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April 28, 2015
**Commission on
State Mandates**

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

In Re:

STATE CONTROLLER'S OFFICE
AUDIT REPORT ON SANTA CLARA
COUNTY'S SEXUALLY VIOLENT
PREDATORS PROGRAM

INCORRECT REDUCTION CLAIM
No. 07-4509-I-02

**REBUTTAL TO THE RESPONSE SUBMITTED BY THE STATE
CONTROLLER**

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BACKGROUND

On July 30, 2004, the State Controller's Office (hereinafter "SCO") issued its final audit report on the County of Santa Clara's (hereinafter "County") claims for costs incurred based on the legislatively-created Sexually Violent Predators Program (Test Claim No. CSM-4509; Chapter 762, Statutes of 1995, Chapter 763, Statutes of 1995, and Chapter 4, Statutes of 1996) for July 1, 1998, through June 30, 2001. The SCO incorrectly reduced the County's claim of \$1,228,958 by \$203,363, thus allowing only \$1,025,595.

The County submitted the instant Incorrect Reduction Claim (“IRC”) on July 25, 2007, which was received by the Commission on State Mandates (“Commission”) on August 13, 2007. On January 28, 2015, the SCO filed its formal response. The County will address the specifics in the SCO’s response.

DISCUSSION

A. AUDIT FINDING NUMBER ONE REGARDING COUNTY’S PRODUCTIVE HOURLY RATE CALCULATION IS INCORRECT.

Audit Finding 1 states that the County over-claimed salaries, benefits and related indirect costs in the amount of \$203,363. This finding was based upon the County’s computation of its productive hourly rates for employees, which was proper and complied with the SCO’s Claiming Instructions allowing for a methodology of calculating the average annual productive hours with a deduction based on authorized (or required) employee break time and required training; rather than actual break time and required training. The County’s IRC exhaustively explains the County’s basis for using the developed countywide average annual productive hours and why this is an approved method based on the Mandated Cost Manual for Local Agencies (“Manual”).

The SCO’s response acknowledges that the Manual “allows the county to calculate productive hourly rates using countywide average annual productive hours.”¹ The point of difference between the SCO and the County is the accepted methodology for calculating break time and training time.

With respect to break time, the County claimed authorized break time to calculate the productive hourly rate. The SCO is taking the position that only actual break time can be used to calculate the productive hourly rate. Since the IRC was submitted, the

¹ SCO Response at p. 6.

County has re-evaluated how it calculates break time for the countywide average annual productive hours and break time is not included in the calculation because it is not cost effective to track actual break time. Therefore, the County no longer challenges the SCO's audit findings with respect to how break time was calculated for purposes of the countywide productive hourly rate for the period July 1, 1998 through June 30, 2001.

Concerning training hours deducted, the SCO's response acknowledges that training time specifically related to a mandated program is eligible for reimbursement and, presumably, can be deducted when calculating the countywide productive hourly rate. The issue for the SCO is that the County deducted training time based on time required for non-mandated programs, such as training time benefiting specific departments when calculating the countywide productive hours for July 1, 1998 through June 30, 2001. The County no longer challenges the SCO's audit findings with respect to how training was calculated for purposes of the countywide productive hourly rate for the period July 1, 1998 through June 30, 2001.


CONCLUSION

The County continues to request that the Commission reverse the SCO's audit findings. However, the County is available to meet with Commission and SCO staff to address Audit Finding 1.

Dated: 4/28/2015

Respectfully submitted,

ORRY P. KORB
County Counsel



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Deputy County Counsel
Attorneys for County of Santa Clara

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 1, 2015, I served the:

Santa Clara County Rebuttal Comments

Sexually Violent Predators, 07-4509-I-02

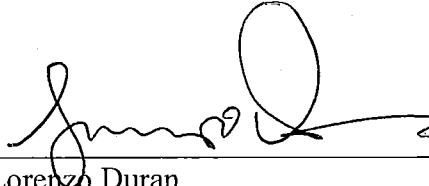
Statutes 1995, Chapters 762 and 763; Statutes 1996, Chapter 4;

Fiscal Years 1998-1999, 1999-2000, and 2000-2001

Santa Clara County, 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 1, 2015 at Sacramento, California.



Lorenzo Duran

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/24/15

Claim Number: 07-4509-I-02

Matter: Sexually Violent Predators

Claimant: County of Santa Clara

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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