10 or 2011-12 has already passed. I reviewed the 2011-12 claim filed by the city and discovered that some of the costs incurred during 2011-12 have been correctly included with the 2011-12 claim but were also claimed in 2010-11. Please note, the actual costs incurred during fiscal year 2010-11 will be allowed and processed for payment upon availability of appropriation.<sup>80</sup>

The claimant filed its fiscal year 2011-2012 reimbursement claim on January 30, 2013,<sup>81</sup> and the costs claimed for 2011-2012 are not in dispute.

In an adjustment letter dated October 31, 2014, the Controller formally notified the claimant of the reduction of costs "claimed outside of reimbursable F.Y.," which include the costs incurred in fiscal year 2009-2010.<sup>82</sup>

In a September 8, 2016 letter, the claimant's Finance Division Manager asked the Controller to reconsider the reduction of costs incurred in fiscal year 2009-2010 because "the City had accidentally filed a claim for FY 2009-10, FY 2010-11, and FY 2011-12 in one submission (under the FY 2010-11 period), rather than filing separate claims for each fiscal year."<sup>83</sup> The claimant continued in relevant part as follows:

At the time the claim was filed, the costs for FY 2009-10 were still eligible for filing and the City properly filed the claim on time. Had we known of the clerical error sooner, we would have immediately corrected the paperwork by submitting a separate late claim for FY 2009-10 in the amount of \$50,459 and attached a

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<sup>79</sup> Exhibit A, IRC, pages 43-44; Exhibit B, Controller's Comments on the IRC, page 31 (email from the claimant to the Controller).

<sup>80</sup> Exhibit A, IRC, page 43. Exhibit B, Controller's Comments on the IRC, page 32 (email from the Controller to the claimant).

<sup>81</sup> Exhibit B, Controller's Comments on the IRC, page 16 (fiscal year 2011-2012 reimbursement claim).

<sup>82</sup> Exhibit B, Controller's Comments on the IRC, page 37.

<sup>83</sup> Exhibit A, IRC, pages 45-46 (Claimant's letter to Controller).



proper coversheet (FAM-27), understanding that a 10% late penalty would have been applied to the FY 2009-10 costs.

As soon as we were notified of the reductions, we promptly contacted your office and explained that the reduction was simply due to a clerical error. We also reassured your office that all costs included in the claim were actual eligible costs that were properly documented and submitted by the deadline. Your office responded that the cut would not be restored because the deadline to file FY 2009-10 claims had passed and that “Actual costs must be traceable and be supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities,” as noted in the attached email correspondence. However, we believe that these requirements were, in fact, satisfied and that the City filed the claim in good faith.

We kindly ask that you not preclude the City from reimbursement due to a minor clerical error. Aside from the minor error of combining multiple years into one claim, the costs were properly submitted by the due date, were actual, traceable, and supported by source documents that were included in the claim. Additionally, we believe that the recent decision by the Commission on State Mandates regarding the Incorrect Reduction Claim (IRC) filed by the City of Los Angeles for their “FY 2003-04 Firefighter Cancer Presumption” claim is similar to our situation in that the claimant, the City, made a clerical error when transferring costs from a summary page to the total (FAM-27) page. The Commission ruled in favor of the City and said the Controller’s decision to deny \$516,132 in disability benefit costs as “unclaimed” was incorrect as a matter of law and was lacking evidentiary support because the details had all been submitted in the original claim, though not correctly transferred to the FAM-27. . . .<sup>84</sup>

In a letter dated October 20, 2016, the Controller denied the claimant’s request to reconsider and stated that it cannot apply costs to a prior fiscal year claim that was never filed. The letter also noted that it was past the deadline to file a claim for fiscal year 2009-2010.<sup>85</sup>

### **III. Positions of the Parties**

#### **A. City of Monrovia**

The claimant states that it filed the IRC, solely “to reverse the FY 2009-10 \$50,459 reduction made to the city’s claim.”<sup>86</sup> The claimant argues that the Controller’s reduction of costs incurred in fiscal year 2009-2010 is unfair because the Controller “waited almost three years to audit the

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<sup>84</sup> Exhibit A, IRC, pages 45-46 (Claimant’s letter to Controller).

<sup>85</sup> Exhibit B, Controller’s Comments on the IRC, page 33 (Controller’s email to claimant).

<sup>86</sup> Exhibit A, IRC, page 5. In its comments on the IRC, the Controller said the amount in dispute is \$50,489 (see Exhibit B, Controller’s Comments on the IRC, page 7). However, the documentation the Controller attached to its comments comports with the documentation of the claimant that the amount is \$50,459 (see Exhibit B, Controller’s Comments on the IRC, page 22 (summary of invoices) and page 30 (email from Controller to claimant)).



City's claim to determine that the claim would be reduced by \$50,459 due to clerical errors."<sup>87</sup> The claimant asserts that had it been notified earlier of the error, it would have submitted a fiscal year 2009-2010 claim and amended its 2010-2011 claim,<sup>88</sup> but by the time it was notified of the error on September 29, 2014, the claiming deadline for 2009-2010 had passed.<sup>89</sup> The claimant believes that its claim should not be denied due to a clerical error, and that it should be allowed to amend a claim that contains actual, eligible, state-mandated costs. The claimant argues: (1) it claimed costs that were eligible, documented, and incurred to comply with a state-mandated program; (2) its costs were not found to be excessive, improper or unreasonable; (3) its costs were submitted to the State by the deadline; and (4) although its FAM-27 form was not filled out properly, its actual submission and its attached support means the claim was properly documented, not just the coversheet. The claimant argues "clerical errors should not be grounds for denial of constitutionally guaranteed mandated costs reimbursement."<sup>90</sup>

The claimant further argues that the Commission should decide this IRC similarly to the Draft Proposed Decision issued on March 18, 2016 for the IRC *Firefighter Cancer Presumption*, 09-4081-I-01. In that IRC, the City of Los Angeles had attached documented costs to its claim, but had made a clerical error in transferring the cost information to the FAM-27 coversheet. In the Draft Proposed Decision, Commission staff found that the Controller should have allowed for the correction of a "mere arithmetic error."<sup>91</sup>

## **B. State Controller's Office**

The Controller filed comments on the IRC on December 22, 2017, maintaining that its desk review is correct and that the IRC should be denied.<sup>92</sup>

The Controller argues that it timely reviewed the City's claim and correctly reduced the amount at issue. As to timeliness, the claimant filed its fiscal year 2010-2011 claim on January 27, 2012, and a late claim for fiscal year 2009-2010 would have been due on February 15, 2012. During the reimbursement claim submission period each February, the Controller receives, logs, and sends a claims transmittal letter acknowledging receipt of the claim for several thousand claims in the local reimbursement system prior to producing a mandated report to the Legislature by April 30th, after which comprehensive desk reviews begin. So even if the Controller had reviewed the claim immediately in May 2012, the February 15, 2012 deadline to file a fiscal year 2009-2010 reimbursement claim would have already passed. The claimant never filed a fiscal

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<sup>87</sup> Exhibit A, IRC, page 4.

<sup>88</sup> Exhibit A, IRC, page 45 (letter from claimant to the Controller).

<sup>89</sup> Exhibit A, IRC, page 44; Exhibit B, Controller's Comments on the IRC, page 30 (email from the Controller to the claimant). Exhibit A, IRC, page 43 (email from the Controller to the claimant).

<sup>90</sup> Exhibit A, IRC, page 7.

<sup>91</sup> Exhibit X, Commission on State Mandates, Draft Proposed Decision, *Firefighter Cancer Presumption*, 09-4081-I-01.

<sup>92</sup> Exhibit B, Controller's Comments on the IRC, page 1.



year 2009-2010 claim, and the Controller had two years to complete its review, once the audit was initiated.<sup>93</sup>

The Controller also states that according to Government Code section 17558.5, an audit must be initiated within three years of when the claim was filed or last amended, but if no payment is made to the claimant, the date to initiate the audit does not begin until the claimant is paid. The Controller notes that no appropriation or payment to the claimant has been made for the fiscal year 2010-2011 claim. And because the desk review began in September 2014, the Controller states that it had until August 2016 to complete its review. The Controller further argues that by including costs for multiple years in its 2010-2011 reimbursement claim, the claimant did not comply with the Parameters and Guidelines. Finally, the Controller alleges that the claimant's reliance on the *Firefighter Cancer Presumption*, 09-4081-I-01 IRC is misplaced because filing for multiple years in a single claim is not a "mere arithmetic error." Rather, it is a violation of the Parameters and Guidelines.<sup>94</sup>

#### **IV. Discussion**

Government Code section 17561(d) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs if the Controller determines that the claim is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.<sup>95</sup> The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."<sup>96</sup>

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to

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<sup>93</sup> Exhibit B, Controller's Comments on the IRC, page 8.

<sup>94</sup> Exhibit B, Controller's Comments on the IRC, pages 8-9.

<sup>95</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

<sup>96</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.



the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.<sup>97</sup> Under this standard, the courts have found that:

When reviewing the exercise of discretion, “[t]he scope of review is limited, out of deference to the agency’s authority and presumed expertise: ‘The court may not reweigh the evidence or substitute its judgement for that of the agency. [Citation.]’” ... “In general ... the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support....” [Citations.] When making that inquiry, the “ ‘court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute.’ ”<sup>98</sup>

The Commission must review the Controller’s audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.<sup>99</sup> In addition, sections 1185.1(f)(3) and 1185.2(d) and (e) of the Commission’s regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission’s ultimate findings of fact must be supported by substantial evidence in the record.<sup>100</sup>

**A. The claimant timely filed this IRC within three years from the date the claimant first received from the Controller a final state audit report, letter, or other written notice of adjustment to a reimbursement claim.**

The Controller notified the claimant of the reduction by email, addressed to the claimant’s Financial Division Manager and dated September 29, 2014, stating:

Please be informed that the City of Monrovia submitted a claim for fiscal year 2010-11 for the Local Government Employee Relations program. The city claimed \$229,627 for contract services. During our desk review it was discovered that the city included \$82,272 of contract costs from fiscal years 2009-10 and 2011-12 with the claim. The city can only claim costs incurred during 2010-11. The table below lists the costs claimed by fiscal year:

Fiscal Year	Costs Incurred	Note
2009-10	\$50,459	Non-Reimbursable
2010-11	\$147,355.29	
2011-12	\$31,812.65	Non-Reimbursable

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<sup>97</sup> *Johnson v. Sonoma County Agricultural Preservation and Open Space Dist.* (2002) 100 Cal.App.4th 973, 983-984. See also *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

<sup>98</sup> *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.

<sup>99</sup> *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

<sup>100</sup> 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



The claim will be adjusted to exclude the non-reimbursable contract costs.<sup>101</sup>

The Controller's email, dated September 29, 2014, specifies the claim component (contract services) and amount (\$82,272) adjusted, and the reasons for the adjustments (costs claimed in the wrong fiscal year). Thus, the email complies with the notice requirements in Government Code section 17558.5(c).

At the time the Controller notified the claimant of the reduction, section 1185.1 of the Commission's regulations required that an IRC be timely filed "no later than three years following the date of the Office of State Controller's final audit report, letter, remittance advice, or other written notice of adjustment to a reimbursement claim" in order to be complete.<sup>102</sup>

The claimant filed the IRC on August 15, 2017, less than three years from the date of the Controller's emailed notice of September 29, 2014. Therefore, the Commission finds that the IRC was timely filed.

**B. The Controller's reduction of \$50,459 (less an undisputed 10 percent penalty) from the fiscal year 2010-2011 claim is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support because the documentation provided with the claim supports that those costs were not incurred in fiscal year 2010-2011, as required by Government Code section 17560 and the Parameters and Guidelines, and there is no evidence of a clerical error that could be subject to correction.**

As indicated above, the claimant filed an annual reimbursement claim, with the face sheet and each page of the claim form (FAM-27) showing that the claim, totaling \$229,627, was for 2010-2011 fiscal year costs.<sup>103</sup> The claim, however, includes costs incurred in fiscal years 2009-2010 through 2011-2012.<sup>104</sup> The Controller approved reimbursement for the 2010-2011 costs, and reduced the costs for 2009-2010 and 2011-2012 because reimbursement claims for those fiscal

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<sup>101</sup> Exhibit A, IRC, page 44 (email from the Controller).

<sup>102</sup> Former California Code of Regulations, title 2, sections 1185.1(c), 1185.2(a) (Register 2014, No. 21). Section 1185.1(c) was amended, operative October 1, 2016, to clarify that: "All incorrect reduction claims shall be filed with the Commission no later than three years following the date a claimant first receives from the Office of State Controller a final state audit report, letter, or other written notice of adjustment to a reimbursement claim, which complies with Government Code section 17558.5(c) by specifying the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to reduce the overall reimbursement to the claimant, and the reasons for the adjustment. The filing shall be returned to the claimant for lack of jurisdiction if this requirement is not met."

<sup>103</sup> Exhibit A, IRC, pages 50-52 (2010-2011 reimbursement claim).

<sup>104</sup> Exhibit A, IRC, pages 53-70 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2009-2010, totaling \$50,459); pages 71-111 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2010-2011, totaling \$147,355.29); and pages 112-120 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2011-2012, totaling \$31,812.65). Exhibit B, Controller's Comments on the IRC, pages 22-24 (Controller's Summary of Invoices Included in FY 2010-11 Claim).



years had not been filed and the 2009-2010 and 2011-2012 documentation did not support that costs were incurred in fiscal year 2010-2011.<sup>105</sup> The claimant disputes only the reduction of costs totaling \$50,459, which were incurred in fiscal year 2009-2010.<sup>106</sup>

The Commission finds that the Controller's reduction of costs from the fiscal year 2010-2011 claim (for costs incurred in 2009-2010) is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

Government Code 17560(a) provides that reimbursement for state-mandated costs may be claimed in an annual reimbursement claim "that details the costs actually incurred for that fiscal year" as follows:

A local agency or school district may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim *that details the costs actually incurred for that fiscal year*.<sup>107</sup>

In addition, the Parameters and Guidelines for the *Local Government Employee Relations* mandate state: "Actual costs for *one fiscal year* shall be included in each claim"<sup>108</sup> and:

To be eligible for mandated cost reimbursement for any given fiscal year, only actual costs may be claimed .... 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.<sup>109</sup>

Parameters and guidelines are regulatory in nature and are binding on the claimant.<sup>110</sup>

Here, the claimant's 2010-2011 reimbursement claim includes costs totaling \$50,459, which are supported by invoices showing that the costs were incurred in fiscal year 2009-2010, and not in fiscal year 2010-2011.<sup>111</sup> The claimant admits that the costs were incurred in fiscal year 2009-2010, and not in fiscal year 2010-2011.<sup>112</sup> Thus, the \$50,459 are not "actual costs" for the 2010-2011 claim year.

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<sup>105</sup> Exhibit A, IRC, page 44 (email from the Controller).

<sup>106</sup> Exhibit A, IRC, page 5

<sup>107</sup> Government Code section 17560, as last amended by Statutes 2007-2008, 3d Ex. Sess., chapter 6, effective February 16, 2008. Emphasis added.

<sup>108</sup> Exhibit A, IRC, page 29 (Parameters and Guidelines). Emphasis added.

<sup>109</sup> Exhibit A, IRC, page 29 (Parameters and Guidelines).

<sup>110</sup> *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1201; *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 798; Government Code sections 17561(d)(1), 17564(b), and 17571.

<sup>111</sup> Exhibit A, IRC, pages 53-70 (Invoices from Leibert Cassidy Whitmore for legal services provided in fiscal year 2009-2010, totaling \$50,459).

<sup>112</sup> Exhibit A, IRC, pages 43-44 (September 29, 2014 email from the claimant to Controller); Exhibit B, Controller's Comments on the IRC, page 31 (email from the claimant to the Controller).



The claimant did not file a 2009-2010 reimbursement claim.<sup>113</sup> Instead,

The City submitted an SB 90 Claim for the Local Government Employee Relations Program No. 298 for three fiscal years (FY 2009-10, FY 2010-11, and FY 2011-12) under one submittal (FY 2010-11 FAM-27). At the time, the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible.<sup>114</sup>

When the Controller notified the claimant that it was reducing the 2010-2011 reimbursement claim for the costs incurred in other fiscal years, the claimant requested that the Controller reimburse the \$50,459 incurred in fiscal year 2009-2010 supported by the documentation provided with the 2010-2011 reimbursement claim.<sup>115</sup> The Controller denied the claimant's request.<sup>116</sup>

The claimant contends that the Controller incorrectly denied reimbursement for the \$50,459 incurred in fiscal year 2009-2010 on the following grounds: (1) it claimed costs that were eligible, documented, and incurred to comply with a state-mandated program; (2) its costs were not found to be excessive, improper or unreasonable; (3) its fiscal year 2009-2010 costs were submitted to the State (in the 2010-2011 reimbursement claim) by the late claim deadline; and (4) although its FAM-27 form was not filled out properly, its actual submission and its attached support means the claim was properly documented.<sup>117</sup> In other words, the claimant believes that the Controller should have accepted the 2010-2011 reimbursement claim, which contained documentation supporting costs actually incurred in fiscal year 2009-2010, as a late 2009-2010 reimbursement claim subject to a 10 percent late filing penalty.<sup>118</sup>

The claimant further asserts that "clerical errors should not be grounds for denial of constitutionally guaranteed mandated costs reimbursement."<sup>119</sup> The claimant argues that the Commission should decide this IRC similarly to the Draft Proposed Decision issued March 18, 2016 on the *Firefighter Cancer Presumption*, 09-4081-I-01 IRC, which found that the Controller should have allowed for the correction of a "mere arithmetic error."<sup>120</sup>

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<sup>113</sup> Exhibit B, Controller's Comments on the IRC, page 8.

<sup>114</sup> Exhibit A, IRC, page 5.

<sup>115</sup> Exhibit A, IRC, pages 43-44, and Exhibit B, Controller's Comments on the IRC, page 31 (September 29, 2014 email from the claimant to the Controller); Exhibit A, IRC, pages 45-46 (claimant's September 8, 2016 letter to the Controller).

<sup>116</sup> Exhibit B, Controller's Comments on the IRC, page 33 (Controller's October 20, 2016 email to the claimant).

<sup>117</sup> Exhibit A, IRC, page 7.

<sup>118</sup> Exhibit A, IRC, pages 45-46 (Claimant's letter to Controller).

<sup>119</sup> Exhibit A, IRC, page 7.

<sup>120</sup> Exhibit X, Commission on State Mandates, Draft Proposed Decision, *Firefighter Cancer Presumption*, 09-4081-I-01.



The claimant also argues that the Controller's decision is unfair and not justified because the Controller waited almost three years to audit the claim, which made it impossible for the claimant to file a timely 2009-2010 claim. The claimant states "had [it] known of the clerical error sooner (not three years later), the City would have immediately corrected and resubmitted the claim within the filing period."<sup>121</sup>

The Controller maintains that it timely reviewed the City's claim and correctly reduced the costs at issue, noting that the claimant filed its fiscal year 2010-2011 claim on January 27, 2012, and a late claim for 2009-2010 costs would have been due on February 15, 2012. The Controller states that during the claim submission period each February, it receipts, manages, and logs several thousand claims into the local reimbursement system to produce a mandatory report for the Legislature by April 30th. Comprehensive desk reviews begin after April 30th. Thus, even if the Controller had reviewed the claim in this case immediately in May 2012, the February 15, 2012 deadline for submitting the fiscal year 2009-2010 reimbursement claim had already passed. The claimant never filed a fiscal year 2009-2010 reimbursement claim.<sup>122</sup> In addition, the Controller states that it was within its statutory authority to initiate a desk review in September 2014 and had until September 2016 to complete the review pursuant to Government Code section 17558.5.<sup>123</sup> The Controller further contends that the claimant's reliance on the Draft Proposed Decision in the *Firefighter Cancer Presumption*, 09-4081-I-01 IRC is misplaced because "the inclusion of multiple fiscal years in a single claim is not a 'mere arithmetic error'; it is instead a matter of non-compliance with the Ps and Gs . . . ."<sup>124</sup>

The Commission finds that the Controller's reduction of 2009-2010 costs, is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

The Government Code places the burden on the claimant to file annual reimbursement claims by the statutory deadline for costs incurred in a single fiscal year. Government Code 17560(a) states that "[a] local agency or school district may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year."<sup>125</sup> Government Code section 17568 allows valid reimbursement claims to be submitted after that deadline, but "*in no case* shall a reimbursement claim be paid that is submitted more than one year after the [February 15th] deadline in Government Code section 17560," as follows:

If a local agency or school district submits an otherwise valid reimbursement claim to the Controller after the [February 15<sup>th</sup>] deadline specified in Section 17560, the Controller shall reduce the reimbursement claim in an amount equal to 10 percent of the amount that would have been allowed had the reimbursement claim been timely filed, provided that the amount of this reduction shall not

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<sup>121</sup> Exhibit A, IRC, page 4.

<sup>122</sup> Exhibit B, Controller's Comments on the IRC, page 8.

<sup>123</sup> Exhibit B, Controller's Comments on the IRC, page 8.

<sup>124</sup> Exhibit B, Controller's Comments on the IRC, page 9.

<sup>125</sup> Government Code section 17560 was last amended by was last amended by Statutes 2007-2008, 3d Ex. Sess., chapter 6, effective February 16, 2008.



exceed ten thousand dollars (\$10,000). *In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in Section 17560.*<sup>126</sup>

Consequently, in order for the claimant to timely request reimbursement for actual costs incurred in fiscal year 2009-2010 pursuant to Government Code sections 17560 and 17568, the claimant was required to file a fiscal year 2009-2010 reimbursement claim on or before February 15, 2011. If the claimant had filed the claim between February 16, 2011, and February 15, 2012, the Controller would have been required to accept the claim and reduce it by 10 percent up to a maximum reduction of \$10,000. If the claimant had filed the claim on or after February 16, 2012, the Controller would have been required to deny the claim in its entirety. The claimant never filed a fiscal year 2009-2010 reimbursement claim.<sup>127</sup>

Nevertheless, the claimant asserts that it simply made a “clerical error” by filing a multi-year claim and that the Controller should accept the 2010-2011 reimbursement claim, filed January 2012, which included documentation supporting the costs actually incurred in fiscal year 2009-2010, as a late-filed but timely 2009-2010 reimbursement claim. The claimant equates its “clerical error” with the mathematical error in the *Firefighter Cancer Presumption*, 09-4081-I-01 IRC.

However, the facts in this IRC are distinguishable from the facts in *Firefighter Cancer Presumption*, 09-4081-I-01, and the claimant’s reliance on that Proposed Decision is misplaced. In *Firefighter Cancer Presumption*, 09-4081-I-01, the claimant timely filed a reimbursement claim for fiscal year 2003-2004, but erroneously failed to include \$516,132 in costs on the FAM-27 claim form, even though that \$516,132 was listed on the Form FCP-2.1 attached to the FAM-27. In adding together the costs identified on the attached Form FCP-2.1, the claimant made a mathematical error and obtained a bottom-line total that was \$516,132 less than the actual sum of all of the Total Benefit Payments. The claimant then transferred the error to the Direct Costs schedule at the end of Form FCP-2.1 and to the reimbursement claim Form FAM-27.<sup>128</sup> While the audit report was still in draft form, the Controller declined the claimant’s request to correct the mathematical error on the reimbursement claim form, even though the Controller agreed that the reimbursement amount requested on the face of the claim was inaccurate and incomplete due to the claimant’s arithmetic error, and that the claimant had submitted correct and complete documentation appended to the claim.<sup>129</sup> A Draft Proposed Decision and Proposed Decision were issued finding for the claimant, but the claimant withdrew the IRC before the Commission

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<sup>126</sup> Emphasis added. Government Code section 17568 was last amended by Statutes 2007-2008, 3d Ex. Sess., chapter 6, effective February 16, 2008.

<sup>127</sup> Exhibit B, Controller’s Comments on the IRC, page 8.

<sup>128</sup> Commission on State Mandates, Proposed Decision, *Firefighter Cancer Presumption*, 09-4081-I-01, issued May 11, 2016, <https://csm.ca.gov/matters/09-4081-I-01/doc12.pdf>, pages 15 and 16.

<sup>129</sup> Commission on State Mandates, Proposed Decision, *Firefighter Cancer Presumption*, 09-4081-I-01, issued May 11, 2016, <https://csm.ca.gov/matters/09-4081-I-01/doc12.pdf>, pages 16, 21, 24.



hearing. Thus, there is no adopted decision in *Firefighter Cancer Presumption*, 09-4081-I-01, but the Proposed Decision included the following proposed findings:

- The Controller did not dispute that the claimant timely filed its fiscal year 2003-2004 claim, and that, at the time of the filing, the claimant’s Form FCP-2.1 contained a four-page listing of all of the relevant disability benefit costs used to calculate the claimant’s reimbursement. The claimant did not attempt to add new or late-filed data. Consequently, the claim for reimbursement of 2003-2004 costs—which included the disputed \$516,132 in disability benefit costs — was timely filed under Section 17560(b).<sup>130</sup>
- Government Code section 17558.5(a) expressly refers to a claimant’s ability to “amend” a reimbursement claim. However, the Government Code does not address the specific question of when the Controller may lawfully deny leave to amend. And the Controller did not promulgate regulations on the topic.<sup>131</sup>
- Therefore, by analogy, the claimant’s request to correct the mathematical error in a timely-filed reimbursement claim is the functional equivalent of a party to a civil action requesting leave to amend a pleading. Pursuant to Code of Civil Procedure section 473(a)(1), the court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading to correct an inadvertent mistake.<sup>132</sup>
- Based on evidence in the record and applying the standard in Code of Civil Procedure section 473(a)(1), the Proposed Decision found that the Controller’s refusal to consider the evidence included in the original claim filing was incorrect as a matter of law and arbitrary, capricious, and entirely lacking in evidentiary support. The claimant’s reimbursement claim contained the relevant evidence; the claimant was not adding to or increasing its claim, but was merely correcting a mathematical error; and the Controller was not misled or prejudiced by the mistake. The proposed decision recommended that the Commission approve the IRC.<sup>133</sup>

Unlike the facts in *Firefighter Cancer Presumption*, 09-4081-I-01, a reimbursement claim for fiscal year 2009-2010 costs was never filed in this case and thus there is nothing to amend. The claimant filed a reimbursement claim for fiscal year 2010-2011 requesting reimbursement for the

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<sup>130</sup> Commission on State Mandates, Proposed Decision, *Firefighter Cancer Presumption*, 09-4081-I-01, issued May 11, 2016, <https://csm.ca.gov/matters/09-4081-I-01/doc12.pdf>, pages 21, 27.

<sup>131</sup> Commission on State Mandates, Proposed Decision, *Firefighter Cancer Presumption*, 09-4081-I-01, issued May 11, 2016, <https://csm.ca.gov/matters/09-4081-I-01/doc12.pdf>, page 23.

<sup>132</sup> Commission on State Mandates, Proposed Decision, *Firefighter Cancer Presumption*, 09-4081-I-01, issued May 11, 2016, <https://csm.ca.gov/matters/09-4081-I-01/doc12.pdf>, pages 22-23.

<sup>133</sup> Commission on State Mandates, Proposed Decision, *Firefighter Cancer Presumption*, 09-4081-I-01, issued May 11, 2016, <https://csm.ca.gov/matters/09-4081-I-01/doc12.pdf>, pages 9, 23-25, 33.



claimant's payment of contracted legal services related to the program.<sup>134</sup> The cover sheet and each page of the claim form (FAM-27) indicates that the claim is for fiscal year 2010-2011.<sup>135</sup> The reimbursement claim form states that "Liebert Cassidy Whitmore (Contract Attorney) Responded to several PERB matters," and \$229,627 was claimed for those costs.<sup>136</sup> The reimbursement claim form was signed under penalty of perjury by the claimant's Finance Division Manager, and identified "Annette S. Chinn (CRS)" as the contact person for the claim.<sup>137</sup> Attached to the reimbursement claim are invoices from Liebert Cassidy Whitmore showing costs incurred for legal services in fiscal years 2009-2010, 2010-2011, and 2011-2012, totaling \$229,627.<sup>138</sup> As stated above, the Government Code does not allow filing multi-year annual reimbursement claims, and has always placed the burden on the claimant to file annual reimbursement claims by the statutory deadline for costs incurred in a single fiscal year.<sup>139</sup> Thus, the only reimbursement claim filed was for fiscal year 2010-2011, and as stated above, the costs incurred in other fiscal years were correctly reduced by the Controller based on the documentation of actual costs incurred in that fiscal year.

Moreover, the claimant alleges that a "clerical error" occurred in its multi-year filing, and on this basis, asks the Commission to reverse the Controller's decision denying the claimant's request to accept the claimant's filing as a late 2009-2010 reimbursement claim. This request is similar to a request made under Code of Civil Procedure section 473(b), which allows relief from an order taken against a party as a result of a clerical error. The claimant, however, provides no evidence of a "clerical error." Each page of the FAM-27 is distinctly marked as a "2010-2011" fiscal year claim, and is signed under penalty of perjury.<sup>140</sup> Although the claim form itself provides no indication that the claimant was filing a multi-year claim, the 67 pages of invoices attached to the claim form, which the Controller would not have found until the claim was reviewed, shows that the claim was for multiple years. The claimant's IRC states that "[a]t the time [when it filed the 2010-2011 claim], the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible."<sup>141</sup> Thus, the record indicates that the claimant purposely claimed costs for fiscal year 2009-2010 in the 2010-2011 reimbursement claim, but the claimant's "error" was in its incorrect interpretation of the law that a multi-year filing would

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<sup>134</sup> Exhibit A, IRC, pages 50-120 (2010-2011 reimbursement claim).

<sup>135</sup> Exhibit A, IRC, pages 50-52 (2010-2011 reimbursement claim).

<sup>136</sup> Exhibit A, IRC, pages 50, 52 (2010-2011 reimbursement claim).

<sup>137</sup> Exhibit A, IRC, page 50 (2010-2011 reimbursement claim).

<sup>138</sup> Exhibit A, IRC, pages 53-70 (Invoices from Liebert Cassidy Whitmore for legal services provided in fiscal year 2009-2010, totaling \$50,459); pages 71-111 (Invoices from Liebert Cassidy Whitmore for legal services provided in fiscal year 2010-2011, totaling \$147,355.29); and pages 112-120 (Invoices from Liebert Cassidy Whitmore for legal services provided in fiscal year 2011-2012, totaling \$31,812.65). Exhibit B, Controller's Comments on the IRC, pages 22-24 (Controller's Summary of Invoices Included in FY 2010-11 Claim).

<sup>139</sup> Government Code section 17560.

<sup>140</sup> Exhibit A, IRC, pages 50-52.

<sup>141</sup> Exhibit A, IRC, page 5.



be acceptable. The courts, however, have made it clear that “clerical errors” alleged under Code of Civil Procedure section 473(b) and subject to correction do *not* include those made because of a failure to correctly interpret the law or apply the facts.<sup>142</sup>

In addition, the courts have held that Code of Civil Procedure section 473 cannot be used to deem a claim as timely filed when it was not, even when notice is timely provided that a claim would be filed. For example, in *Nathanson v. Superior Court* (1974) 12 Cal.3d 355, the California Supreme Court considered a case in probate, where the petitioner (the former wife and daughter of the decedent) filed a creditor’s claim against the estate two weeks *after* the expiration of the statutory period for presenting a claim. The creditor’s claim requested \$82,000 for child support and for the alleged failure by the decedent to maintain a life insurance policy. Beneath the description of the amount requested in the claim, the petitioner wrote: “For further particulars, reference is hereby made to the verified petition of Zita Nathanson for family allowance before inventory filed on or about October 3, 1972.”<sup>143</sup> This quoted language referred to a petition previously filed in the probate proceedings on October 3, 1972, requesting a monthly family allowance from the date of the decedent’s death until the filing of an inventory, which alleged that the creditor’s claims “anticipated to be filed” against the estate consist of unpaid child support and a claim for the alleged failure of the decedent to maintain a life insurance policy in the same amount as presented in the later-filed claim. After the creditor’s claim was rejected as late, the petitioner filed a request for an order authorizing filing a late claim based on Code of Civil Procedure section 473, alleging that “through mistake and inadvertence petitioner’s claim was not regularly filed with this court in proper form within the statutory four month period for presenting claims,” but that notice of her claim had been given to the estate within the claim presentation period when she filed her petition on October 3, 1972. Petitioner therefore requested that the claim be deemed filed since the estate had actual notice of the claim sufficient to give the court jurisdiction. The court denied the request on the following grounds: (1) the probate statute stated that all claims must be filed within the time limited in the notice or be “barred forever”; (2) mere notice of the claim on the part of the estate does not constitute a sufficient filing of a claim; (3) the executor or administrator of the estate has a fiduciary relationship to all parties having an interest in the estate and is required to protect the estate against the collection of a claim that is not filed or presented as required by statute; (4) under Code of Civil Procedure section 473, a creditor’s claim that has been properly filed can be amended or corrected after the expiration of the statutory deadline, but implicit in this rule is that the creditor’s claim has been timely filed or presented in the first place; and (5) “mere notice to the estate, in the sense of imparting knowledge of the underlying debt to the representative, does not constitute a sufficient claim or demand which can be the basis of an amendment.”<sup>144</sup>

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<sup>142</sup> *In re Eckstrom’s Estate* (1960) 54 Cal.2d 540, 545; see also, *Tokio Marine & Fire Ins. Co. v. Western Pacific Roofing Co.* (1999) 75 Cal.App.4th 110, 117 [When correcting a judgment because of a mistake or inadvertence, the court stated that “The test which distinguishes clerical error from possible judicial error is simply whether the challenged portion of the judgment was entered inadvertently (which is clerical error) versus advertently (which might be judicial error, but is not clerical error)”].

<sup>143</sup> *Nathanson v. Superior Court* (1974) 12 Cal.3d 355, 359.

<sup>144</sup> *Nathanson v. Superior Court* (1974) 12 Cal.3d 355, 364-367, 369-370.



These grounds apply here. Even if the Controller had actual notice that the claimant's 2010-2011 reimbursement claim included a request for reimbursement of 2009-2010 costs, the court in *Nathanson* held that mere notice does not constitute a sufficiently-filed reimbursement claim. The plain language of Government Code 17560 requires the claimant to file an annual reimbursement claim by the statutory deadline for costs incurred in a single fiscal year. The claimant never filed a reimbursement claim for fiscal year 2009-2010. Moreover, neither the Commission, nor the Controller, have the authority to allow filing a 2009-2010 reimbursement claim after the deadline in Government Code section 17568, which states that "*in no case*" shall a reimbursement claim be paid that is submitted more than one year after the deadline in Government Code section 17560. The deadline in this case to file a 2009-2010 reimbursement claim under section 17568 expired on February 15, 2012.<sup>145</sup>

Therefore, the Controller's reduction of \$50,459 (less an undisputed 10 percent penalty) from the fiscal year 2010-2011 claim is correct as a matter of law and not arbitrary, capricious or entirely lacking in evidentiary support because the documentation provided with the claim does not support that those costs were incurred in fiscal year 2010-2011, as required by Government Code section 17560 and the Parameters and Guidelines and there is no evidence of a clerical error that could be subject to correction.

## **V. Conclusion**

Based on the forgoing analysis, the Commission concludes that the Controller's reduction is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. The Commission denies this IRC.

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<sup>145</sup> Government Code section 17560(a) states that "[a] local agency or school district may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year. Government Code section 17568 allows a valid reimbursement claim to be submitted after that deadline, and in such cases, the Controller is required to reduce the claim by ten percent. Section 17568 further states, however, that "*in no case* shall a reimbursement claim be paid that is submitted more than one year after the deadline in Government Code section 17560."



## **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 June 30, 2020, I served the:

- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued June 30, 2020**

*Local Government Employee Relations*, 17-0130-I-01

Government Code Sections 3502.5 and 3508.5: Statutes 2000, Chapter 901 (SB 739); California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150, 32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210, 32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030, 60050, 60070; Register 2001, Number 49.

Fiscal Year: 2010-2011

City of Monrovia, 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 June 30, 2020 at Sacramento, California.



Jill L. Magee

Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 6/24/20

**Claim Number:** 17-0130-I-01

**Matter:** Local Government Employee Relations

**Claimant:** City of Monrovia

### 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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July 20, 2020

**RECEIVED**  
July 21, 2020  
Commission on  
State Mandates

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

**Response to Draft Proposed Decision, Local Government Employee Relations, 17-0130-I-01**

Dear Ms. Halsey,

The City of Monrovia has reviewed the Draft Proposed Decision, dated June 30, 2020, and respectfully submits this response. I have personal knowledge of the matters set forth in this letter, and if called to testify, could and would testify competently.

We wish to clarify the wording of our statement in the IRC: "At the time [when it filed the 2010-11 claim], the City had inadvertently filed the multi-year claim and did not realize it would cause the claim to be ineligible."

The draft staff analysis suggests that the City's error was done advertently due to its incorrect interpretation of the law or rules regarding the submission of multiple years of costs in one claim. This was not the case, and we apologize for the ambiguity in the IRC wording. Both the City and consultant have been preparing and submitting these State Mandate Reimbursement claims for many years and we were aware that only one fiscal year of costs should have been submitted per claim. However, the mistake was an inadvertent one. The consultant believed that the data provided to them by the City was only for FY 2010-11 and not for 3 years of costs. Thus, the consultant believed all invoices and costs were for the current year (FY 2010-11) and inadvertently included them all into one claim, and not two separate submissions, as should have been done (one for FY 2009-10 and one for 2010-11).

We are not sure if these circumstances constitute a "clerical" error by legal definition— but it was an honest, inadvertent mistake. It was not due to failure to correctly interpret the law or understand the claiming instructions, as the Draft Decision suggests. We knew that separate forms should have been




filed by fiscal year of costs. It was our error that invoices were from multiple fiscal years. We realize that this was a mistake on our part, but again, wish to emphasize that the costs submitted were timely filed, eligible, and properly supported actual costs. The only error we made was that we did not separate the invoices by fiscal year into two separate claim forms.

The example of the Nathanson v. Supreme Court case, alleging that "through mistake and inadvertence, petitioner's claim was not regularly filed with this court in proper form within the statutory four month period" would perhaps find differently in our case, as the costs submitted were timely filed, eligible and properly documented costs with all detailed invoices attached to the claim, thus were not a mere notice, but fully complete with the exception of having a separate FAM-27 claim cover form for FY 2009-10 invoices.

We appreciate your consideration and request this clerical correction to be made and allowance of our timely filed and fully documented eligible costs be reimbursed. I am available to answer any questions at (626) 932-5513.

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

Sincerely,



Buffy Bullis  
Administrative Services Director  
[bbullis@ci.monrovia.ca.us](mailto:bbullis@ci.monrovia.ca.us)  
(626) 932-5513



## **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 July 22, 2020, I served the:

- **Claimant's Comments on the Draft Proposed Decision filed July 21, 2020**

*Local Government Employee Relations*, 17-0130-I-01

Government Code Sections 3502.5 and 3508.5: Statutes 2000, Chapter 901 (SB 739);  
California Code of Regulations, Title 8, Sections 32132, 32135, 32140, 32149, 32150,  
32160, 32168, 32170, 32175, 32176, 32180, 32190, 32205, 32206, 32207, 32209, 32210,  
32212, 32310, 32315, 32375, 32455, 32620, 32644, 32649, 32680, 32980, 60010, 60030,  
60050, 60070; Register 2001, Number 49.

Fiscal Year: 2010-2011

City of Monrovia, 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 July 22, 2020 at Sacramento, California.



Jill L. Magee  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562



# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 7/22/20

**Claim Number:** 17-0130-I-01

**Matter:** Local Government Employee Relations

**Claimant:** City of Monrovia

### 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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**Claimant Representative**

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## Exhibit E

May 11, 2016

Mr. Steven Presberg  
Senior Personnel Analyst  
City of Los Angeles  
700 East Temple Street, Room 210  
Los Angeles, CA 90012

Ms. Jill Kanemasu  
State Controller's Office  
Accounting and Reporting  
3301 C Street, Suite 700  
Sacramento, CA 95816

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

Re: **Proposed Decision**  
*Firefighter's Cancer Presumption*, 09-4081-I-01  
Labor Code Section 3212.1  
Statutes 1982, Chapter 1568  
Fiscal Year: 2003-2004  
City of Los Angeles, Claimant

Dear Mr. Presberg and Ms. Kanemasu:

The proposed decision for the above-named matter is enclosed for your review.

### Hearing

This matter is set for hearing on **Thursday, May 26, 2016**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

### Special Accommodations

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

Sincerely,

Heather Halsey  
Executive Director



**ITEM 3**  
**INCORRECT REDUCTION CLAIM**  
**PROPOSED DECISION**

Labor Code Section 3212.1

Statutes 1982, Chapter 1568

*Firefighter's Cancer Presumption*

Fiscal Year 2003-2004

09-4081-I-01

City of Los Angeles, Claimant

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**EXECUTIVE SUMMARY**

**Overview**

This incorrect reduction claim (IRC) challenges a reduction made by the State Controller's Office (Controller) to a reimbursement claim filed by the City of Los Angeles (claimant) for fiscal year 2003-2004 under the *Firefighter's Cancer Presumption* program. Following the audit, the Controller, as a result of a mathematical error on one of the claim forms filed, deemed \$516,132 "unclaimed." Due to this program's 50 percent reimbursement formula, this resulted in a reduction of the reimbursement claimed by a presumptive \$258,066.

For the reasons discussed in this analysis, staff finds that the Controller's reduction is incorrect as a matter of law, and is arbitrary, capricious, and entirely lacking in evidentiary support.

**The Firefighter's Cancer Presumption Program**

In 1982, the Legislature enacted legislation to allow firefighters, under certain circumstances, to claim workers' compensation for cancers which developed or manifested during or (for a limited period of time) after their service.<sup>1</sup> The act added an additional definition of "injury" to the Labor Code that "includes cancer which develops or manifests itself" during a period in which the person was an active firefighting member of a fire department or unit. Provided that the member could demonstrate that he or she was exposed to a known carcinogen while in service and provided that the carcinogen is "reasonably linked to the disabling cancer," then the member, pursuant to Labor Code section 3212.1, became entitled to a rebuttable presumption during workers' compensation proceedings that the cancer arose out of and in the course of the firefighting.

On February 23, 1984, the Board of Control, predecessor to the Commission on State Mandates (Commission), approved the *Firefighter's Cancer Presumption*, CSM-4081 test claim. On October 24, 1985, the Commission adopted parameters and guidelines for the *Firefighter's*

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<sup>1</sup> Statutes 1982, chapter 1568, adding Labor Code section 3212.1.



*Cancer Presumption* program, and amended the parameters and guidelines on March 26, 1987.<sup>2</sup> The amended parameters and guidelines state, in relevant part, that the State of California shall reimburse 50 percent of the actual costs incurred by a local agency for workers' compensation claims that are subject to the *Firefighter's Cancer Presumption*. For a self-insured local agency, the reimbursable costs are 50 percent of "All actual costs," including administrative costs (such as staff costs and overhead costs) and benefit costs (such as "All medical expenses" and "All compensation benefits" (e.g., permanent disability benefits, life pension benefits, and death benefits)). The parties do not dispute that the provisions of the amended parameters and guidelines referring to self-insured local agencies are the provisions which apply to the City of Los Angeles and its claim.

#### The Controller's Audit and Reduction of Costs

The facts are not in dispute in this case. In adding together all of the costs identified on Form FCP-2.1, the claimant made an arithmetic error and obtained a bottom-line total that was \$516,132 less than the actual sum of all of the Total Benefit Payments.<sup>3</sup> Having made an error in computing the sum of all firefighters' Total Benefit Payments on Form FCP-2.1, the claimant transferred the error to the Direct Costs schedule at the end of Form FCP-1.2<sup>4</sup> and to the reimbursement claim made on Form FAM-27.<sup>5</sup>

There is no dispute that \$516,132 in disability benefit costs were identified by the claimant on its Form FCP-2.1 and that the claimant filed the Form FCP-2.1 simultaneously with its reimbursement claim on January 10, 2005, as required by the claiming instructions.<sup>6</sup> There is no dispute that the Controller deemed the \$516,132 in disability benefit costs to be "unclaimed costs" which were not used to calculate the claimant's reimbursement.<sup>7</sup>

The record also indicates that the mathematical error on Form FCP-2.1 was first noticed by the Controller and summarized in its July 17, 2009 draft audit report<sup>8</sup> and that, on August 6, 2009, the claimant objected in writing to the Controller's decision to deem the \$516,132 in disability benefit costs to be "unclaimed costs."<sup>9</sup> In the letter, the claimant requested that the Controller process the Form FAM-27 as if the numbers on the form had been corrected to include the \$516,132 which the claimant had mistakenly omitted.<sup>10</sup> The Controller denied the request.

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<sup>2</sup> Exhibit B, Controller's Late Comments on IRC, pages 14-17.

<sup>3</sup> Exhibit A, IRC, pages 3, 40-43.

<sup>4</sup> Exhibit A, IRC, page 39.

<sup>5</sup> Exhibit A, IRC, page 43.

<sup>6</sup> Exhibit A, IRC, page 19.

<sup>7</sup> Exhibit A, IRC, page 19.

<sup>8</sup> Exhibit A, IRC, page 16, 19, 22-23.

<sup>9</sup> Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

<sup>10</sup> Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)



## **Procedural History**

The claimant signed and submitted the reimbursement claim for fiscal year 2003-2004 on January 10, 2005. The Controller commenced the audit of the reimbursement claim on June 9, 2008. The Controller provided the draft audit report to the claimant on June 17, 2009. The claimant sent a letter on August 6, 2009, objecting to the Controller's draft audit report. The Controller issued the final audit report on September 4, 2009. The claimant filed IRC 09-4081-I-01 on January 14, 2010. Commission staff deemed this IRC complete on January 26, 2010. The Controller filed late comments on the IRC on December 12, 2014. The claimant filed rebuttal comments on January 12, 2015.

Commission staff issued the Draft Proposed Decision<sup>11</sup> on March 18, 2016. No comments were filed on the Draft Proposed Decision.

## **Commission Responsibilities**

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the Controller determines is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs that were incorrectly reduced be reinstated.

The Commission must review questions of law, including interpretation of parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>12</sup> The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."<sup>13</sup>

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by courts when reviewing an alleged abuse of discretion by a state agency.<sup>14</sup>

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<sup>11</sup> Exhibit D, Draft Proposed Decision.

<sup>12</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

<sup>13</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>14</sup> *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984; *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.



The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.<sup>15</sup> In addition, sections 1185.1(f)(3) and 1185.2(c) of the Commission's regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>16</sup>

### **Claims**

The following chart provides a brief summary of the claims and issues raised and staff's recommendation:

<b>Issue</b>	<b>Description</b>	<b>Staff Recommendation</b>
Reduction of costs due to the Controller's decision to deem \$516,132 in total disability costs as "unclaimed costs." The \$516,132 was listed in the line items of the claimant's Form FCP-2.1, but, due to an arithmetic error, the amount was not transferred to the claimant's Form FAM-27, and therefore did not appear on the face of the reimbursement claim.	The Controller argues that it acted within its authority because, by the time that the claimant served its protest letter dated August 6, 2009, the claimant's statutory time limit in Government Code sections 17560 and 17568 to amend a claim had expired.	<i>Incorrect</i> – The Controller's decision to deem \$516,132 in disability benefit costs to be "unclaimed costs" is incorrect as a matter of law, and is arbitrary, capricious, and entirely lacking in evidentiary support. The claimant promptly requested leave to correct the arithmetic error or to conform the claim to the proof which had been attached and submitted with the reimbursement claim when it was originally filed. The Controller had no statutory or regulatory basis upon which to deny the claimant's request.

### **Staff Analysis**

- A. The Controller's decision to deem \$516,132 in disability benefit costs to be "unclaimed costs" is arbitrary, capricious, or entirely lacking in evidentiary support.**

<sup>15</sup> *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

<sup>16</sup> 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.



The dispositive issue before the Commission is whether or not, on the facts of this record, the Controller acted within its legal authority by deeming total disability benefit costs of \$516,132 identified on Form FCP-2.1 as “unclaimed costs,” resulting in a reduction of costs to the claimant.

The claimant’s request that the Controller process the Form FAM-27 as if the numbers on the form had been corrected to include the \$516,132 which the claimant had mistakenly omitted was functionally a request to amend the Form FAM-27 to correct a mistake or to conform to the proof contained in the line items of the attached Form FCP-2.1. Government Code section 17558.5(a) refers to the fact that a reimbursement claim can be “amended,” but no statute or administrative regulation delineates the Controller’s authority to grant leave for a claimant to amend a claim. Lacking directly controlling legal authority to apply to this situation, the Commission should reason by analogy and apply the law which governs the Superior Court when a plaintiff requests leave to amend a complaint.

“The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of the party, *or a mistake in any other respect*,” Code of Civil Procedure section 473(a)(1) states in relevant part. (Emphasis added.) A court may also, under appropriate circumstances, grant a motion to amend a pleading to conform to proof.<sup>17</sup> A court may grant a motion to amend before or during trial.<sup>18</sup> And, under the law, the amended claim that corrects a mistake relates back to the claim’s original filing date for statute of limitations purposes.<sup>19</sup> Motions to amend are to be granted with great liberality; it is an abuse of discretion for a court to deny a motion for leave to amend in the absence of demonstrated prejudice to the other parties.<sup>20</sup>

Under the laws governing motions for leave to amend, the Controller’s actions toward the claimant constituted an abuse of discretion. Nowhere in the record did the Controller identify how it or any another person would be prejudiced by allowing the claimant to amend its claim. The claimant did not engage in unwarranted delay; rather, the claimant objected to the Controller’s draft audit within 20 calendar days of receipt. The claimant did not alter its theory of the case late in the proceedings; rather, the claimant’s theory of reimbursement never varied. The claimant was not seeking to submit new evidence; the line items of claimant’s Form FCP-2.1 contained the relevant evidence. The claimant was not adding to or increasing its claim; it was merely seeking to have the Controller treat the claim as if the information contained in Form FAM-27 had been accurately calculated. The Controller was not misled; during the course of its audit, the Controller recognized the omitted \$516,132 for the arithmetic error it was. The Controller did not challenge the veracity of the line items listed on the claimant’s Form FCP-2.1.

Accordingly, staff finds that the Controller’s decision to deem \$516,132 in disability benefit costs specifically identified on Form FCP-2.1 as “unclaimed” — when, in fact, the costs were claimed but accidentally omitted from the claim cover sheet — was arbitrary, capricious, and

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<sup>17</sup> Code of Civil Procedure section 469.

<sup>18</sup> Code of Civil Procedure section 576.

<sup>19</sup> *Smeltzley v. Nicholson Mfg. Co.* (1977) 18 Cal.3d 932, 934.

<sup>20</sup> *Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 761.



entirely lacking in evidentiary support.<sup>21</sup> Under the law, the correction of the mistake relates back to the claim's original filing date of January 10, 2005 and is timely.

**B. The Controller's position that Government Code sections 17560 and 17568 bar the claimant from correcting the claim is incorrect as a matter of law.**

The Controller takes the position that Government Code sections 17560 and 17568 authorized the Controller's refusal to grant leave to the claimant to amend its reimbursement claim. "It is the city's responsibility to ensure that it files accurate mandated cost claims within the statutory time allowed. Government Code section 17568 states, 'In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in [Government Code] section 17560.' The city did not amend its FY 2003-04 mandated cost claim within the statutory timeframe permitted."<sup>22</sup>

The claimant's counter-argument reads, "The city did not need to 'amend' its claim, inasmuch as each and every dollar pertaining to it was in fact submitted in full detail. While SCO obliquely refers to 'mathematical errors on a supporting schedule' this very supporting schedule — in fact submitted and audited by them — provides all of the details of the claims."<sup>23</sup>

Staff finds that Government Code sections 17560 and 17568 do not support the Controller's position that the claimant no longer had the ability to correct the claim. Government Code section 17560(b) requires a claimant to "file" a claim by a certain deadline; Section 17568 authorizes the Controller to reduce (up to a specified cap) a claim which a claimant "submits" up to one year late; and Section 17568 prohibits the Controller from paying any claim which was "submitted" more than one year late.

The Controller does not dispute the fact that the claimant filed its claim on January 10, 2005, and that, at the time of the filing, the claimant's Form FCP-2.1 contained a four-page listing of all of the relevant disability benefit costs which, by this IRC, the claimant is requesting be included in the total used to calculate the claimant's reimbursement. Claimant was not and is not attempting to add new or late-filed data. Consequently, the claimant's request for reimbursement — a claim which listed the \$516,132 in disability benefit costs — was timely filed under Section 17560(b).

In addition, both Government Code section 17560(b) and section 17568 are silent regarding a claimant's ability to amend a previously and timely filed claim. The Controller has not adopted regulations on point. Therefore, as explained above, the law regarding amendments of pleadings to correct a mistake or to conform to proof is applied, and, under that body of law, the Controller's actions constituted an abuse of discretion. Neither Government Code section 17560(b) nor 17568 alters that result.<sup>24</sup>

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<sup>21</sup> Since the Commission's ruling regarding the Controller's refusal to grant leave to the claimant to amend its claim disposes of this IRC, the Commission declines to address the other arguments proffered by the parties.

<sup>22</sup> Exhibit A, IRC, page 21. See also Exhibit B, Controller's Late Comments on IRC, pages 10, 11 [similar language].

<sup>23</sup> Exhibit C, Claimant's Rebuttal Comments, page 3.

<sup>24</sup> Alternatively, an amendment of the Form FAM-27 would relate back to the claim's original filing date for statute of limitations purposes — an outcome unaffected by Government Code



Accordingly, staff finds that Government Code sections 17560 and 17568 do not support the Controller's position that the claimant no longer had the ability to correct the claim.

**C. A line of Court of Appeal decisions upholding the authority of the Medi-Cal program to refuse to allow the amendment of reimbursement claims is not applicable to this IRC.**

A line of published Court of Appeal decisions held that the formerly named Department of Health Services (Department) acted within its authority in declining to allow the amendment of erroneous reimbursement claims submitted under the Medi-Cal program. However, as explained below, these cases are not applicable to this IRC.

In *Mission Community Hospital v. Kizer*, and *Kaiser Foundation Hospitals v. Belshe*, the claimants were attempting to add new and additional claims or information to their cost reports;<sup>25</sup> *Coastal Community Hospital v. Belshe* does not specify the nature of the claimant's error but, based on language in the opinion, the claimant was also attempting to add new and additional claims or information.<sup>26</sup> In contrast, the claimant in this IRC had submitted all relevant costs in its Form FCP-2.1 and was merely attempting to correct the face of its Form FAM-27; the claimant in this IRC was not attempting to add new or additional claims or information.

The Medi-Cal program does not reimburse a claimant for its actual costs. Rather, following a federal revision of the program in 1980 and 1981, a claimant is entitled to be reimbursed according to a formula "based upon the costs that would have been incurred by an efficient and economically operated facility, even if a provider's actual costs were greater."<sup>27</sup> While the actual costs contained in the cost reports are a factor in determining a Medi-Cal claimant's ultimate reimbursement, the cost reports are merely one part of the equation.<sup>28</sup> In contrast, a claimant incurring state-mandated expenses is entitled to a reimbursement of all actual costs mandated by the state, and the claimant's actual costs are the principal variable in the equation when the claimant is (like the claimant in this IRC) requesting reimbursement under an actual cost methodology.<sup>29</sup> While both the Medi-Cal program and the state mandate program involve claimants filing requests for reimbursement of expenses, the two programs are fundamentally

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sections 17560 and 17568. See *Smeltzley v. Nicholson Mfg. Co.* (1977) 18 Cal.3d 932, 934 ["California courts have established the rule that an amended complaint relates back to the filing of the original complaint, and thus avoids the bar of the statute of limitations, so long as recovery is sought in both pleadings on the same general set of facts."].

<sup>25</sup> *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1685-1686; *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556-1558.

<sup>26</sup> *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 395 ["inaccuracies in the cost reports which resulted in a lesser reimbursement"].

<sup>27</sup> *Robert F. Kennedy Medical Center v. Belshe* (1996) 13 Cal.4th 748, 752.

<sup>28</sup> *Robert F. Kennedy Medical Center v. Belshe* (1996) 13 Cal.4th 748, 757.

<sup>29</sup> Government Code section 17561(a) states that "[t]he state shall reimburse each local agency and school district for all 'costs mandated by the state[.]'" (Emphasis added.)



different in terms of the claimant's legal entitlement and the State's use of the submitted expense data.

Furthermore, claimants seeking reimbursement under Medi-Cal operate within a web of federal and state statutes and regulations which provide the claimants with notice of myriad substantive and procedural requirements — including deadlines to amend or correct claims. The *Mission Community Hospital* and *Kaiser Foundation Hospitals* courts based their decisions in part on the fact that the claimants had been placed on notice by a state regulation that the claimants could file amended cost reports with the Department any time before the final settlement of the cost reports.<sup>30</sup> In a decision involving a different aspect of the Medi-Cal program, claimants were placed on notice by a statute that the Department had the ability to correct mathematical or typographical errors.<sup>31</sup>

In sharp contrast, the Controller has not issued regulations regarding the procedure to be followed by claimants or by the Controller when mandate reimbursement claims are audited. Unlike *Mission Community Hospital* and *Kaiser Foundation Hospitals*, the claimant was not placed on notice by the Controller of a deadline by which to amend or correct its previously submitted claim.<sup>32</sup> In the absence of such a regulation, the Controller cannot take advantage of the reasoning in *Mission Community Hospital* and *Kaiser Foundation Hospitals*.

Finally, the *Kaiser Foundation Hospitals* court placed weight on the fact that Medi-Cal cost reports are required by statute to be certified as true and correct by the provider's executive officer<sup>33</sup> and, if unaudited within three years, are deemed to be true and correct.<sup>34</sup> Similarly, the claim in this IRC was certified under penalty of perjury to be true and correct,<sup>35</sup> and the Controller has a three-year window in which to audit mandate reimbursement claims.<sup>36</sup> A distinguishing difference is that, while the Department in *Kaiser Foundation Hospitals* did not conduct an audit, the Controller did. The certification of the data is a moot issue in this IRC, where the presumption of accuracy created by the certification was superseded by the evidence requested and reviewed by the Controller during its year-long field audit.<sup>37</sup> In addition, the *Kaiser Foundation Hospitals* claimants were attempting to add information; in the instant IRC,

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<sup>30</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560-1561.

<sup>31</sup> *Santa Ana Hospital Medical Center v. Belshe* (1997) 56 Cal.App.4th 819, 824. See also Welfare and Institutions Code section 14105.98(f)(5).

<sup>32</sup> As discussed above, the statutory deadline for a claimant to file a claim does not constitute a limitation on a claimant's ability to seek to amend a claim.

<sup>33</sup> Welfare and Institutions Code section 14107.4(c).

<sup>34</sup> Welfare and Institutions Code section 14170(a)(1).

<sup>35</sup> Exhibit A, IRC, page 34.

<sup>36</sup> Government Code section 17558.5(a).

<sup>37</sup> See, e.g., *Rogers v. Interstate Transit Co.* (1931) 212 Cal. 36, 38 ["[I]t is well established in this state that a presumption in favor of a party is entirely dispelled by the testimony of the party himself or of his witnesses."]; *Coffey v. Shiimoto* (2015) 60 Cal. 4th 1198, 1210 ["[I]f evidence sufficient to negate the presumed fact is presented, the 'presumption disappears' (Citation.) and 'has no further effect' (Citation.) . . ."].



the claimant submitted all information at the time it submitted the claim. Finally, a verified pleading may also be amended.<sup>38</sup>

Thus, while a line of Court of Appeal decisions upholds the authority of the Department to reject amended cost reports, the decisions are not applicable to this IRC, which should be decided on the basis that, on this record, the Controller should have granted the claimant leave to amend its Form FAM-27.

### **Conclusion**

Staff finds that the Controller's decision to deem \$516,132 in disability benefit costs as "unclaimed" is incorrect as a matter of law and is arbitrary, capricious, and entirely lacking in evidentiary support.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed decision approving the IRC and, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, request that the Controller reinstate the costs incorrectly reduced, and authorize staff to make any technical, non-substantive changes following the hearing.

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<sup>38</sup> *Macomber v. State of California* (1967) 250 Cal.App.2d 391, 399.



BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM  
ON:

Labor Code Section 3212.1

Statutes 1982, Chapter 1568

Fiscal Year 2003-2004

City of Los Angeles, Claimant

Case No.: 09-4081-I-01

*Firefighter's Cancer Presumption*

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

*(Adopted May 26, 2016)*

**DECISION**

The Commission on State Mandates (Commission) heard and decided this incorrect reduction claim (IRC) during a regularly scheduled hearing on May 26, 2016. [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 section 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed decision to [approve/partially approve/deny] this IRC by a vote of [vote count will be included in the adopted decision] as follows:

Member	Vote
Ken Alex, Director of the Office of Planning and Research	
Richard Chivaro, Representative of the State Controller	
Mark Hariri, Representative of the State Treasurer, Vice Chairperson	
Sarah Olsen, Public Member	
Eraina Ortega, Representative of the Director of the Department of Finance, Chairperson	
Carmen Ramirez, City Council Member	
Don Saylor, County Supervisor	

**Summary of the Findings**

This IRC was filed by the City of Los Angeles (claimant) in response to an audit by the State Controller's Office (Controller) of the claimant's annual reimbursement claim under the *Firefighter's Cancer Presumption* program for fiscal year 2003-2004. Following the audit, as a result of a mathematical error on one of the claim forms filed, the Controller deemed \$516,132 "unclaimed." Due to this program's 50 percent reimbursement formula, this resulted in a reduction of reimbursement claimed by a presumptive \$258,066.



Specifically, the claimant submitted its reimbursement claim by filing Form FAM-27, which erroneously failed to include \$516,132 in costs even though that \$516,132 in costs was listed on the individual line items of the claimant's attached Form FCP-2.1. While the audit report was still in draft, the Controller declined the claimant's request to treat the Form FAM-27 as if the cost and reimbursement totals conformed to the attached proof. The Controller and the claimant concur that (1) the reimbursement amount requested on the face of the claim was inaccurate and incomplete due to an arithmetic error by the claimant and (2) the claimant had submitted correct and complete documentation appended to the claim.

The Commission finds that the Controller's decision to deem \$516,132 in disability benefit costs to be "unclaimed costs" is incorrect as a matter of law and is arbitrary, capricious, and entirely lacking in evidentiary support. The Controller had no statutory or regulatory basis upon which to deny the claimant's request. The Controller has not identified any cognizable prejudice which would have resulted if the Controller had treated the Form FAM-27 as if its cost and reimbursement totals had been accurately calculated. The Controller opted to disregard the evidence attached to the claim. The Commission further finds that Government Code sections 17560 and 17568 do not support the Controller's position that the claimant no longer had the ability to correct the claim, and that a line of Court of Appeal decisions upholding the authority of the Medi-Cal program to refuse to allow the amendment of reimbursement claims is not applicable to this IRC.

Accordingly, the Commission approves this IRC and requests the Controller to reinstate all costs incorrectly reduced.

## **I. Chronology**

01/10/2005 Claimant submitted the reimbursement claim for fiscal year 2003-2004.<sup>39</sup>  
06/09/2008 Controller commenced an audit of the reimbursement claim.<sup>40</sup>  
07/17/2009 Controller issued the draft audit report.<sup>41</sup>  
08/06/2009 Claimant sent a letter objecting to the Controller's draft audit report.<sup>42</sup>  
09/04/2009 Controller issued the final audit report.<sup>43</sup>  
01/14/2010 Claimant filed this IRC.<sup>44</sup>  
01/26/2010 Commission staff deemed the IRC complete and issued it for review and comment.

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<sup>39</sup> Exhibit A, IRC, page 34.

<sup>40</sup> Affidavit of Jim L. Spano, dated December 12, 2014, paragraph 7. (Exhibit B, Controller's Late Comments on IRC, page 5.)

<sup>41</sup> Exhibit A, IRC, page 16 ["We issued a draft audit report on July 17, 2009."].

<sup>42</sup> Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

<sup>43</sup> Exhibit A, IRC, page 12 [cover letter], pages 11-23 [final audit report].

<sup>44</sup> Exhibit A, IRC, page 1.



12/12/2014     Controller filed late comments on the IRC.<sup>45</sup>  
01/12/2015     Claimant filed rebuttal comments.<sup>46</sup>  
03/18/2016     Commission staff issued the Draft Proposed Decision.<sup>47</sup>

## **II.     Background**

### The Firefighter's Cancer Presumption Program

In 1982, the Legislature enacted legislation to allow firefighters, under certain circumstances, to claim workers' compensation for cancers which developed or manifested during or (for a limited period of time) after their service.<sup>48</sup> The act (which shall be referred to herein as the "Firefighter's Cancer Presumption" or the "Act"<sup>49</sup>) added an additional definition of "injury" to the Labor Code that "includes cancer which develops or manifests itself" during a period in which the person was an active firefighting member of a fire department or unit.<sup>50</sup> Provided that the member could demonstrate that he or she was exposed to a known carcinogen while in service and provided that the carcinogen is "reasonably linked to the disabling cancer," then the member, pursuant to Labor Code section 3212.1, became entitled to a rebuttable presumption during workers' compensation proceedings that the cancer arose out of and in the course of the firefighting.<sup>51</sup>

On February 23, 1984, the Board of Control, predecessor to the Commission, approved the *Firefighter's Cancer Presumption*, CSM-4081 test claim, finding that the statutes imposed a new program or higher level of service and increased costs mandated by the state within the meaning

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<sup>45</sup> Exhibit B, Controller's Late Comments on IRC. Note that pursuant to Government Code section 17553(d) "the Controller shall have no more than 90 days after the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the Commission." In this instance, due to the backlog of IRCs, the Controller's late comments have not delayed consideration of this item and thus, have been included in the analysis and decision. (See also California Code of Regulations, title 2, section 1181.10(b)(1)(A), providing that comments received at least 15 days before a Commission meeting shall be included in the Commission's meeting binders.)

<sup>46</sup> Exhibit C, Claimant's Rebuttal Comments.

<sup>47</sup> Exhibit D, Draft Proposed Decision.

<sup>48</sup> Statutes 1982, chapter 1568, adding Labor Code section 3212.1.

<sup>49</sup> Upon its chaptering in 1982, the Act did not have a name. A 1989 amendment added peace officers to the statute's coverage and was named the "Police Officer's Cancer Protection Act." Statutes 1989, chapter 1171, section 1. A 2010 amendment doubled the maximum length of time following a firefighter's termination of service — from 60 months to 120 months — during which the evidentiary presumption continued to apply; the 2010 amendment renamed the entirety of Labor Code section 3212.1 the "William Dallas Jones Cancer Presumption Act of 2010." (Statutes 2010, chapter 672, section 1.)

<sup>50</sup> Statutes 1982, chapter 1568, section 1.

<sup>51</sup> Statutes 1982, chapter 1568, section 1.



of article XIII B, section 6 of the California Constitution. On October 24, 1985, the Commission adopted parameters and guidelines for the *Firefighter's Cancer Presumption* program, and amended the parameters and guidelines on March 26, 1987.<sup>52</sup> The amended parameters and guidelines state, in relevant part, that the State of California shall reimburse 50 percent of the actual costs incurred by a local agency with regard to workers' compensation claims that are subject to the *Firefighter's Cancer Presumption*.<sup>53</sup> For a self-insured local agency, the reimbursable costs are 50 percent of "All actual costs," including administrative costs (such as staff costs and overhead costs) and benefit costs (such as "All medical expenses" and "All compensation benefits" (e.g., permanent disability benefits, life pension benefits and death benefits)).<sup>54</sup> The parties do not dispute that the provisions of the amended parameters and guidelines referring to self-insured local agencies are the provisions which apply to the City of Los Angeles and its claim.

In or about September 1997,<sup>55</sup> the Controller issued an updated Mandated Costs Manual, which included the claiming instructions for this program which detailed the process local agencies were required to follow to apply for reimbursement of costs associated with the *Firefighter's Cancer Presumption* program.<sup>56</sup> In accordance with the amended parameters and guidelines, 50 percent of the costs incurred are eligible for reimbursement and, with regard to self-insured local agencies, the actual costs were a combination of the administrative costs and the benefit costs.<sup>57</sup>

The Controller's claiming instructions specified the four forms which a self-insured claimant was required to submit:

- Form FCP-2.2 — on which the claimant was to detail its relevant administrative costs;
- Form FCP-2.1 — on which the claimant was to list the amount of disability benefit payments actually made to or on behalf of each affected firefighter;
- Form FCP-1.2 — on which the claimant was to re-state the totals on Form FCP-2.2 and Form FCP-2.1 in order to "summarize the increased disability and administrative costs incurred as a result of the mandate." Per the claiming instructions, "Only fifty percent (50%) of the increased costs derived from this form is carried forward to form FAM-27, line (13) for the Reimbursement Claim . . . ."; and
- Form FAM-27 — Per the claiming instructions, "This form contains a certification that must be signed by an authorized representative of the local agency. All applicable

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<sup>52</sup> Exhibit B, Controller's Late Comments on IRC, pages 14-17.

<sup>53</sup> Amended parameters and guidelines, section VII [claiming formula]. (Exhibit B, Controller's Late Comments on IRC, page 15.)

<sup>54</sup> Amended parameters and guidelines, section VIII(B) [reimbursable costs]. (Exhibit B, Controller's Late Comments on IRC, pages 15-17.)

<sup>55</sup> See Exhibit A, IRC, pages 5-10.

<sup>56</sup> Exhibit A, IRC, pages 5-10.

<sup>57</sup> Exhibit A, IRC, pages 6-7.



information from . . . FCP-1.2 must be brought forward to this form in order for the State Controller's Office to process the claim for payment."<sup>58</sup>

Data is entered and compiled on Form FCP-2.1 and Form FCP-2.2, and the totals of that data are transferred to Form FCP-1.2 (the claim summary) and Form FAM-27 (the claim itself).<sup>59</sup>

#### The Reimbursement Claim

On January 10, 2005, the claimant timely submitted to the Controller a reimbursement claim for fiscal year 2003-2004 costs.

On its Form FAM-27 (the claim form itself), the claimant entered the amount of money that it was claiming. With regard to the reimbursement for fiscal year 2003-2004, the claimant filled the following boxes with the following totals:

FCP-1.2, (4)(1)(d):	\$985,118.76	[disability benefit costs]
FCP-1.2, (04)(2)(d):	\$ 18,683.11	[administrative costs]
Total Claimed Amount:	\$501,913.45	
Net Claimed Amount:	\$501,913.45	
Due From State:	\$501,913.45 <sup>60</sup>	

The Form FAM-27 submitted by the claimant was certified under the authority and signature of General Manager Margaret M. Whelan. Ms. Whelan's signature appears directly underneath Form FAM-27's Certification of Claim, which reads in relevant part, "The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements."<sup>61</sup>

The Form FCP-1.2 submitted by the claimant contains the service information of 110 firefighters, followed by a one-page schedule titled Direct Costs.<sup>62</sup> The schedule contains, among other things, the following line items:

#### (04) Reimbursable Components

Disability Benefit Costs: \$985,118.76

Administrative Costs: \$18,683.11

(05) TOTAL DIRECT COSTS: \$1,003,826.90

...

(08) TOTAL DIRECT AND INDIRECT COSTS, SELF INSURED METHOD:  
\$1,003,826.90

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<sup>58</sup> Exhibit A, IRC, page 9.

<sup>59</sup> Exhibit A, IRC, page 8.

<sup>60</sup> Exhibit A, IRC, page 34.

<sup>61</sup> Exhibit A, IRC, page 34.

<sup>62</sup> Exhibit A, IRC, pages 35-38.



...

(11) TOTAL CLAIMED AMOUNT

(50% of (08) Total Direct and Indirect Costs): \$501,913.45<sup>63</sup>

The Form FCP-2.1 submitted by the claimant details the disability benefit costs for 111 firefighters.<sup>64</sup> For each firefighter, the claimant detailed the costs incurred with regard to that person in ten separate cost categories.<sup>65</sup> Then, in the right-most column of the spreadsheet, the claimant added together the ten categories to yield each firefighter's "Total Benefit Payments."<sup>66</sup>

At the bottom of Form FCP-2.1, the claimant added together the Total Benefit Payments of the 111 firefighters, yielding \$985,118.76.<sup>67</sup>

The claimant erred. The sum of the 111 firefighters' Total Benefits Payments was not \$985,118.76. The correct sum of the 111 firefighters' Total Benefit Payments was \$1,501,250.76. In adding together all of the costs on Form FCP-2.1, the claimant made an arithmetic error and obtained a bottom-line total that was \$516,132 less than the actual sum of all of the Total Benefit Payments.<sup>68</sup>

Having made an error in computing the sum of all firefighters' Total Benefit Payments on Form FCP-2.1, the claimant transferred the error to the Direct Costs schedule at the end of Form FCP-1.2 and to the reimbursement claim made on Form FAM-27. If the Total Benefit Payments on Form FCP-2.1 had been calculated correctly, the claimant argues, it would have certified total costs of \$1,519,933.87 and would have requested a 50 percent reimbursement totaling \$759,966.94.<sup>69</sup>

The claimant's exact arithmetic error is not obvious from the face of the record. The claimant has attached as Exhibit 1 to its IRC a spreadsheet which purports to identify the arithmetic error by shading the spreadsheet cells which it failed to include in the computation of Total Benefit Payments.<sup>70</sup> It is difficult to ascertain from the paper and electronic copies of the record precisely which spreadsheet cells are shaded; moreover, the claimant appears to have shaded

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<sup>63</sup> Exhibit A, IRC, page 39.

<sup>64</sup> Exhibit A, IRC, pages 40-43. While the claimant listed 110 firefighters on its Form FCP-1.2, the claimant listed 111 firefighters on its Form FCP-2.1.

<sup>65</sup> The ten categories are: Medical Expense, Temporary Disability Payment, Permanent Disability Payment, Award, IOD Benefits, Death Benefits, Legal Expense, Travel Expense, Photocopying Expense and Rehabilitation Expense. Accord, Labor Code section 3212.1(c) ("The compensation that is awarded for cancer shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.").

<sup>66</sup> Exhibit A, IRC, pages 40-43.

<sup>67</sup> Exhibit A, IRC, page 43.

<sup>68</sup> Exhibit A, IRC, page 43.

<sup>69</sup> Exhibit A, IRC, page 3.

<sup>70</sup> Exhibit C, Claimant's Rebuttal Comments, pages 7-9.



cells which are located at such disparate but non-random locations within the spreadsheet that it is difficult for the Commission to reconstruct how such an arithmetic error could have occurred.

However, for purposes of deciding the claimant's IRC, the exact provenance of the arithmetic error need not be determined. Throughout the record, both the claimant and the Controller repeatedly state or imply that:

- (1) the individual line items of the claimant's Form FCP-2.1, if added together accurately, would have read \$1,501,250.76;<sup>71</sup>
- (2) the bottom line total appearing on the claimant's Form FCP-2.1 read \$985,118.76;<sup>72</sup>
- (3) the claimant's bottom-line total of \$985,118.76 was inaccurate and was the result of an arithmetic error by the claimant;<sup>73</sup>
- (4) the claimant transferred the inaccurate total of \$985,118.76 to the Direct Costs schedule of Form FCP-1.2 and to the claiming portion of Form FAM-27;<sup>74</sup> and
- (5) the claimant requested, via the Direct Costs schedule of Form FCP-1.2 and the claiming portions of Form FAM-27, a reimbursement of \$501,913.45 based on an inaccurate cost total of \$1,003,826.90 when the claimant could have, if its arithmetic had been accurate, requested a reimbursement of \$759,966.94 based on an accurate cost total of \$1,519,933.87.<sup>75</sup>

The Commission utilizes these numbers in this Decision based upon the Commission's independent review of the record and because both the claimant and the Controller used and do not dispute these numbers.<sup>76</sup>

#### The Controller's Audit and Reduction of Costs

The Controller conducted a field audit of the City of Los Angeles' claim; the field audit commenced on June 9, 2008, and ended on June 19, 2009.<sup>77</sup>

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<sup>71</sup> Exhibit A, IRC, pages 19 [Controller admission], 40-43 [claimant admission].

<sup>72</sup> Exhibit A, IRC, page 43.

<sup>73</sup> Exhibit A, IRC, pages 19 [Controller admission], 22 [claimant admission].

<sup>74</sup> Exhibit A, IRC, pages 34, 39.

<sup>75</sup> Exhibit A, IRC, pages 19 [Controller admission], 40-43 [claimant admission].

<sup>76</sup> The bulk of the arithmetic error appears to be attributable to the claimant's omission of costs incurred in relation to a single firefighter. One particular firefighter referred to in the record incurred medical expenses and total benefit payments which were the highest, by a significant margin, of any firefighter in the claim. In Exhibit A to its Rebuttal Comments, the claimant conceded that it failed to include this firefighter's medical expenses (\$391,697.20) and death benefit (\$7,500) in the total at the bottom of Form FCP-2.1. (Exhibit C, Claimant's Rebuttal Comments, page 9.)

<sup>77</sup> Affidavit of Jim L. Spano, dated December 12, 2014, paragraph 7. (Exhibit B, Controller's Late Comments on IRC, page 5.)



On July 17, 2009, the Controller provided the claimant with a draft of the audit report.<sup>78</sup> In the draft, the Controller identified the \$516,132 which the claimant had listed on the line items of its Form FCP-2.1, but which, due to an arithmetic error, the claimant had failed to include when calculating its requested reimbursement amount.<sup>79</sup> The Controller deemed the \$516,132 to be “unclaimed costs,” and the Controller excluded the \$516,132 from the total used to calculate the claimant’s reimbursement.<sup>80</sup>

On August 6, 2009, the claimant served a letter upon the Controller taking exception to the draft audit report and requesting that the \$516,132 in disability costs be added back into the total used to calculate the claimant’s reimbursement.<sup>81</sup>

On September 4, 2009, the Controller issued a final audit report and served a copy upon the claimant.<sup>82</sup> The draft audit report is not in the record; all references are to the final audit report dated September 4, 2009.<sup>83</sup>

Over the claimant’s written objections, the Controller decided in its final audit report to exclude the \$516,132 in disability costs from the total used to calculate the claimant’s reimbursement.

“The city made mathematical errors on the claim form FCP-2.1, for its 2003-04 and FY 2004-05 claims. The mathematical errors resulted in unclaimed costs totaling \$516,132 for FY 2003-04, and \$5,440 for FY 2004-05,” the final audit report stated.<sup>84</sup> The claimant’s incorrect reduction claim is limited to fiscal year 2003-2004.<sup>85</sup>

“The city submitted mandated claim forms FAM-27 (claim for payment), FCP-1.2 (claim summary), and FCP-2.1 (component/activity cost detail). On all these claim forms, the city identified disability benefits costs totaling \$985,119. On forms FAM-27 and FCP-1.2, the city identified administrative costs totaling \$18,683, actual mandate-related direct costs totaling \$1,003,827, and reimbursable costs totaling \$501,913 (the mandated program reimburses 50% of total mandate-related costs),” the Controller stated.<sup>86</sup> The administrative costs of \$18,683 are not a part of the claimant’s IRC.

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<sup>78</sup> Exhibit A, IRC, page 16 [“We issued a draft audit report on July 17, 2009.”].

<sup>79</sup> Exhibit A, IRC, page 19.

<sup>80</sup> Exhibit A, IRC, page 19.

<sup>81</sup> Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

<sup>82</sup> Exhibit A, IRC, page 12 [letter], pages 11-23 [final audit report].

<sup>83</sup> Exhibit A, IRC, pages 11-23 [final audit report].

<sup>84</sup> Exhibit A, IRC, page 19.

<sup>85</sup> Exhibit A, IRC, page 1.

<sup>86</sup> Exhibit A, IRC, page 21.



“Our audit report shows that we allowed the reimbursable costs that the city claimed. . . . It is the city’s responsibility to ensure that it files accurate mandated cost claims within the statutory time allowed,” the final audit report stated.<sup>87</sup>

Consequently, the Controller excluded the \$516,132 in disability costs, used the claimant’s mathematically incorrect disability cost total of \$985,118.76 which appeared on the Form FAM-27 and, adding in administrative costs and applying the program’s 50 percent reimbursement formula, approved a reimbursement of \$501,913.<sup>88</sup>

The claimant’s argument in this IRC is that the Controller should have included the \$516,132 in disability costs and used the mathematically correct disability cost total of \$1,501,250.76 regardless of what amount appeared on the Form FAM-27 and, adding in administrative costs and applying the program’s 50 percent reimbursement formula, should have approved a reimbursement of \$759,966.94.<sup>89</sup>

The difference between the reimbursement amount which the Controller approved \$501,913.45 and the reimbursement amount which the claimant argues the Controller should have approved \$759,966.94 is \$258,053.49 — the amount of reimbursement in controversy in this IRC.

### **III. Positions of the Parties**

#### **A. City of Los Angeles**

The claimant objects to the Controller deeming \$516,132 in disability costs to be “unclaimed costs.”<sup>90</sup> When the claimant was adding up the total of disability costs listed on Form FCP-2.1, the claimant mistakenly failed to add in \$516,132 in disability costs which were listed on the form; this error propagated through the claim, resulting in the claimant requesting a reimbursement (at 50 percent of actual costs) of \$501,913.45 based on an inaccurate disability cost total of \$985,118.76 when, in fact, the claimant had submitted documentation supporting a reimbursement of \$759,966.94 based on \$1,501,250.76 in disability costs.<sup>91</sup>

The claimant takes the following positions:

1. The IRC should be granted because the Controller filed its rebuttal more than four years late.<sup>92</sup>

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<sup>87</sup> Exhibit A, IRC, page 21.

<sup>88</sup> “For the fiscal year (FY) 2003-2004 claim, the State made no payment to the city. Our audit disclosed that \$501,913 is allowable. The State will pay that amount, contingent upon available appropriations.” Exhibit A, IRC, page 16.

<sup>89</sup> Exhibit A, IRC, page 3.

<sup>90</sup> Exhibit A, IRC, page 3.

<sup>91</sup> Exhibit A, IRC, page 3; Exhibit C, Claimant’s Rebuttal Comments, pages 2-3. The claim also included an additional \$18,683.11 in administrative costs, which are not disputed.

<sup>92</sup> Exhibit C, Claimant’s Rebuttal Comments, page 2.



2. The Controller lacks the authority to deem costs “unclaimed,” because Government Code section 17561(d) limits the Controller’s authority to reducing only claims that are “excessive” or “unreasonable.”<sup>93</sup>
3. The Controller, aware that the claimant made an arithmetic error, should have based its reimbursement on a disability cost total of \$1,501,250.76 — the amount substantiated on the four pages of Form FCP-2.1.<sup>94</sup>
4. The Controller may exercise its authority under Government Code section 17561(d)(2)(C) — which grants the Controller the power to adjust for underpayments or overpayments in prior fiscal years — to pay the claimant the reimbursement it requests in this IRC.

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

### **B. State Controller’s Office**

The Controller contends that it acted within its authority when it held the claimant to its \$516,132 arithmetic error and deemed that amount to be “unclaimed costs” which would not be used to calculate the claimant’s reimbursement.<sup>95</sup>

The Controller takes the following positions:

1. The claimant bears the burden of filing mathematically accurate claims.<sup>96</sup>
2. The claimant failed to timely amend its claim, and the Controller was prohibited by the time bar of Government Code section 17568 from allowing the claimant to revise its claim.<sup>97</sup>
3. The claimant cites Government Code section 17561(d)(2)(C) out of context. In any event, while the Controller has the statutory authority to adjust claims for overpayments or underpayments made in prior fiscal years, the authority is irrelevant to this IRC. The Controller’s adjustments are based on the claims submitted, and, for FY 2003-2004, the claimant requested a reimbursement of \$501,913.<sup>98</sup>

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

## **IV. Discussion**

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the Controller determines is excessive or unreasonable.

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<sup>93</sup> Exhibit A, IRC, page 3; Exhibit C, Claimant’s Rebuttal Comments, pages 3-4.

<sup>94</sup> Exhibit A, IRC, page 3; Exhibit C, Claimant’s Rebuttal Comments, pages 2-3.

<sup>95</sup> Exhibit B, Controller’s Late Comments on IRC, pages 10-12.

<sup>96</sup> Exhibit B, Controller’s Late Comments on IRC, page 11.

<sup>97</sup> Exhibit B, Controller’s Late Comments on IRC, page 10.

<sup>98</sup> Exhibit B, Controller’s Late Comments on IRC, page 11.



Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs that were incorrectly reduced be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>99</sup> The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."<sup>100</sup>

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion by a state agency.<sup>101</sup> Under this standard, the courts have found that:

When reviewing the exercise of discretion, the scope of review is limited, out of deference to the agency's authority and presumed expertise: 'The court may not reweigh the evidence or substitute its judgment for that of the agency. [Citation.]' "... 'In general, ...the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support....' [Citations.] When making that inquiry, the " "court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute." [Citation.]' "<sup>102</sup>

The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.<sup>103</sup> In addition, sections 1185.1(f)(3) and 1185.2(c) of the Commission's regulations require that any assertions

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<sup>99</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

<sup>100</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>101</sup> *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984; *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

<sup>102</sup> *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

<sup>103</sup> *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.



of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>104</sup>

**A. The Controller's decision to deem \$516,132 in disability benefit costs to be "unclaimed costs" is incorrect as a matter of law and is arbitrary, capricious, and entirely lacking in evidentiary support.**

The facts are not in dispute in this case. In adding together all of the costs identified on Form FCP-2.1, the claimant made an arithmetic error and obtained a bottom-line total that was \$516,132 less than the actual sum of all of the Total Benefit Payments. Having made an error in computing the sum of all firefighters' Total Benefit Payments on Form FCP-2.1, the claimant transferred the error to the Direct Costs schedule at the end of Form FCP-1.2 and to the reimbursement claim made on Form FAM-27.<sup>105</sup>

There is no dispute that these \$516,132 in disability benefit costs were identified by the claimant on its Form FCP-2.1 and that the claimant filed the Form FCP-2.1 simultaneously with its reimbursement claim on January 10, 2005, as required by the claiming instructions.<sup>106</sup> There is no dispute that the Controller deemed the \$516,132 in disability benefit costs to be "unclaimed costs" which were not used to calculate the claimant's reimbursement.<sup>107</sup>

The record also indicates that the mathematical error on Form FCP-2.1 was first noticed by the Controller and summarized in its July 17, 2009 draft audit report<sup>108</sup> and that, on August 6, 2009, the claimant objected in writing to the Controller's decision to deem the \$516,132 in disability benefit costs to be "unclaimed costs."<sup>109</sup> In the letter, the claimant requested that the Controller process the Form FAM-27 as if the numbers on the form had been corrected to include the \$516,132 which the claimant had mistakenly omitted.<sup>110</sup> The Controller denied the request.

Although the claimant's letter of August 6, 2009, objecting to the draft audit report did not use the word "amend" nor explicitly request leave to file amended paperwork, the claimant's letter was functionally a request to amend its claim to conform to proof. Specifically, the claimant was requesting that, for purposes of its reimbursement under the *Firefighter's Cancer Presumption* program, the totals on the claimant's Form FAM-27 be amended or corrected to match the data

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<sup>104</sup> 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.

<sup>105</sup> Exhibit A, IRC, page 43.

<sup>106</sup> Exhibit A, IRC, page 19.

<sup>107</sup> Exhibit A, IRC, page 19.

<sup>108</sup> Exhibit A, IRC, page 16, 19, 22-23.

<sup>109</sup> Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

<sup>110</sup> Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)



listed on the line items of its Form FCP-2.1 which was submitted with the original reimbursement claim.

The Commission must therefore decide whether the Controller's denial of claimant's request for leave to amend its claim was correct as a matter of law and not arbitrary, capricious or entirely lacking in evidentiary support.

Government Code section 17558.5(a) expressly refers to a claimant's ability to "amend" a claim; in fact, Section 17558.5(a)'s reference to the time when a claim is "last amended" implies that the Legislature intended for a claimant to have, at least under some circumstances, multiple opportunities to amend.<sup>111</sup>

However, the Government Code provisions regarding the Controller's authority to audit mandate reimbursement claims do not address the specific question of when the Controller may lawfully deny leave to amend. Nor has the Controller promulgated regulations on the topic.

Lacking directly controlling legal authority to apply to this situation, and recognizing that the Commission has no authority to rule in equity,<sup>112</sup> the Commission must reason by analogy and decide this IRC by identifying and applying the law which governs the situation most similar to a request by a claimant to amend a mandate reimbursement claim.<sup>113</sup>

The claimant's request to correct the mathematical error in the reimbursement claim is the functional equivalent of a party to a civil action requesting leave to amend a pleading. Under the law, a party to a civil lawsuit may seek permission from the court to amend a pleading to correct a mistake. "The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of the party, *or a mistake in any other respect*," Code of Civil Procedure section 473(a)(1) states in relevant part. (Emphasis added.) A court may also, under

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<sup>111</sup> "A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter 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." Government Code section 17558.5(a).

<sup>112</sup> In making its decisions, the Commission must strictly construe section 6 of article XIII B of the California Constitution and not apply section 6 as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities." *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>113</sup> See, e.g., *Stockton Theatres, Inc. v. Palermo* (1961) 55 Cal.2d 439, 442 ["There is no controlling authority to which we have been referred, or found, that deals with this particular subject. But the law applicable to the effect of reversals or modifications on interest on judgments generally would seem, by analogy, to be applicable."]; *Fitzpatrick v. Sonoma County* (1929) 97 Cal.App. 588, 596 ["Our attention has not been called to any case directly in point involving a municipal corporation when joined with individual defendants. We are therefore constrained to reason by analogy."]. See also Weinreb, *Legal Reason: The Use of Analogy In Legal Argument* (2005) page vii [noting "the indubitable fact that the use of analogy is at the very center of legal reasoning, so much so that it is regarded as an identifying characteristic not only of legal reasoning itself but also of legal education."].



appropriate circumstances, grant a motion to amend a pleading to conform to proof.<sup>114</sup> A court may grant a motion to amend before or during trial.<sup>115</sup> And, under the law, the amended claim that corrects a mistake relates back to the claim's original filing date for statute of limitations purposes.<sup>116</sup>

Motions to amend are to be granted with great liberality; it is an abuse of discretion for a court to deny a motion for leave to amend in the absence of demonstrated prejudice to the other parties. "Although courts are bound to apply a policy of great liberality in permitting amendments to the complaint at any stage of the proceedings, up to and including trial, this policy should be applied only where no prejudice is shown to the adverse party. . . . It is an abuse of discretion to deny leave to amend where the opposing party was not misled or prejudiced by the amendment."<sup>117</sup>

In deciding whether to grant or deny a motion to amend, a trial court may review the relevant facts and circumstances to determine whether the other parties will be prejudiced by the amendment. "Although failure to permit such amendment where justice requires it is an abuse of discretion (Citations.), the objectionable subject matter of the amendment, the conduct of the moving party, or the belated presentation of the amendment are appropriate matters for the reviewing court to consider in evaluating the trial court's exercise of discretion."<sup>118</sup> "The law is also clear that even if a good amendment is proposed in proper form, unwarranted delay in presenting it may — of itself — be a valid reason for denial. The cases indicate that the denial may rest upon the element of lack of diligence in offering the amendment after knowledge of the facts, or the effect of the delay on the adverse party."<sup>119</sup>

The Controller's refusal to consider the evidence included in the original claim filing was incorrect as a matter of law and arbitrary and capricious and entirely lacking in evidentiary support. Nowhere in the record did the Controller identify how it or any another person would be prejudiced by allowing the claimant to amend its claim. The claimant did not engage in unwarranted delay; rather, the claimant objected to the Controller's draft audit within 20 calendar

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<sup>114</sup> "No variance between the allegation in a pleading and the proof is to be deemed material, unless it has actually misled the adverse party to his prejudice in maintaining his action or defense upon the merits. Whenever it appears that a party has been so misled, the Court may order the pleading to be amended, upon such terms as may be just." Code of Civil Procedure section 469.

<sup>115</sup> "Any judge, at any time before or after commencement of trial, in the furtherance of justice, and upon such terms as may be proper, may allow the amendment of any pleading or pretrial conference order." Code of Civil Procedure section 576.

<sup>116</sup> *Smeltzley v. Nicholson Mfg. Co.* (1977) 18 Cal.3d 932, 934 ["California courts have established the rule that an amended complaint relates back to the filing of the original complaint, and thus avoids the bar of the statute of limitations, so long as recovery is sought in both pleadings on the same general set of facts."].

<sup>117</sup> *Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 761 [citations and internal punctuation omitted].

<sup>118</sup> *Roemer v. Retail Credit Co.* (1975) 44 Cal.App.3d 926, 939.

<sup>119</sup> *Roemer v. Retail Credit Co.* (1975) 44 Cal.App.3d 926, 939-940.



days of receipt. The claimant did not alter its theory of the case late in the proceedings; rather, the claimant's theory of reimbursement never varied. The claimant was not seeking to submit new evidence; the line items of claimant's Form FCP-2.1 contained the relevant evidence. The claimant was not adding to or increasing its claim; it was merely seeking to have the Controller treat the claim as if the information contained in Form FAM-27 had been accurately calculated. The Controller was not misled; during the course of its audit, the Controller recognized the omitted \$516,132 for the arithmetic error it was. The Controller did not challenge the veracity of the line items listed on the claimant's Form FCP-2.1. The Controller has not explained in the record how correcting an audit report which was still in draft form would have resulted in a prejudice, nor has the Controller explained in the record how the Controller or any third party is prejudiced by reimbursing the claimant for costs which, it is undisputed, the claimant actually incurred and which the law requires be reimbursed.

The record reveals at best one potential prejudice to an amended claim: the State of California may be required to reimburse the claimant an additional \$258,053.49 (50 percent of the omitted disability benefit costs). But such a payment is not an example of a prejudice sufficient to deny leave to amend; the payment would, if all other aspects of the claimant's paperwork are in order, be a legal duty. Throughout the constitutional and statutory scheme related to mandates, the duty to reimburse is worded in affirmative and mandatory language. Section 6 of article XIII B of the California Constitution provides that, once the existence of a mandate has been established, "the State *shall* provide a subvention of funds to reimburse that local government . . . ." Government Code section 17561(a) states that "[t]he state *shall* reimburse each local agency and school district for *all* 'costs mandated by the state[.]'" (Emphases added.) Government Code section 17561(d) states that the "[t]he Controller *shall* pay any eligible claim pursuant to this section by October 15 or 60 days after the date the appropriation for the claim is effective, whichever is later." With regard to both initial reimbursement claims and claims made in subsequent fiscal years, "[t]he Controller *shall* pay these claims" from the funds appropriated therefor.<sup>120</sup> The State cannot be prejudiced by the requirement that it follow its own laws.

With regard to the question of whether the Controller's action is supported by evidence in the record, the answer is no. All of the evidence contained within the line items of the claimant's Form FCP-2.1 supports the claimant's position that it incurred \$516,132 in total disability costs which the Controller excluded when calculating the claimant's reimbursement. No evidence in the record supports the Controller's conclusion that \$516,132 in disability benefit costs was "unclaimed" or that the claimant was not entitled to a reimbursement which was calculated including the \$516,132 in disability benefit costs.

Based on this record, the Commission finds that claimant did in fact claim the \$516,132 in disability benefit costs and that the Controller has not shown that any prejudice would result by allowing the claimant to correct the mathematical error on its Form FCP-2.1.

Accordingly, the Controller's decision to deem \$516,132 in disability benefit costs specifically identified on Form FCP-2.1 as "unclaimed" — when, in fact, the costs were claimed but accidentally omitted from the claim cover sheet — was arbitrary, capricious, and entirely lacking

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<sup>120</sup> Government Code section 17561(d)(1)(C)(2). (Emphases added.)



in evidentiary support.<sup>121</sup> Under the law, the correction of the mistake relates back to the claim's original filing date of January 10, 2005 and is timely.<sup>122</sup>

**B. The Controller's position that Government Code sections 17560 and 17568 bar claimant from correcting its claim is incorrect as a matter of law.**

The Controller argues that by the time that the claimant served its protest letter dated August 6, 2009, the claimant's statutory time limit to amend a claim had expired.<sup>123</sup>

At the time that the claimant submitted its claim to the Controller in January 2005, Government Code section 17560(b) read:

A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.<sup>124</sup>

At the time that the Controller received the objection letter from the claimant and issued the final audit report (the year 2009), the above-quoted portion of Government Code section 17560 read the same, except that "January 15" had been amended to read "February 15" and that the entire provision, previously designated subdivision (b), had been re-designated subdivision (a).<sup>125</sup>

At the time that the claimant submitted its claim to the Controller in 2005, Government Code section 17568 read in relevant part:

If a local agency or school district submits an otherwise valid reimbursement claim to the Controller after the deadline specified in Section 17560, the Controller shall reduce the reimbursement claim in an amount equal to 10 percent of the amount which would have been allowed had the reimbursement claim been timely filed, provided that the amount of this reduction shall not exceed one thousand dollars (\$1,000). In no case shall a reimbursement claim be paid which is submitted more than one year after the deadline specified in Section 17560.<sup>126</sup>

In 2009, when the Controller received the objection letter from the claimant and issued the final audit report, the above-quoted portions of Government Code section 17568 read the same, except

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<sup>121</sup> Since the Commission's ruling regarding the Controller's refusal to grant leave to the claimant to amend its claim disposes of this IRC, the Commission declines to address the other arguments proffered by the parties.

<sup>122</sup> *Smeltzley v. Nicholson Mfg. Co.* (1977) 18 Cal.3d 932, 934.

<sup>123</sup> Exhibit A, IRC, page 21; Exhibit B, Controller's Late Comments on IRC, pages 8, 10, 11.

<sup>124</sup> Statutes 1998, chapter 681, section 4. This version of Government Code section 17560 was in effect from September 22, 1998, to August 24, 2007.

<sup>125</sup> Statutes of 2007, chapter 179, section 15 [in effect from August 24, 2007, to February 16, 2008]; Statutes of 2008, 3rd Extraordinary Session, chapter 6, section 3 [in effect from February 16, 2008, to the present].

<sup>126</sup> Statutes 1989, chapter 589, section 2, emphasis added. This version of Government Code section 17568 was in effect from January 1, 1990, to August 24, 2007.



that the amount of \$1,000 had been raised to \$10,000<sup>127</sup> and that the two occurrences of the word “which” had been changed to “that.”<sup>128</sup>

Government Code sections 17560 and 17568 as amended by Statutes 1989, chapter 589 which are quoted above and which were in effect when the claimant submitted its reimbursement claim in January 2005 therefore apply to this Decision.

Consequently, in order for the claimant to timely request reimbursement of actual expenses incurred in fiscal year 2003-2004 pursuant to Government Code sections 17560 and 17568, the claimant was required to file a reimbursement claim on or before January 15, 2005 which claimant did<sup>129</sup>. If the claimant had filed the claim between January 16, 2005, and January 15, 2006, the Controller would have been required to reduce the claim by 10 percent up to a maximum reduction of \$1,000. If the claimant had filed the claim on or after January 16, 2006, the Controller would have been required to deny the claim in its entirety.

The Controller takes the position that Government Code sections 17560 and 17568 prohibited claimant from amending its reimbursement claim after the draft audit report was issued. “It is the city’s responsibility to ensure that it files accurate mandated cost claims within the statutory time allowed. Government Code section 17568 states, ‘In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in [Government Code] section 17560.’ The city did not amend its FY 2003-04 mandated cost claim within the statutory timeframe permitted.”<sup>130</sup>

The claimant’s counter-argument reads, “The city did not need to ‘amend’ its claim, inasmuch as each and every dollar pertaining to it was in fact submitted in full detail. While SCO obliquely refers to ‘mathematical errors on a supporting schedule’ this very supporting schedule — in fact submitted and audited by them — provides all of the details of the claims.”<sup>131</sup>

The claimant continues, “SCO’s reference to the filing deadline having expired for FY 2003-04 is, as already noted, erroneous. Government Code Section 17561, subsection (d)(2)(C) states: [¶] ‘The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years.’ [¶] There is in fact no time limit attached to this provision. Any overpayment, including those owing to an error of arithmetic, would presumably be the subject of a subsequent offset or recovery by the Controller’s Office. Hence, under the terms of the statute, the amount ‘disallowed’ should have been recalculated and deemed included in the amount claimed.”<sup>132</sup>

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<sup>127</sup> Statutes 2007, chapter 179, section 20. This version of Government Code section 17568 was in effect from August 24, 2007, to February 16, 2008.

<sup>128</sup> The current version of Government Code section 17568 came into effect on February 16, 2008. (Statutes 3rd Extraordinary Session 2008, chapter 6, section 4.)

<sup>129</sup> Exhibit A, IRC, page 34.

<sup>130</sup> Exhibit A, IRC, page 21. See also Exhibit B, Controller’s Late Comments on IRC, pages 10, 11 [similar language].

<sup>131</sup> Exhibit C, Claimant’s Rebuttal Comments, page 3.

<sup>132</sup> Exhibit C, Claimant’s Rebuttal Comments, page 4.



The Commission is not persuaded by either party's argument.

Government Code sections 17560 and 17568 do not support the Controller's position that the claimant no longer had the ability to correct the claim. Government Code section 17560(b) requires a claimant to "file" a claim by a certain deadline; Section 17568 authorizes the Controller to reduce (up to a specified cap) a claim which a claimant "submits" up to one year late; Section 17568 prohibits the Controller from paying any claim which was "submitted" more than one year late.

Putting aside the question of whether there is a difference between a claim being "filed" as opposed to "submitted," the Controller does not dispute the fact that the claimant filed its claim on January 10, 2005, and that, at the time of the filing, the claimant's Form FCP-2.1 contained a four-page listing of all of the relevant disability benefit costs which, by this IRC, the claimant is requesting be included in the total used to calculate the claimant's reimbursement. Claimant was not and is not attempting to add new or late-filed data. Consequently, the claimant's request for reimbursement — a claim which listed the disputed \$516,132 in disability benefit costs — was timely filed under Section 17560(b).

Both Government Code section 17560(b) and section 17568 are silent regarding a claimant's ability to amend a previously and timely filed claim. The Controller has not adopted regulations on point. Therefore, as explained above, the Commission applies the law regarding amendments of pleadings to correct a mistake or to conform to proof, and, under that body of law, the Controller's actions constituted an abuse of discretion and are incorrect as a matter of law. Neither Government Code section 17560(b) nor 17568 alters that result.

Meanwhile, Government Code section 17561(d)(2)(C) — 'The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years.' — does not have the effect that claimant urges. Section 17561(d)(2)(C) "pertains to the Controller's audit function, allowing the Controller to correct inaccurate fund disbursements after auditing the local entity's supporting records."<sup>133</sup> There is no evidence in the record that the Legislature intended the provision to affect the limitations period for filing or submitting claims. The provision certainly does not authorize the Controller to overpay a claimant because the Controller also has authority to make a later downward adjustment, as the claimant seems to argue.<sup>134</sup> In any event, the provision is irrelevant to this IRC, which is about the Controller's authority to refuse to allow the amendment of the claimant's Form FAM-27 rather than being about the Controller's authority to make upward and downward adjustments in later fiscal years.

Accordingly, the Commission finds that Controller's position that the claimant no longer had the ability to correct the claim based on Government Code sections 17560 and 17568 is incorrect as a matter of law.

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<sup>133</sup> *California School Boards Ass'n v. State of California* (2011) 192 Cal.App.2d 770, 789.

<sup>134</sup> "Any overpayment, including those owing to an error of arithmetic, would presumably be the subject of a subsequent offset or recovery by the Controller's office. Hence, under the terms of the statute, the amount 'disallowed' should have been recalculated and deemed included in the amount claimed." Exhibit C, Claimant's Rebuttal Comments, page 4.



**C. A line of Court of Appeal decisions upholding the authority of the Medi-Cal program to refuse to allow the amendment of reimbursement claims is not applicable to this IRC.**

A line of published Court of Appeal decisions held that the formerly named Department of Health Services (Department) acted within its authority in declining to allow the amendment of erroneous reimbursement claims submitted under the Medi-Cal program. However, as explained below, these cases are not applicable to this IRC.

In *Mission Community Hospital v. Kizer* (*Mission Community Hospital*), a hospital which had entered into a settlement agreement with the Department for the hospital's 1983-1984 fiscal year submitted a Medi-Cal cost report for the following fiscal year. According to the hospital, however, it erroneously failed to carry forward financial terms from the settlement agreement, and the Department refused to allow the hospital to amend its cost report.<sup>135</sup>

A unanimous panel of the Second District Court of Appeal affirmed the Department's decision. The Court found that the Department had promulgated a regulation which specified the time period during which cost reports could be amended; since the hospital attempted to amend its cost report after the specified time period, the Department acted within its discretion in refusing to grant leave to amend.<sup>136</sup>

Specifically, the court held, the Department had promulgated Section 51019 of title 22 of the California Code of Regulations, which "provided that amended cost reports may be submitted only during the period before the cost report determination becomes final."<sup>137</sup> The Court held that the regulation was entitled to judicial deference.<sup>138</sup> Since the hospital had attempted to amend its cost report six months after the Department accepted the cost report as final, the court ruled that Section 51019 authorized the Department to reject the attempted amendment.<sup>139</sup>

In *Coastal Community Hospital v. Belshe* (*Coastal Community Hospital*), two hospitals submitted cost reports to the Department and requested reimbursement for expenses incurred under the Medi-Cal program. The cost reports contained errors, although the exact nature of the errors was not described in the appellate opinion. Because of the errors, the two hospitals requested reimbursements which were lower than what the hospitals were arguably due.<sup>140</sup>

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<sup>135</sup> *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1686-1687.

<sup>136</sup> *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1690-1691.

<sup>137</sup> *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1691. See also Cal. Code Regs., title 22, section 51019(a) ["An amended cost report may be submitted by a provider and accepted by the Department for the fiscal period or periods for which proceedings are pending under this article."].

<sup>138</sup> *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1691 ["section 51019 is entitled to our deference"].

<sup>139</sup> *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1691-1692.

<sup>140</sup> *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 393-394.



Without conducting an audit, the Department approved the cost reports “as filed,” meaning that the Department agreed to reimburse the hospitals for the amounts requested on the face of the cost reports.<sup>141</sup>

After the Department’s approval of the cost reports, the hospitals learned of their errors and requested an administrative appeal within the Department in order to obtain a larger reimbursement.<sup>142</sup> An administrative law judge denied the hospitals’ request.

The unanimous panel of the Second District Court of Appeal affirmed, holding that the hospitals had no right to an administrative appeal. “[P]etitioners logically cannot be aggrieved by the Department’s decision to accept as true petitioners’ representations regarding the amount of reimbursement due them,” the court held.<sup>143</sup> “Indeed,” the court continued later in the opinion, “it would be more accurate to say that petitioners were aggrieved by their own failure to amend their cost reports in a timely manner so that, when the Department accepted the reports as filed, petitioners would be entitled to a larger reimbursement.”<sup>144</sup>

In *Kaiser Foundation Hospitals v. Belshe (Kaiser Foundation Hospitals)*, nine hospitals owned or affiliated with Kaiser Foundation Hospitals (Kaiser) filed inaccurate cost reports seeking Medi-Cal reimbursements. The Department served letters upon each of the nine hospitals indicating that, in accordance with Medi-Cal’s multi-part process for calculating reimbursement amounts, the Department had arrived at a “tentative cost settlement” for each hospital. None of the hospitals responded to the letters which provided notice of the tentative cost settlements; the Department then accepted the cost reports “as filed” and authorized payment in the amount that each hospital had requested on the face of its claim.<sup>145</sup>

The hospitals objected to the final settlements and requested leave to file amended cost reports to “reflect claims not included at time of filing.”<sup>146</sup> During the ensuing litigation, the hospitals stated that their initial cost reports were erroneous because the cost reports contained an incorrect number of Medi-Cal patient days, a statistic which was used in establishing reimbursement rates.<sup>147</sup>

A unanimous panel of the Third District Court of Appeal ruled in favor of the Department on three intertwined grounds.<sup>148</sup>

The Court of Appeal cited *Coastal Community Hospital* for the proposition that, “[i]f the reimbursement amount matches that claimed by the provider, the provider is not aggrieved and is

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<sup>141</sup> *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 393-394.

<sup>142</sup> *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 393-394.

<sup>143</sup> *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 395.

<sup>144</sup> *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 395.

<sup>145</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1552-1556.

<sup>146</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556.

<sup>147</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556-1558.

<sup>148</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1558-1561.



precluded from filing an appeal.”<sup>149</sup> Furthermore, the relevant Medi-Cal regulation limits an appeal to a situation in which a requested reimbursement amount was adjusted — but no adjustment occurred if the claim was approved as filed.<sup>150</sup>

The Court of Appeal noted that, since a hospital’s executive officer was required to certify a claim, the amount of reimbursement requested and the underlying data are deemed to be true and correct if the Department declines to audit or review the claim.<sup>151</sup> “The requirement that a provider file a true and correct cost report is therefore of great importance: a provider who files an incomplete or inaccurate report runs the risk of losing reimbursement to which it is entitled,” the Court of Appeal explained.<sup>152</sup>

The Court of Appeal noted that the nine Kaiser hospitals failed to timely amend their cost reports.<sup>153</sup> Department regulations provided the hospitals with the ability to amend their cost reports at any time before final settlement of the cost reports — but the nine hospitals waited until two weeks after receiving most of the final settlement letters to request amendment.<sup>154</sup>

The Court of Appeal explained,

In short, a provider is statutorily required to submit true and correct cost reports to the Department. ([Welfare and Institutions Code] § 14107.4, subd. (c).) In order to ensure that this requirement is met, a provider also has the obligation to provide

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<sup>149</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560. See also *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1561 [“Kaiser was reimbursed for precisely the amount it had claimed as due. Under these circumstances, Kaiser has no complaint.”].

<sup>150</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560 [“As title 22, section 51017 of the California Code of Regulations provides, an appeal can be taken only from an adjustment to a reimbursement claim. A claim that is accepted as filed is not adjusted, and therefore no appeal will lie.”].

<sup>151</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1559-1560. See also Welfare and Institutions Code section 14170(a)(1), which currently reads in relevant part, “Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later. Moreover the cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.”

<sup>152</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560.

<sup>153</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560-1561.

<sup>154</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556, 1560-1561. See also Cal. Code Regs., title 22, section 51019(a), which currently reads, “An amended cost report may be submitted by a provider and accepted by the Department for the fiscal period or periods for which proceedings are pending under this article.”



amended cost reports in a timely fashion if the initial reports are incorrect. To hold otherwise would permit providers to file incomplete and/or erroneous cost reports and rely on the Department to correct these errors and provide the proper amount of reimbursement, a result at odds with the clear intent of section 14107.4, subdivision (c). Kaiser had more than one year in which to file amended cost reports to include any additional reimbursable costs. It did not do so. Any fault lies with the provider, not the Department.<sup>155</sup>

The decisions in *Mission Community Hospital*, *Coastal Community Hospital* and *Kaiser Foundation Hospitals* are meaningfully distinguishable from the situation presented in the instant IRC.

In *Mission Community Hospital* and *Kaiser Foundation Hospitals*, the claimants were attempting to add new and additional claims or information to their cost reports;<sup>156</sup> *Coastal Community Hospital* does not specify the nature of the claimant's error but, based on language in the opinion, the claimant was also attempting to add new and additional claims or information.<sup>157</sup> In contrast, the claimant in this IRC had submitted all relevant costs in its Form FCP-2.1 and was merely attempting to correct the face of its Form FAM-27; the claimant in this IRC was not attempting to add new or additional claims or information.

The Medi-Cal program does not reimburse a claimant for its actual costs. Rather, following a federal revision of the program in 1980 and 1981, a claimant is entitled to be reimbursed according to a formula "based upon the costs that would have been incurred by an efficient and economically operated facility, even if a provider's actual costs were greater."<sup>158</sup> While the actual costs contained in the cost reports are a factor in determining a Medi-Cal claimant's ultimate reimbursement, the cost reports are merely one part of the equation.<sup>159</sup> In contrast, a claimant incurring state-mandated expenses is entitled to a reimbursement of all actual costs mandated by the state, and the claimant's actual costs are the principal variable in the equation when the claimant is (like the claimant in this IRC) requesting reimbursement under an actual cost methodology.<sup>160</sup> While both the Medi-Cal program and the state mandate program involve claimants filing requests for reimbursement of expenses, the two programs are fundamentally

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<sup>155</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1561.

<sup>156</sup> *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1685-1686; *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556-1558.

<sup>157</sup> *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 395 ["inaccuracies in the cost reports which resulted in a lesser reimbursement"].

<sup>158</sup> *Robert F. Kennedy Medical Center v. Belshe* (1996) 13 Cal.4th 748, 752.

<sup>159</sup> "[T]he audited cost report data . . . became only one factor in the final determination of reimbursement liability. . . . The final determination of the amount of reimbursement due a provider, therefore, requires calculations beyond the mere auditing of the hospital's cost report data." *Robert F. Kennedy Medical Center v. Belshe* (1996) 13 Cal.4th 748, 757.

<sup>160</sup> Government Code section 17561(a) states that "[t]he state shall reimburse each local agency and school district for all 'costs mandated by the state[.]'" (Emphasis added.)



different in terms of the claimant's legal entitlement and the State's use of the submitted expense data.

Furthermore, claimants seeking reimbursement under Medi-Cal operate within a web of federal and state statutes and regulations which provide the claimants with notice of myriad substantive and procedural requirements — including deadlines to amend or correct claims. The *Mission Community Hospital* and *Kaiser Foundation Hospitals* courts based their decisions in part on the fact that the claimants had been placed on notice by a state regulation that the claimants could file amended cost reports with the Department any time before the final settlement of the cost reports.<sup>161</sup> In a decision involving a different aspect of the Medi-Cal program, claimants were placed on notice by a statute that the Department had the ability to correct mathematical or typographical errors.<sup>162</sup>

In sharp contrast, the Controller has not issued regulations regarding the procedure to be followed by claimants or by the Controller when mandate reimbursement claims are audited. Unlike *Mission Community Hospital* and *Kaiser Foundation Hospitals*, the claimant was not placed on notice by the Controller of a deadline by which to amend or correct its previously submitted claim.<sup>163</sup> In the absence of such a regulation, the Controller cannot take advantage of the reasoning in *Mission Community Hospital* and *Kaiser Foundation Hospitals*.

Finally, the *Kaiser Foundation Hospitals* court placed weight on the fact that Medi-Cal cost reports are required by statute to be certified as true and correct by the provider's executive officer<sup>164</sup> and, if unaudited within three years, are deemed to be true and correct.<sup>165</sup> Similarly,

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<sup>161</sup> *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560-1561. See also Cal. Code Regs., title 22, section 51019(a) ["An amended cost report may be submitted by a provider and accepted by the Department for the fiscal period or periods for which proceedings are pending under this article."].

<sup>162</sup> *Santa Ana Hospital Medical Center v. Belshe* (1997) 56 Cal.App.4th 819, 824. See also Welfare and Institutions Code section 14105.98(f)(5) ("For purposes of payment adjustment amounts under this section, each disproportionate share list shall be considered complete when issued by the department pursuant to paragraph (1). Nothing on a disproportionate share list, once issued by the department, shall be modified for any reason, other than mathematical or typographical errors or omissions on the part of the department or the Office of Statewide Health Planning and Development in preparation of the list.").

<sup>163</sup> As discussed above, the statutory deadline for a claimant to file a claim does not constitute a limitation on a claimant's ability to seek to amend a claim.

<sup>164</sup> "The provider's chief executive officer shall certify that any cost report submitted by a hospital to a state agency for reimbursement pursuant to Section 14170 shall be true and correct. In the case of a hospital which is operated as a unit of a coordinated group of health facilities and under common management, either the hospital's chief executive officer or administrator, or the chief financial officer of the operating region of which the hospital is a part, shall certify to the accuracy of the report." Welfare and Institutions Code section 14107.4(c).

<sup>165</sup> "Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after



the claim in this IRC was certified under penalty of perjury to be true and correct,<sup>166</sup> and the Controller has a three-year window in which to audit mandate reimbursement claims.<sup>167</sup>

A distinguishing difference is that, while the Department in *Kaiser Foundation Hospitals* did not conduct an audit, the Controller did. The certification of the data is a moot issue in this IRC, where the presumption of accuracy created by the certification was superseded by the evidence requested and reviewed by the Controller during its year-long field audit.<sup>168</sup> In addition, the *Kaiser Foundation Hospitals* claimants were attempting to add information; in the instant IRC, the claimant submitted all information at the time it submitted the claim. Finally, a verified pleading may be amended provided that the different sets of allegations are not so contradictory as to carry with them “the onus of untruthfulness”<sup>169</sup>; in the instant IRC, there is no actual contradiction, merely an arithmetic error.

Thus, while a line of Court of Appeal decisions upholds the authority of the Department to reject amended cost reports, the decisions are not applicable to this IRC, which is being decided on the basis that, on this record, the Controller should have granted the claimant leave to amend its Form FAM-27.

## **V. Conclusion**

The Commission finds that the Controller’s decision to deem \$516,132 in disability benefit costs as “unclaimed” is incorrect as a matter of law and is arbitrary, capricious, and entirely lacking in evidentiary support.

The Commission approves this IRC and, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission’s regulations, requests that the Controller reinstate the costs incorrectly reduced.

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July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later. Moreover the cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.” Welfare and Institutions Code section 14170(a)(1).

<sup>166</sup> Exhibit A, IRC, page 34.

<sup>167</sup> Government Code section 17558.5(a).

<sup>168</sup> See, e.g., *Rogers v. Interstate Transit Co.* (1931) 212 Cal. 36, 38 [“[I]t is well established in this state that a presumption in favor of a party is entirely dispelled by the testimony of the party himself or of his witnesses.”]; *Coffey v. Shiimoto* (2015) 60 Cal. 4th 1198, 1210 [“[I]f evidence sufficient to negate the presumed fact is presented, the ‘presumption disappears’ (Citation.) and ‘has no further effect’ (Citation.) . . . .”].

<sup>169</sup> *Macomber v. State of California* (1967) 250 Cal.App.2d 391, 399.



**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 11, 2016, I served the:

**Proposed Decision**

*Firefighter's Cancer Presumption*, 09-4081-I-01

Labor Code Section 3212.1

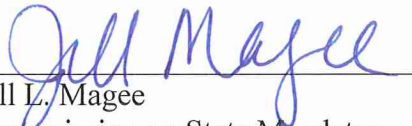
Statutes 1982, Chapter 1568

Fiscal Year: 2003-2004

City of Los Angeles, 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 11, 2016 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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**Claim Number:** 09-4081-I-01

**Matter:** Firefighter's Cancer Presumption

**Claimant:** City of Los Angeles

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