

COMMISSION ON STATE MANDATES

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September 17, 2009

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

Ms. Nancy Gust
 County of Sacramento
 711 G Street
 Sacramento, CA 95814

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

RE: **Proposed Consolidated Parameters and Guidelines**
Crime Statistics Reports for the Department of Justice
(Amendment to 02-TC-04 and 02-TC-11), 07-TC-10
 Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023, 13730
 Statutes 1955, Chapter 1128; Statutes 1965, Chapters 238 and 1965; Statutes
 1967, Chapter 1157; Statutes 1971, Chapter 1203; Statutes 1972, Chapter 1377;
 Statutes 1979, Chapter 255 and 860; Statutes 1996, Chapter 872 (AB 3472);
 Statutes 2004, Chapters 405 and 700 (SB 1796 and SB 1234)

Dear Mr. Burdick and Ms. Gust:

The Commission on State Mandates received the City of Newport Beach and County of Sacramento's proposed parameters and guidelines on September 3, 2009. The Claimants requested that the parameters and guidelines be consolidated. This request is granted. Staff reviewed the proposal and deemed it to be complete and timely filed.

Review and Comments. All state agencies and interested parties in receipt of this letter are invited to comment on the Proposed Parameters and Guidelines. Recommendations and comments must be submitted to the Commission by **October 2, 2009**. The claimant and interested parties may file rebuttals with the Commission by **October 17, 2009**. The claimant, state agencies, and interested parties are required to submit an original and two (2) copies of written responses or rebuttals to the Commission and to simultaneously serve copies on the test claimant, state agencies, and interested parties on the mailing list.

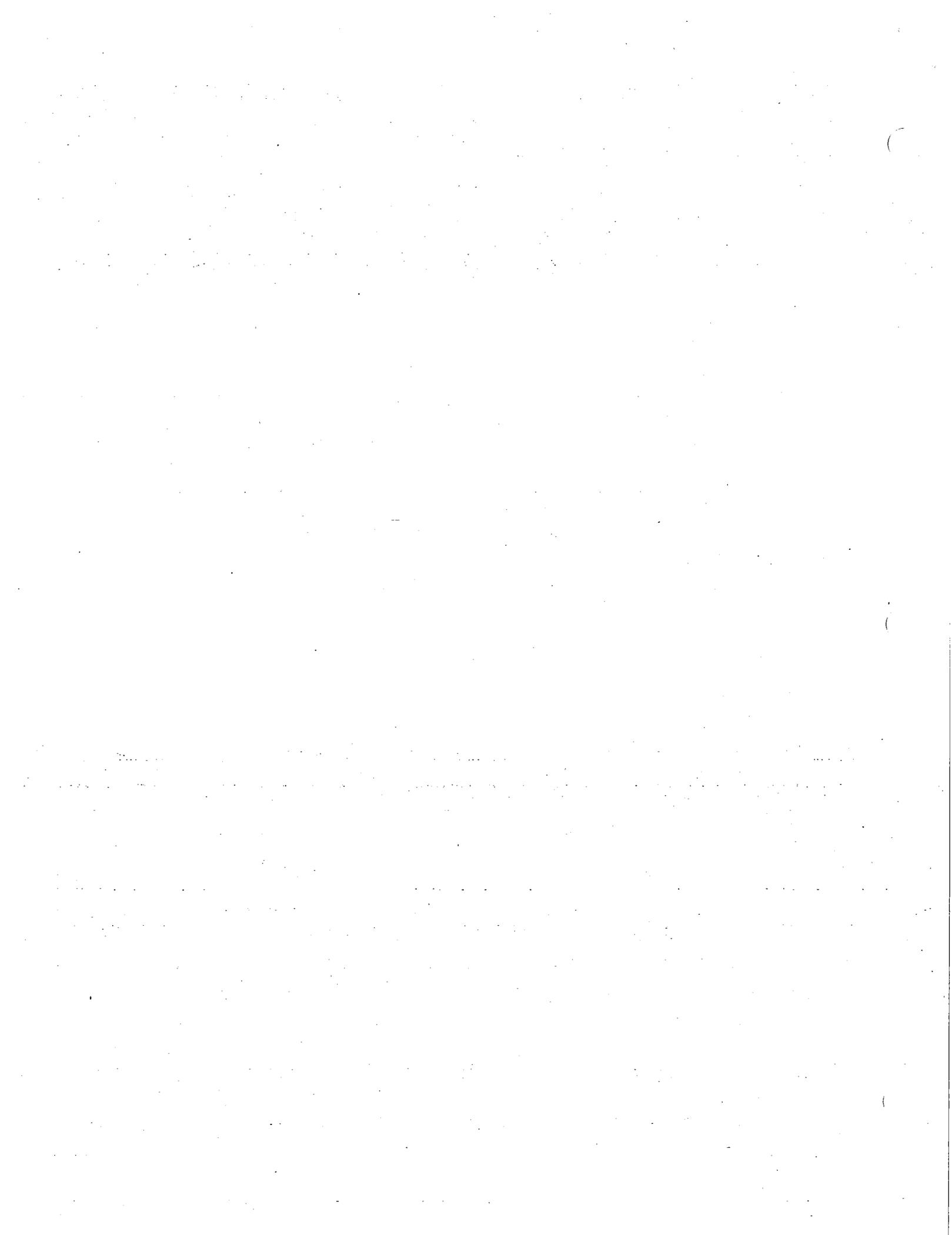
Hearing. If requested, Commission staff will conduct a prehearing conference. A hearing on this matter will be set when the record closes.

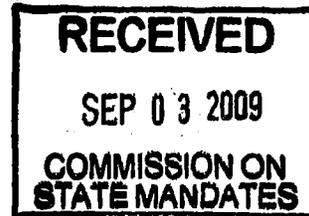
Please contact Heidi Palchik at (916) 323-8218 if you have any questions.

Sincerely,


 PAULA HIGASHI
 Executive Director

Enclosure: Claimant's Proposed Consolidated Parameters and Guidelines





**PROPOSED CONSOLIDATED
PARAMETERS AND GUIDELINES**

Penal Code Sections 12025, subd. (h)(1) & (h)(3), 12031, subd. (m)(1) & (m)(3),
13014, 13023 and 13730, subd. (a)
Statutes 1984, Chapter 1609 (SB 1472); Statutes 1989, Chapter 1172 (SB 202);
Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250);
Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491);
Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 483 (AB 469)

Crime Statistics Reports for the Department of Justice

02-TC-04 & 02-TC-11

AND

Penal Code Section 13023
Statutes 2004, Chapter 700 (SB 1234)

Crime Statistics Reports for the Department of Justice Amended

07-TC-10

City of Newport Beach and County of Sacramento, Co-claimants

I. SUMMARY OF THE MANDATE

On June 26, 2008, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim legislation on the original test claim imposes a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

- A local government entity responsible for the investigation and prosecution of a homicide case to provide the California Department of Justice (DOJ) with demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background (Pen. Code, §13014).

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

On July 31, 2009, the Commission adopted a Statement of Decision finding that the test claim legislation on the amended test claim imposes a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

- For local law enforcement agencies beginning January 1, 2004, to report the following in a manner to be prescribed by the Attorney General:
 - Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of the following *perceived* characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.
 - Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of *association with a person or group with one or more of the following actual or perceived characteristics*: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The City of Newport Beach filed the original test claim on September 6, 2002. Therefore, costs incurred pursuant to Crime Statistics Reports for the Department of Justice Test Claim are reimbursable on or after July 1, 2001. The City of Newport Beach and the County of Sacramento jointly amended

the test claim. Costs incurred pursuant to the amended test claim are reimbursable on or after January 1, 2004.

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

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

IV. REIMBURSABLE ACTIVITIES

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

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

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

For each eligible claimant, the following activities are reimbursable:

A. Homicide Reports: (Pen. Code, §13014)

One Time Activity:

- Revise existing policies and procedures regarding the filing of homicide reports, including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- Record in law enforcement reports demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background.
- Gather and consolidate demographic information from law enforcement reports.
- Draft or complete report regarding demographic information for the California Department of Justice (DOJ).
- Review and edit report.
- Submit report to DOJ via fax, mail or otherwise as acceptable by the DOJ.

B. Hate Crime Reports: (Pen. Code, §13023)

One Time Activity:

- Revise existing policies and procedures regarding the filing of hate crime reports, including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- Record in law enforcement reports any information that may be required by Attorney General relative to hate crimes, as defined in Penal Code sections 422.55 and 422.56.
- Gather and consolidate information from law enforcement reports.
- Draft or complete report regarding hate crimes for the Attorney General.
- Review and edit report
- Submit report to Attorney General via fax, mail or otherwise as acceptable by the Attorney General.

C. Firearm Reports: (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3)) *Reimbursable from July 1, 2001 to January 1, 2005.*

One Time Activity:

- Revise existing policies and procedures regarding the filing of firearm reports, including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- Record in law enforcement and district attorney files profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or under Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information.
- Gather and consolidate profiles from law enforcement reports and district attorney files.
- Draft or complete report regarding firearms for the Attorney General.
- Review or edit report.
- Submit report to Attorney General via fax, mail or otherwise as acceptable by the Attorney General.

D. Domestic Violence Related Calls for Assistance: (Pen. Code, § 13730, subd. (a))

One Time Activity:

- Revise existing policies and procedures regarding the preparation of domestic violence related calls for assistance incident reports, including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- Gather information on all domestic-violence related calls for assistance for incident report.
- Draft written incident report.
- Review or edit report.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets and Equipment

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

5. Travel

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

6. Training

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

B. Indirect Cost Rates

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

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

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

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

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

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) 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 chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any 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 from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

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

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.

Pursuant to Government Code section 17561, subdivision (d)(1), 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 (d), 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.

Commission on State Mandates

Original List Date: Mailing Information: Final Staff Analysis
Last Updated: 9/1/2009
List Print Date: 09/17/2009 **Mailing List**
Claim Number: 07-TC-10 (02-TC-04 & 11)
Issue: Crime Statistics Reports for the Department fo Justice - Amended

Related Matter(s)

02-TC-04 Crime Statistic Reports for the Department of Justice
02-TC-11 Crime Statistic Reports for the Department of Justice

TO ALL PARTIES AND INTERESTED PARTIES:

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

Ms. Hasmik Yaghobyan County of Los Angeles Auditor-Controller's Office 500 W. Temple Street, Room 603 Los Angeles, CA 90012	Tel: (213) 893-0792 Fax: (213) 617-8106
Ms. Nancy Gust County of Sacramento 711 G Street Sacramento, CA 95814	Claimant Tel: (916) 874-6032 Fax: (916) 874-5263
Mr. Glen Everroad City of Newport Beach 3300 Newport Blvd. P. O. Box 1768 Newport Beach, CA 92659-1768	Claimant Tel: (949) 644-3127 Fax: (949) 644-3339
Mr. Allan Burdick MAXIMUS 3130 Kilgore Road, Suite 400 Rancho Cordova, CA 95670	Claimant Representative Tel: (916) 471-5538 Fax: (916) 366-4838
Ms. Marilyn Yankee Department of Justice BCIA (D-08) P.O. Box 903427 Sacramento, CA 94203-4270	Tel: (916) 227-4777 Fax: (916) 000-0000
Mr. David Wellhouse David Wellhouse & Associates, Inc. 9175 Kiefer Blvd, Suite 121 Sacramento, CA 95826	Tel: (916) 368-9244 Fax: (916) 368-5723

Ms. Althea Rivers County of Sacramento 711 G. Street, Room 405 Sacramento, CA 95814	Tel: (916)874-6032 Fax:
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Ms. Annette Chinn Cost Recovery Systems, Inc. 705-2 East Bidwell Street, #294 Folsom, CA 95630	Tel: (916) 939-7901 Fax: (916) 939-7801
Ms. Susan Geanacou Department of Finance (A-15) 915 L Street, Suite 1280 Sacramento, CA 95814	Tel: (916) 445-3274 Fax: (916) 449-5252
Ms. Juliana F. Gmur MAXIMUS 2380 Houston Ave Clovis, CA 93611	Tel: (916) 485-8102 Fax: (916) 485-0111
Mr. Mark Sigman Riverside County Sheriff's Office 4095 Lemon Street P.O. Box 512 Riverside, CA 92502	Tel: (951) 955-2700 Fax:
Mr. Jim Spano State Controller's Office (B-08) Division of Audits 300 Capitol Mall, Suite 518 Sacramento, CA 95814	Tel: (916) 323-5849 Fax: (916) 327-0832
Mr. Keith B. Petersen SixTen & Associates 3270 Arena Blvd., Suite 400-363 Sacramento, CA 95834	Tel: (916) 419-7093 Fax: (916) 263-9701
Executive Director California Peace Officers' Association 1455 Response Road, Suite 190 Sacramento, CA 95815	Tel: (916) 263-0541 Fax: (916) 263-6090
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: (916) 454-7310 Fax: (916) 454-7312

<p>Ms. Bonnie Ter Keurst County of San Bernardino Office of the Auditor/Controller-Recorder 222 West Hospitality Lane San Bernardino, CA 92415-0018</p>	<p>Tel: (909) 386-8850 Fax: (909) 386-8830</p>
<p>Mr. J. Bradley Burgess Public Resource Management Group 895 La Sierra Drive Sacramento, CA 95864</p>	<p>Tel: (916)595-2646 Fax:</p>
<p>Ms. Carla Castaneda Department of Finance (A-15) 915 L Street, 12th Floor Sacramento, CA 95814</p>	<p>Tel: (916) 445-3274 Fax: (916) 323-9584</p>
<p>Ms. Beth Hunter Centration, Inc. 8570 Utica Avenue, Suite 100 Rancho Cucamonga, CA 91730</p>	<p>Tel: (866) 481-2621 Fax: (866) 481-2682</p>
<p>Ms. Ginny Brummels State Controller's Office (B-08) Division of Accounting & Reporting 3301 C Street, Suite 500 Sacramento, CA 95816</p>	<p>Tel: (916) 324-0256 Fax: (916) 323-6527</p>
<p>Ms. Jean Kinney Hurst California State Association of Counties 1100 K Street, Suite 101 Sacramento, CA 95814-3941</p>	<p>Tel: (916) 327-7500 Fax: (916) 441-5507</p>
<p>Mr. Dale Mangram Riverside County Auditor Controller's Office 4080 Lemon Street, 11th Floor Riverside, CA 92502</p>	<p>Tel: (951) 955-3883 Fax: (951) 955-8133</p>
<p>Ms. Jolene Tollenaar MGT of America 455 Capitol Mall, Suite 600 Sacramento, CA 95814</p>	<p>Tel: (916) 712-4490 Fax: (916) 290-0121</p>

