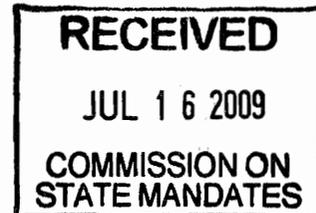




July 17, 2009



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

Dear Ms. Higashi:

The Department of Finance (Finance) has reviewed the test claim amendment, Claim No. 08-TC-05 "Airport Land Use Commissions/Plans II Amended," submitted by the County of Santa Clara (Claimant). The claimant refers to the Public Utilities Code (PUC) and Public Resources Code (PRC) in their assertion that the following activities impose reimbursable state mandates on counties:

- Provide staff assistance and cover usual and necessary operating expenses of airport land use commissions (Commissions) – PUC Section 21671.5 (c)
- Review and revise comprehensive land use plan (Plan) – PUC Section 21675
- Review and act on referrals of local agencies' amendments of general plans and specific plans within a 60-day time period, and local agencies' adoption of or approval of zoning ordinances or building regulations within a 60-day period – PUC Section 21676
- Perform environmental review of plans in compliance to the California Environmental Quality Act (CEQA) – PRC Section 21080

Finance believes that the PUC statutes cited do not directly impose requirements on the Claimant. The Commissions are independent bodies, separate from the counties, and have fee authority to carry out the specified activities, including reviewing and amending the plans. Providing staff assistance, as well as coverage of usual and necessary operating expenses of Commissions, are not reimbursable state mandates because legislation establishing the expenses as county obligations predates January 1975. These are not new programs or increased levels of service imposed on the counties, and claims for reimbursement activities do not meet the statute of limitations pursuant to the Government Code.

Environmental reviews are required to be performed by a "lead agency." Because neither the Claimant nor the Commissions have been authorized as such, the performance of these reviews does not impose a reimbursable state mandate on counties; likewise, it would not comply with the 1996 amendment to the statute of limitations for reimbursement claims.

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The counties also have sufficient fee authority to levy regulatory fees related to services performed by the Commission and the direct grant of police power. Police power authority occurs when the counties enact regulations to promote or maintain the health, safety, and welfare of the community. The counties can levy a regulation fee to offset costs related to complying with the Commissions' services, e.g., a zoning fee, to protect the community. This authority would be sufficient and upheld in court if the fee is not a special tax, does not to exceed the reasonable costs of the services, and is levied for related revenue purposes. As a result, the costs incurred by counties are not reimbursable.

Finance concludes that the activities pled under the specified sections have not imposed a reimbursable state mandate on counties and the test claim amendment should be denied. As required by the Commission on State Mandates regulations, a "Proof of Service" has been enclosed indicating that interested parties have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

A handwritten signature in black ink, appearing to read "Diana L. Duca", with a long, sweeping underline that extends to the right.

Diana L. Duca
Program Budget Manager

Enclosure

Attachment A

DECLARATION OF CARLA CASTAÑEDA
DEPARTMENT OF FINANCE
CLAIM NO. CSM-08-TC-05

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

June 16, 2009
at Sacramento, CA

Carla Castañeda
Carla Castañeda

PROOF OF SERVICE

Test Claim Name: Airport Land Use Commissions/Plans II (Amended)
Test Claim Number: CSM-08-TC-05

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 12 Floor, Sacramento, CA 95814.

On 7-16-09, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 12 Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

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

B-08
Mr. Jim Spano
State Controller's Office
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

A-08
Ms. Terry Roberts
Governor's Office of Planning & Research
P.O. Box 3044, Room 212
Sacramento, CA 95812-3044

Mr. Allan Burdick
MAXIMUS
3130 Kilgore Road, Suite 400
Rancho Cordova, CA

Mr. Vinod K. Sharma
County of Santa Clara
70 West Hedding Street, East Wing, 2nd Floor
San Jose, CA 95110

Mr. Leonard Kaye
County of Los Angeles
Auditor-Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012

A-15
Ms. Carla Castaneda
Department of Finance
915 L Street, 12th floor
Sacramento, CA 95814

B-08
Ms. Ginny Brummels
State Controller's Office
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Mr. Glen Everroad
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

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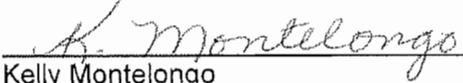
A-15
Ms. Susan Geanacou
Department of Finance
915 L Street, Suite 1280
Sacramento, CA 95814

Ms. Jolene Tollenaar
MGT of America
455 Capitol Mall, Suite 600
Sacramento, CA 95814

Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor/Controller-Recorder
222 West Hospitality Lane
San Bernardino, CA 92415-0018

Ms. Juliana F. Gmur
MAXIMUS
2380 Houston Avenue
Clovis, CA 93611

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 7-16-09 at Sacramento, California.



Kelly Montelongo