



**JOHN CHIANG**  
California State Controller

December 12, 2014

**RECEIVED**  
December 12, 2014  
**Commission on  
State Mandates**

**LATE FILING**

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

RE: Incorrect Reduction Claim (IRC)  
Firefighter's Cancer Presumption, 09-4081-I-01  
Statutes 1982, Chapter 1568  
Fiscal Year: 2003-2004  
City of Los Angeles, 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) 323-5849.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim L. Spano".

JIM L. SPANO, Chief  
Mandated Cost Audits Bureau  
Division of Audits

JS/kw

14859

**RESPONSE BY THE STATE CONTROLLER’S OFFICE  
TO THE INCORRECT REDUCTION CLAIM (IRC) BY  
CITY OF LOS ANGELES  
Firefighter’s Cancer Presumption Program**

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Note: References to Exhibits relate to the city’s filed IRCs on January 14, 2014, as follows:

- Exhibit A – PDF page 5
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**Tab 1**

1 **OFFICE OF THE STATE CONTROLLER**

300 Capitol Mall, Suite 1850

2 Sacramento, CA 94250

3 Telephone No.: (916) 445-6854

4 **BEFORE THE**  
5 **COMMISSION ON STATE MANDATES**  
6 **STATE OF CALIFORNIA**

9  
10 **INCORRECT REDUCTION CLAIM ON:**

11 *Firefighter's Cancer Presumption Program*

12 Chapter 1568, Statutes of 1982

13 **CITY OF LOS ANGELES, Claimant**

No.: CSM 09-4081-I-01

**AFFIDAVIT OF BUREAU CHIEF**

14  
15  
16 I, Jim L. Spano, make the following declarations:

- 17 1) I am an employee of the State Controller's Office (SCO) and am over the age of 18  
18 years.
- 19 2) I am currently employed as a Bureau Chief, and have been so since April 21, 2000.  
Before that, I was employed as an audit manager for two years and three months.
- 20 3) I am a California Certified Public Accountant.
- 21 4) I reviewed the work performed by the SCO auditor.
- 22 5) Any attached copies of records are true copies of records, as provided by the City of  
23 Los Angeles or retained at our place of business.
- 24 6) The records include claims for reimbursement, along with any attached supporting  
25 documentation, explanatory letters, or other documents relating to the above-entitled  
Incorrect Reduction Claim.

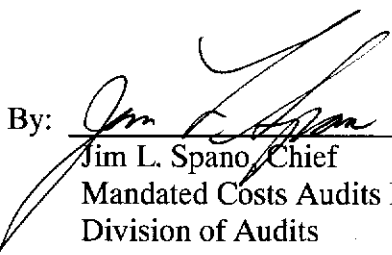
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7) A field audit of the claims for fiscal year (FY) 2003-04, FY 2004-05, FY 2005-06, and FY 2006-07 commenced on June 9, 2008, and ended on June 19, 2009.

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

Date: December 12, 2014

OFFICE OF THE STATE CONTROLLER

By:   
\_\_\_\_\_  
Jim L. Spano, Chief  
Mandated Costs Audits Bureau  
Division of Audits  
State Controller's Office

**Tab 2**

**STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE  
TO THE INCORRECT REDUCTION CLAIM BY  
CITY OF LOS ANGELES  
For Fiscal Year (FY) 2003-04 through FY 2006-07**

**Firefighter's Cancer Presumption Program  
Chapter 1568, Statutes of 1982**

**SUMMARY**

The following is the State Controller's Office's (SCO) response to the Incorrect Reduction Claim that the City of Los Angeles submitted on January 14, 2010. The SCO audited the city's claims for costs of the legislatively mandated Firefighter's Cancer Presumption Program for the period of July 1, 2003, through June 30, 2007. The SCO issued its final report on September 4, 2009 (**Exhibit B**).

The city submitted reimbursement claims totaling \$3,492,879 (\$501,913 for FY 2003-04 (**Exhibit C**), \$603,215 for FY 2004-05, \$947,774 for FY 2005-06, and \$1,439,977 for FY 2006-07). Subsequently, the SCO performed an audit for the period of July 1, 2003, through June 30, 2007, and determined that \$147,419 is unallowable. The costs are unallowable because the city claimed non-mandate-related, unsupported, and duplicate costs. The city believes that it should receive reimbursement for FY 2003-04 allowable costs that exceed costs claimed. The following table summarizes the audit results:

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>July 1, 2003, through June 30, 2004</u>			
Administrative costs	\$ 18,683	\$ 18,683	\$ —
Disability benefit costs	985,119	1,443,198	458,079
Mathematical error	25	—	(25)
Subtotal	1,003,827	1,461,881	458,054
Less allowable costs that exceed costs claimed <sup>1</sup>	—	(458,054)	(458,054)
Total direct costs	1,003,827	1,003,827	—
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs <sup>2</sup>	<u>\$ 501,913</u>	501,913	<u>\$ —</u>
Less amount paid by the State <sup>3</sup>		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 501,913</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Administrative costs	\$ 10,437	\$ 10,437	\$ —
Disability benefit costs	1,195,993	1,502,173	306,180
Subtotal	1,206,430	1,512,610	306,180
Less allowable costs that exceed costs claimed <sup>1</sup>	—	(306,180)	(306,180)
Total direct costs	1,206,430	1,206,430	—
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs <sup>2</sup>	<u>\$ 603,215</u>	603,215	<u>\$ —</u>
Less amount paid by the State <sup>3</sup>		(603,215)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>July 1, 2005, through June 30, 2006</u>			
Administrative costs	\$ 20,748	\$ 20,748	\$ —
Disability benefit costs	1,874,799	1,886,807	12,008
Subtotal	1,895,547	1,907,555	12,008
Less allowable costs that exceed costs claimed <sup>1</sup>	—	(12,008)	(12,008)
Total direct costs	1,895,547	1,895,547	—
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs <sup>2</sup>	<u>\$ 947,774</u>	947,774	<u>\$ —</u>
Less amount paid by the State <sup>3</sup>		(947,774)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>July 1, 2006, through June 30, 2007</u>			
Administrative costs	\$ 120,260	\$ 120,260	\$ —
Disability benefit costs	2,759,693	2,464,856	(294,837)
Total direct costs	2,879,953	2,585,116	(294,837)
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs <sup>2</sup>	<u>\$ 1,439,977</u>	1,292,558	<u>\$ (147,419)</u>
Less amount paid by the State <sup>3</sup>		(1,292,558)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>Summary: July 1, 2003, through June 30, 2007</u>			
Administrative costs	\$ 170,128	\$ 170,128	\$ —
Disability benefit costs	6,815,604	7,297,034	481,430
Mathematical error	25	—	(25)
Subtotal	6,985,757	7,467,162	481,405
Less allowable costs that exceed costs claimed <sup>1</sup>	—	(776,242)	(776,242)
Total direct costs	6,985,757	6,690,920	(294,837)
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs <sup>2</sup>	<u>\$ 3,492,879</u>	3,345,460	<u>\$ (147,419)</u>
Less amount paid by the State <sup>3</sup>		(2,843,547)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 501,913</u>	

<sup>1</sup> Government Code section 17568 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in Government Code section 17560. That deadline has expired for FY 2003-04, FY 2004-05, and FY 2005-06.

<sup>2</sup> Calculation differences due to rounding.

<sup>3</sup> Payment information current as of July 13, 2010.



# I. FIREFIGHTER'S CANCER PRESUMPTION PROGRAM CRITERIA

## Parameters and Guidelines- March 26, 1987

On October 24, 1985, the Board of Control (now the Commission on State Mandates [Commission]) adopted the parameters and guidelines for Chapter 1568, Statutes of 1982. The Commission amended the parameters and guidelines on March 26, 1987. That version is effective for the FY 2003-04 claim.

Section VI provides the following criteria for reimbursable cases:

### VI. FORMULA FOR DETERMINATION OF CASES SUBJECT TO REIMBURSEMENT

Reimbursement requires a demonstration of elements as follows:

A claim under Chapter 1568, Statutes of 1982 is reimbursable if:

- A. The worker is a firefighter within the meaning of Labor Code Section 3212.1; and
- B. The worker has cancer which has caused the disability; and
- C. The worker's cancer developed or manifested itself during a period while the worker was in the service of the employer, or within the extended period provided for in Labor Code section 3212.1; and
- D. The worker was exposed, while in the service of the employer, to one or more known carcinogens as defined by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations; and
- E. The one or more carcinogens to which the worker was exposed are reasonably linked to the disabling cancer, as demonstrated by competent medical evidence.

Section VII defines the reimbursable formula as follows:

### VII. CLAIMING FORMULA

If a case is reimbursable under Section VI, fifty percent (50%) of the reimbursable costs as defined in Section VIII shall be paid to claiming agencies.

Section VIII, subsection B, identifies reimbursable costs for self-insured local agencies:

### VIII. REIMBURSABLE COSTS

#### B. Self-Insured Local Agencies

All actual costs of a claim based upon the presumption set forth in Labor Code Section 3212.1 are reimbursable, including but not limited to the following:

##### (1) Administrative Costs

###### (a) Staff Costs

1. Salaries and employee benefits;
2. Costs of supplies;
3. Legal counsel costs;
4. Clerical Support;

5. Normal local rates of reimbursement for necessary and reasonable travel and related expenses for staff;
6. Amounts paid to adjusting agencies.

(b) Overhead Costs

Counties, cities, and special districts may claim an indirect cost through an indirect cost rate proposal. . . .

(2) Benefit Costs

Actual benefit costs under this presumption shall be reimbursable and shall include, but are not limited to:

- (a) All medical expenses.
- (b) Necessary and reasonable travel and related expenses.
- (c) All compensation benefits, including but not limited to:
  1. Permanent disability benefits;
  2. Life pension benefits;
  3. Death benefits;
  4. Temporary disability benefits. . . .

Section X. defines supporting documentation requirements as follows:

X. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents or worksheets that show evidence of and the validity of such costs. These documents must be kept on file and made available on the request of the State Controller.

## II. UNCLAIMED COSTS

### Issue

For fiscal year (FY) 2003-04, the city submitted a claim reporting disability benefit costs of \$985,119. Our audit found that the city made mathematical errors on a supporting schedule. These errors resulted in unclaimed disability benefit costs totaling \$516,132.

### SCO Analysis:

Government Cost section 17560 states that the city may file an annual reimbursement claim for actual mandated costs that it incurred. 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.

## City's Response

...we take the strongest possible exception to, and appeal the determination of the State Controller's office to disallow \$516,132 in what is characterized as "unclaimed costs" on the FY 2003-04 claims year.

An arithmetic discrepancy was found... We assert that the characterization of this amount as "unclaimed" is completely erroneous and inaccurate.

On Schedule 1 - Summary of Program Costs - July 1, 2003 through June 30, 2007, under the period July 1, 2003 through June 30, 2004, your schedule indicates \$985,119 in "Disability benefit costs." A simple recap, or calculator summary of the line-by-line entries on your Form FCP-2 demonstrates, as the auditor found, that this amount is \$516,132 less than it should be.

Government Code Section 17561 indicates that these reimbursements are mandatory, unless, as per subsection (d)(1)(C)(ii), "... the Controller determines (that a claim) is excessive or unreasonable." No such determination has been made. In fact, the State audit simply characterizes this amount (\$516,132) as "unclaimed." This is clearly inaccurate, as the itemized claims were in fact submitted. "Disallowing" this amount on any basis other than a determination that they were either excessive or unreasonable is not a ground supported by the Government Code.

State audit's reference by footnote to the filing deadline having expired for FY 2003-04 is similarly erroneous. There is no factual dispute that these claims, each and every itemized individual claim, were timely submitted. I note that 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 no time limit attached to this provision, and I am certain that any overpayment, regardless of date, would be the subject of a subsequent offset or recovery by the Controller's office. Under the terms of the statute, the amount "disallowed" should have been recalculated and included in the amount claimed.

## SCO's Comment

The city submitted its FY 2003-04 mandated cost claim on January 10, 2005. The city submitted mandated claim forms FAM-27 (claim for payment), FCP-1.2 (claim summary), and FCP-2.1 (component/activity cost detail) (**Exhibit C**). On all of these claim forms, the city identified disability benefit 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).

Our audit report shows that we allowed the reimbursable costs that the city claimed. Government Code section 17560 states that the city may file an annual reimbursement claim for actual mandated costs that it incurred. 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.

The city cites Government Code section 17561, subdivision (d)(2)(C), out of context. The statutory language addresses the SCO's responsibility to pay annual mandated cost reimbursement claims that local agencies submit. For past underpayments or overpayments, any correction is based on the claims that the city submitted. For FY 2003-04, the city submitted a claim for \$501,913; our audit report concludes that this amount is allowable.

### III. CONCLUSION

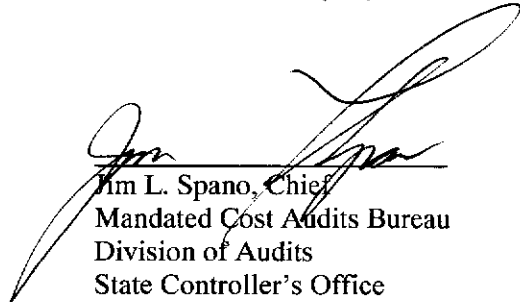
The State Controller's Office audited the City of Los Angeles' claims for costs of the legislatively mandated Firefighter's Cancer Presumption Program (Chapter 1568, Statutes of 1982) for the period of July 1, 2003, through June 30, 2007. The city claimed unallowable costs totaling \$147,419. The costs are unallowable because the city claimed non-mandate-related, unsupported, and duplicate costs.

In conclusion, the Commission on State Mandates should find that the SCO correctly limited FY 2003-04 allowable costs to the claimed cost amount totaling \$501,913.

### IV. 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 matters, I believe them to be true and correct based upon information and belief.

Executed on December 12, 2014, at Sacramento, California, by:



Jim L. Spano, Chief  
Mandated Cost Audits Bureau  
Division of Audits  
State Controller's Office

**Tab 3**

Adopted: 10/24/85  
Amended: 3/26/87  
WP 1098A

## PARAMETERS AND GUIDELINES

### Chapter 1568, Statutes of 1982 Firefighter's Cancer Presumption

#### I. SUMMARY OF MANDATE

Chapter 1568, Statutes of 1982, added Section 3272.1 to the Labor Code. This section states that cancer that has developed or manifested itself in firefighters will be presumed to have arisen out of and in the course of employment, unless the presumption is controverted by other evidence. The presumption is extended to a firefighter following termination of service for a period of three calendar months for each year of requisite service, but not to exceed sixty (60) months in any circumstance, commencing with the last date actually worked in the specified capacity.

#### II. BOARD OF CONTROL DECISION

On February 23, 1984, the Board of Control determined that fire departments will incur "costs mandated by the state" as a result of Chapter 7568, Statutes of 1982.

#### III. ELIGIBLE CLAIMANTS

Any fire department of a city, a county, a city and county, a local fire protection district, or other public or municipal corporation or political subdivision of the state which employs firefighters.

#### IV. OPERATIVE DATE OF MANDATE

The operative date of Chapter 1568, Statutes of 1982 is January 1, 1983 through January 1, 1989, unless a statute which is chaptered before January 1, 1989 deletes or extends the repealer date for Labor Code Section 3212.1.

#### V. PERIOD OF CLAIM

Claims may be filed for costs paid for workers' compensation claims where the date of injury is from January 1, 1983 to January 1, 1989, unless a statute which is chaptered before January 1, 1989 deletes or extends the repealer date for Labor Code Section 3212.1.

The claims must be submitted to the State Controller in accordance with existing statutory deadlines, except that a claimant shall be entitled to file a claim for all costs associated with a particular case upon

completion of the case or at such earlier or later time as costs have accrued and been paid on an interim or post-award/compromise and release basis.

**VI. FORMULA FOR DETERMINATION OF CASES SUBJECT TO REIMBURSEMENT**

Reimbursement requires a demonstration of elements as follows:

**A. A claim under Chapter 1568, Statutes of 1982 is reimbursable if:**

- A. The worker is a firefighter within the meaning of Labor Code Section 3212.1; and
- B. The worker has cancer which has caused the disability; and
- C. The worker's cancer developed or manifested itself during a period while the worker was in the service of the employer, or within the extended period provided for in Labor Code Section 3212.1; and
- D. The worker was exposed, while in the service of the employer, to one or more known carcinogens as defined by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations; and
- E. The one or more carcinogens to which the worker was exposed are reasonably linked to the disabling cancer, as demonstrated by competent medical evidence.

**VII. CLAIMING FORMULA**

If a case is reimbursable under Section VI, fifty percent (50%) of the reimbursable costs as defined in Section VIII shall be paid to claiming agencies.

**VIII. REIMBURSABLE COSTS**

**A. Insured Local Agencies and Fire Districts**

Insured local entities may be reimbursed for any increases for workers' compensation premium costs directly and specifically attributable to Labor Code Section 3212.1.

**B. Self-Insured Local Agencies**

All actual costs of a claim based upon the presumption set forth in Labor Code Section 3212.1 are reimbursable, including but not limited to the following:

**(1) Administrative Costs**

**(a) Staff Costs**

1. Salaries and employee benefits;
2. Costs of supplies;
3. Legal counsel costs;
4. Clerical support;
5. Normal local rates of reimbursement for necessary and reasonable travel and related expenses for staff;
6. Amounts paid to adjusting agencies.

**(b) Overhead Costs**

Counties, cities and special districts may claim an indirect cost through an indirect cost rate proposal prepared in accordance with the provision of Federal Regulation OASC-10 (used in conjunction with FMC 74-4) as a percentage of direct salaries and wages. Indirect costs may include costs of space, equipment, utilities, insurance, administration, etc. (i.e., those elements of indirect cost incurred as the result of the mandate originating in the performing unit and the costs of central government services distributed through the central services cost allocation plan and not otherwise treated as direct costs). Computation of the indirect cost rate must accompany the claim showing how that vote was derived.

**(2) Benefit Costs**

Actual benefit costs under this presumption shall be reimbursable and shall include, but are not limited to:

- (a) All medical expenses.
- (b) Necessary and reasonable travel and related expenses.
- (c) All compensation benefits, including but not limited to:
  1. Permanent disability benefits;
  2. Life pension benefits;
  3. Death benefits;
  4. Temporary disability benefits or full salary in lieu of temporary disability benefits as required by Labor Code Section 4850, or other local charter provision or ordinance in existence on January 1, 1983.



Provided, however, that salary in lieu of temporary disability benefits were payable under local charter provision or ordinance in existence on January 1, 1983. Provided, however, that salary in lieu of temporary disability benefits payable under local charter provision or ordinance shall be reimbursable only to the extent that those benefits do not exceed the benefits required by Labor Code Section 4850.

IX. OFFSETTING, SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claimed. Such offsetting savings shall include, but not be limited to, savings in the cost of personnel, service or supplies, or increased revenues obtained by the claimant..

In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

X. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents or worksheets that show evidence of and the validity of such costs. These documents must be kept on file and made available on the request of the State Controller.

XI. REQUIRED CERTIFICATION

The following certification must accompany the claim:

IDOHEREBYCERTIFY:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the Jaw have been complied with; and

THAT I am the person authorized by the local agency to file claims with the State of California.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone Number

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

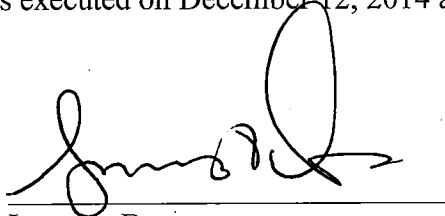
I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On December 12, 2014, I served the:

**State Controller's Office Comments on IRC**  
*Firefighter's Cancer Presumption, 09-4081-I-01*  
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 December 12, 2014 at Sacramento, California.



---

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

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 11/19/14

**Claim Number:** 09-4081-I-01

**Matter:** Firefighter's Cancer Presumption

**Claimant:** City of Los Angeles

### 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

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SAquino@sco.ca.gov

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**Jean Kinney Hurst**, Senior Legislative Representative, Revenue & Taxation, *California State Association of Counties (CSAC)*

1100 K Street, Suite 101, Sacramento, CA 95814-3941

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jhurst@counties.org

**Jay Lal**, *State Controller's Office (B-08)*

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

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**Kathleen Lynch**, *Department of Finance (A-15)*

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