

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Elections Code Sections 15 111, 1532 1, and
21000

As Added or Amended by Statutes 1999,
Chapter 697;

Filed on March 15, 200 1;

By County of Orange, Claimant.

No. 00-TC-08

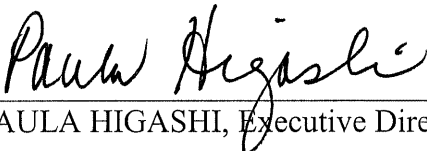
Absentee Ballots: Tabulation by Precinct

ADOPTION OF PARAMETERS AND
GUIDELINES PURSUANT TO
GOVERNMENT CODE SECTION 17557
AND TITLE 2, CALIFORNIA CODE OF
REGULATIONS, SECTION 1183.12


(Adopted on December 2, 2003)

PARAMETERS AND GUIDELINES

On December 2, 2003, the Commission on State Mandates adopted the attached Parameters and Guidelines.



PAULA HIGASHI, Executive Director



Date

PARAMETERS AND GUIDELINES

Elections Code Sections 15 111, 1532 1, and 2 1000

Statutes 1999, Chapter 697

Absentee Ballots: Tabulation by Precinct (00-TC-08)

I. SUMMARY OF THE MANDATE

Elections Code sections 15 111, 1532 1, and 2 1000 require county elections officials, for statewide elections or certain special elections conducted between June 1, 2000, and January 1, 2001, to tabulate, by precinct, votes cast by absentee ballots and votes cast at the polling place. The subject test claim legislation also requires the county elections official to make each precinct's election results available to the Legislature and appropriate legislative committees for use in district apportionment. Finally, the test claim legislation requires the elections official's list of absentee voters to include the voter's election precinct.

On April 24, 2003, the Commission on State Mandates (Commission) adopted its Statement of Decision that the test claim legislation constitutes a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 175 14 for the following activities:

- z **List modifications:** Including the precinct of each absentee voter on the elections official's absentee ballot list. (Elec. Code, § 15 111.) This activity is ongoing.
- z **Tabulation by precinct:** Tabulating by precinct the votes cast by absentee ballot and ballots cast at the polling place in statewide elections or special elections to fill a vacant congressional or legislative office, for elections conducted between June 1, 2000, and January 1, 2001. (Elec. Code, § 1532 1, subd. (a).)
- z **Returns available to the Legislature:** Making available to the Legislature and appropriate legislative committees election returns for each precinct reflecting the total for all ballots cast, including both absentee ballots and ballots cast at polling places, in statewide elections or special elections to fill a vacant congressional or legislative office for elections conducted between June 1, 2000, and January 1, 2001. (Elec. Code, § 15321, subd. (b), and Elec. Code, § 21000.)

II. ELIGIBLE CLAIMANTS

Any county, or city and county, that has incurred increased costs as a direct result of this mandate is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557 states that a test claim must 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 on March 12, 2001. Statutes 1999, chapter 697 was

effective on January 1, 2000. While some of the statute's requirements are ongoing, Election Code section **15321** is repealed as of January 1, 2001. Therefore, reimbursement periods are as follows:

- Administrative Duties (Section IV. A. 1. (a-c)): January 1, 2000, through January 1, 2001.
- Tabulation by Precinct, Additional Election Ballot and Election Materials (Section IV. B. 1. (a)) January 1, 2000, through January 1, 2001.
- Tabulation by Precinct, Ballot Tabulation (Section IV. B. 1. (b)): June 1, 2000, through January 1, 2001.
- Tabulation by Precinct, Returns Available to the Legislature (Section IV. B. 2.): June 1, 2000, through January 1, 2001).
- List Modifications (Section IV. C. 1.): Reimbursement begins January 1, 2000, and is ongoing.

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

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

IV. REIMBURSABLE ACTIVITIES

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

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 20 15.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate. If any of the following reimbursable activities were claimed and reimbursed through *Absentee Ballots* (Statutes 1978, chapter 77) for fiscal years 2000-2001 and 2001-2002, such costs cannot be claimed under this *Absentee Ballots: Tabulation by Precinct* program.

For each eligible claimant, the following activities are reimbursable:

A. One-Time Activities

1. Administrative Duties (*Reimbursement Period: January 1, 2000 through January 1, 2001*)

- a. Research and Develop General Approach for Converting Tabulation Process

Meet with the software vendor to identify the methods, and develop the general approach for tabulating ballots by precinct. Develop a specific plan and schedule for implementing the new ballot tabulation process.

- b. Develop or Modify Election Equipment and Software and Test

Obtain, develop, or contract for the modification of election systems and equipment to accommodate the tabulation of ballots by precinct. Includes any automated system programming or preprogramming, and the cost of testing the ballot tabulation program.

- c. Develop and Conduct Special Training Program (one-time per employee)

Develop and conduct a revised training program for regular and temporary election staff to carry out the changes necessary to implement the ballot reporting requirements of the test claim legislation.

B. One-Time Activities Per Election¹

1. Tabulation By Precinct (Elec. Code, § 15321, subd. (a))

- a. Additional Election Ballot and Election Materials Activities (*Reimbursement Period: January 1, 2000 through January 1, 2001*)

Reformat the ballots so that election software will read and tabulate ballots by precinct.

- b. Ballot Tabulation (*Reimbursement Period: June 1, 2000 through January 1, 2001*)

Tabulate by precinct, which exceeds the prior count by ballot style, those votes cast by absentee ballot and ballots cast at the polling place in statewide elections or special elections to fill a vacant congressional or legislative office for elections conducted between June 1, 2000, and January 1, 2001. The additional staff time to conduct the computer run for election results is reimbursable.

2. Returns Available to the Legislature (Elec. Code, § 15321, subd. (b), and Elec. Code, § 21000) (*Reimbursement Period: June 1, 2000, through January 1, 2001*)

- a. Transmitting to the Secretary of State election returns by precinct reflecting the total for all ballots cast, including both absentee ballots and ballots cast at the polling places in statewide elections to fill a vacant congressional or legislative

¹ These activities may be reimbursed one time for each election held between June 1, 2000, and January 1, 2001.

office for elections conducted between June 1, 2000, and January 1, 2001, is eligible for reimbursement.²

C. Ongoing Activities

1. List Modifications (Elec. Code, § 15 111) (*Reimbursement begins January 1, 2000, and is ongoing*)
 - a. Include the precinct of each voter on the election official's list of voters who has received and voted an absentee ballot.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

² The Secretary of State forwards the vote by precinct data to the appropriate committees of the Legislature.

4. Fixed Assets and Equipment

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

5. Travel

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

6. Training

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

B. Indirect Cost Rates

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

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

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

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

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

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

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

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter³ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In general, reimbursement for a mandate from any source, including but not limited to, services fees collected, federal funds, and other state funds, shall be identified and deducted from reimbursement claims. For this program, service fees collected for cost reimbursements received by counties pursuant to Elections Code sections 10002, 13001, and 10416, Education Code sections 5421 and 5424, and Government Code section 53072 shall be deducted only for the activity of including the precinct of each absentee voter on the election official's absentee ballot list (Elec. Code, § 15 111).

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

³ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 1756 1, subdivision (d)(l), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

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

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (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.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 958 14.

December 4, 2003, I served the:

Adopted Parameters and Guidelines

Absentee Ballots: Tabulation by Precinct, 00-7X-08

County of Orange, Claimant

Elections Code Sections 15111, 15321 and 21000

Statutes 1999, Chapter 697

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

Ms. Rosalyn Lever
Registrar of Voters
County of Orange
Hall of Administration
P.O. Box 11298
Santa Ana, CA 92711

Mr. Mike Havey
State Controller's Office
Division of Accounting and Reporting
Local Reimbursement Section
3301 C Street, Suite 501
Sacramento, CA 95816

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on December 4, 2003, at Sacramento, California.


VICTORIA SORIANO