



BETTY T. YEE
California State Controller

October 21, 2016

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

RECEIVED
October 21, 2016
*Commission on
State Mandates*

LATE FILING

Re: State Controller's Office Response to Proposed Decision

Incorrect Reduction Claim (IRC)

Animal Adoption, 13-9811-I-02

Civil Code Sections 1834 and 1846 and

Food and Agriculture Code Sections 31108, 31752, 31752.5, 31753, 32001, and 32003
Statutes 1998, Chapter 752; Statutes 2004, Chapter 313

Fiscal Years: 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2005-2006,
2006-2007, and 2007-2008

City of Los Angeles, Claimant

Dear Ms. Halsey:

The State Controller's Office (SCO) is transmitting our comments to the Commission's Proposed Decision dated October 13, 2016, for the above IRC.

The Commission partially approved the IRC and recommended that the SCO reinstate a portion of the costs to the extent the claimant can provide documentation to support the validity of the costs incurred. The SCO would like to provide its comments in relation to one of the issues addressed in the Proposed Decision.

If you have any questions, please contact me by telephone at (916) 323-5849.

Sincerely,

JIM L. SPANO, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office

JLS/am

17550

Attachments

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**RESPONSE BY THE STATE CONTROLLER'S OFFICE
TO THE COMMISSION PROPOSED DECISION DATED OCTOBER 13, 2016
RELATED TO AN INCORRECT REDUCTION CLAIM BY
THE CITY OF LOS ANGELES**

Animal Adoption Program

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Tab 1

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

8 **INCORRECT REDUCTION CLAIM (IRC)**
9 **ON:**

No.: IRC 13-9811-I-02

9 *Animal Adoption Program*

AFFIDAVIT OF BUREAU CHIEF

10 Civil Code Sections 1834 and 1846 and
11 Food and Agriculture Code
12 Sections 31108, 31752, 31752.5, 31753,
13 32001, and 32003
(Chapter 752, Statutes of 1998; and Chapter
14 313, Statutes of 2004)

15 **CITY OF LOS ANGELES, Claimant**

18 I, Jim L. Spano, make the following declarations:

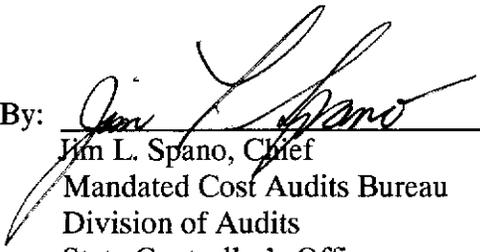
- 19 1) I am an employee of the State Controller's Office (SCO) and am over the age of 18 years.
- 20 2) I am currently employed as a bureau chief, and have been so since April 21, 2000. Before that, I was employed as an audit manager for two years and three months.
- 21 3) I am a California Certified Public Accountant.
- 22 4) I reviewed the work performed by the SCO auditor.

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I do declare that the above declarations and information contained in Tab 2 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: October 21, 2016

OFFICE OF THE STATE CONTROLLER

By: 

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

Tab 2

**RESPONSE BY THE STATE CONTROLLER'S OFFICE
TO THE COMMISSION PROPOSED DECISION
DATED OCTOBER 13, 2016
RELATED TO AN INCORRECT REDUCTION CLAIM BY
THE CITY OF LOS ANGELES**

Animal Adoption Program

Commission's Analysis

In its Proposed Decision, dated October 13, 2016, the Commission partially approved the IRC and requested that the SCO reinstate costs that relate to two categories of incorrect reductions to the extent the claimant can provide documentation to support the validity of the costs incurred. The Commission identified the following two categories of incorrect reductions in its Proposed Decision:

1. Any reduction of costs relating to the exclusion of animals deemed treatable upon arrival at the shelter and later euthanized during the increased holding period because they became non-rehabilitatable; and
2. Any reduction of costs relating to the SCO's recalculation of costs following the *Purifoy* decision and its use of an average number of reimbursable days, to the extent the recalculation resulted in an exclusion of "eligible animals" correctly held under the law.

The Commission further found that all other reductions made by the SCO were correct.

SCO's Comments

The SCO submitted comments in response to the Commission's Draft Proposed Decision. The letter, dated September 15, 2016, articulated the SCO's views on the two issues listed above. However, in light of the Commission's evaluation of the SCO's comments in its Proposed Decision, the SCO would like to express additional comments for Issue 2—the use of the *average* number of reimbursable days.

The SCO maintains that the reductions in costs identified above were consistent with the intent of the mandated program and the reimbursable criteria and did not adversely affect the claimant's allowable costs.

Impact of Using Average Values

The SCO performs its audits to the plain language of the parameters and guidelines and ensures that only actual costs are allowable for reimbursement. Even when supporting documentation is absent or weak, we work closely with claimants to determine the reimbursable costs as close to the actual costs as possible. We concur that the parameters and guidelines requires computation of *actual* costs for all components of the Animal Adoption program. We also concur that computing *actual* increased holding period days would be most accurate. However, circumstances often may not allow the SCO or the claimant to compute actual costs. For example, the claimants and the SCO often use *average* productive hourly rates per employee classification to determine allowable salaries and benefits costs. Also, *average* time increments

per activity often are computed to determine allowable hours for reimbursable components. The use of *average* values in computation of mandated costs allows for efficiency while providing close approximation of actual costs.

As we noted in our comments dated September 15, 2016, the SCO reviewed and analyzed a substantial number of animal records for the audit period. The animal records averaged between 50,000 and 60,000 line items per fiscal year. To put things in perspective, we will demonstrate the difficulty in approximating the time required to compute the *actual* increased holding period for each animal in one given fiscal year. We used FY 2007-08 as an example year in our responses; therefore, we will use the statistics for FY 2007-08 to demonstrate our example. FY 2007-08 data contained 50,000 animal records, rounded to the nearest thousand. We will assume one full-time staff member and devote this person to the activity of determining the *actual* increased holding period for the claimant's animal population. Considering that each animal record would need to be evaluated manually to determine the *actual* increased holding period depending on the day of the week the animal was impounded, we also will assume that one staff member can perform 20-25 such calculations in one hour. At this rate, the staff member would be able to review 200 animal records per day and about 1,000 animal records per week. Therefore, the thorough review of the animal data for just one fiscal year would take approximately an entire calendar year to complete, assuming no breaks, no holidays, and no vacation days. The animal data would have to be sorted first and proper exclusions of adopted or redeemed or owner surrendered animals would have to be accounted for. Therefore, the number of animal records subject to an *actual* increased holding period computation would be reduced. However, the task of computing the *actual* increased holding period for each potentially eligible animal record would take months and possibly longer.

Average Increased Holding Period Days

The Commission's Proposed Decision, dated October 13, 2016 states:

The controller's recalculations of the increased holding period using an average number of reimbursable days is incorrect as a matter of law, and is arbitrary, capricious, and entirely lacking in evidentiary support....

We disagree. The SCO maintains that using an *average* of increased holding period days in the computation of allowable costs was not detrimental to the claimant and was the only reasonable and practical methodology to approximate actual costs as close as possible.

Increased Holding Period for Dogs and Cats

As the Commission pointed out in its Proposed Decision, the claimant is subject to the four-business-day holding period for dogs and cats, consistent with the claimant making dogs and cats available for owner redemption on a weekend day. The increased holding period days for dogs and cats is computed by the difference between the 72-hour holding period under prior law and the four business days after the day of impoundment. In order to properly compute the *actual* increased holding period days for dogs and cats, one would need to know not only the day of the week the animal came in, but also the exact hour, which would make a difference in computing the *actual* increased holding period for dogs and cats. The animals are impounded or are dropped off 24-hours per day regardless of the shelters' operating schedules. The exact hour of animal impoundment is not recorded anywhere.

Therefore, aside from being an unreasonably time-consuming task, computing an accurate increased holding period for dogs and cats is impossible in the absence of a recorded time of day that the animal was impounded. One would need to make assumptions on whether animals were impounded in the morning, mid-day, or afternoon, which would change the computation of the *actual* increased holding period. Making such assumptions would inherently bring an element of approximation to the computation and would defeat the purpose of attempting to compute an *actual* increased holding period for these animals.

In its Proposed Decision, the Commission presented an example table showing how the holding period days are computed. Consistent with *Purifoy* decision and the SCO's methodology, the Commission's chart did not account for Saturdays or Sundays as business days and accounted for Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays as business days. The Commission's chart also made an assumption (as noted in the paragraph above) that the animals were impounded first thing in the morning, which started the holding period computation immediately on the day of impoundment. Also, the Commission's analysis did not take into account the correct working schedule for the claimant's animal shelters, which affects the computation of the increased holding period for the claimant's shelters. Assuming a morning impoundment and counting Monday as a business day creates differences between the SCO's analysis performed during the audit and the Commission's comments presented in the Proposed Decision.

The Commission correctly noted that the SCO's analysis to compute *average* increased holding period days excluded Saturdays, Sundays, and other "days that the agency was closed." The SCO computed an *average* increased holding period for all dogs and cats to be three days, and the *average* increased holding period for other animals to be six days.

The SCO presented a sample of its computation table in response to the claimant's IRC. The SCO's response letter, dated September 4, 2015, included Tab 10, which presented the SCO's computations for Care and Maintenance costs and the SCO's analysis for computing the *average* increased holding period days for dogs and cats. Per the claimant's animal shelters' schedules and the claimant's own admission during fieldwork, the city's shelters were open to the public Tuesdays through Saturdays during the audit period. Therefore, the SCO's analysis excluded Saturdays, Sundays, and Mondays as business days. Also, with the absence of information pertaining to the time of the day the animals were impounded, the SCO's analysis originally assumed a noon impound in order to compute the 72-hour holding period under prior law.

For demonstration purposes, the SCO would like to present a simplified analysis, consistent with the chart contained in the Commission's Proposed Decision, which assumes a morning impound and excludes Mondays as business days per the claimant's animal shelters' schedules during the audit period. Accounting for Mondays as non-business days will produce different results from the Commission's examples, when computing the *increased* holding period days for dogs and cats and other animals.

The increased holding period for dogs and cats is as follows:

Mon	Tue	Wed	Thur	Fri	Sat	Sun	Mon	Tue	Wed	Thur	Fri	increased holding period
imp	1	2	3	4								5 days
	imp	1	2	3				4				8 days
		imp	1	2				3	4			8 days
			imp	1				2	3	4		8 days
				imp				1	2	3	4	8 days
					imp			1	2	3	4	7 days
						imp		1	2	3	4	6 days

Consistent with *Purifoy*, this chart does not count Saturdays and Sundays as business days, and also does not count Mondays as business days, consistent with claimant's animal shelters' schedules.

The animals are impounded throughout the year, seven days a week. As shown above, with the scenarios of Tuesday, Wednesday, Thursday, and Friday impound days for category of "other animal" or "bird," the animal should not be euthanized until calendar day eight, because Saturdays, Sundays, and Mondays are excluded, as noted above.

The SCO used an *average* six-day increased holding period in its determination of eligible animals for categories of "other animal" and "bird." If an animal was euthanized on day seven, the SCO counted such animals as allowable for reimbursement, consistent with the *average* six-day period. However, the *actual* increased holding period for animals impounded on Tuesdays, Wednesdays, Thursdays, and Fridays would be eight days.

Contrary to the Commission's assertion that the SCO did not show evidence that the use of the *average* reimbursable days allows non-eligible animals to be included for reimbursement, the evidence of such scenarios is in fact contained in the record. In its comments to the Draft Proposed Decision, dated September 15, 2016, the SCO submitted Tab 3 – City of Los Angeles' Chameleon Database Animal Listing for Other Animals for FY 2007-08 and Tab 4 – City of Los Angeles' Chameleon Database Animal Listing for Birds for FY 2007-08. We will refer to the listing of "other animal" category in Tab 3 as an example.

Referring to PDF page 51 of 105 of that document posted on the Commission's website, the listing of other animals on that page contains records for four turtles impounded on March 13, 2008 (animal identification numbers A0933507, A0933508, A0933509, and A0933510). March 13, 2008, is a Thursday. Excluding Saturday, Sunday, and Monday as business days, the *actual* required holding period for these turtles is through Thursday of the following week, or eight calendar days. Those turtles were euthanized on day seven and therefore prior to the required *actual* holding period. However, the SCO included these animals in the allowable population of animals, consistent with the use of the *average* six-day period, but inconsistent with the *actual* required holding period of eight days.

Referring to PDF page 57 of 105 of the same document posted on the Commission's website, the listing of other animals on that page contains records for two domestic rats impounded on May 9, 2008 (animal identification numbers A0946170 and A0946172.) May 9, 2008, is a Friday.

Excluding Saturday, Sunday, and Monday as business days, the *actual* required holding period for these rats is through Friday of the following week or eight calendar days. Those rats were euthanized on day seven and therefore prior to the required *actual* holding period. However, the SCO included these animals in the allowable population of animals, consistent with the use of the *average* six-day period, but inconsistent with the *actual* required holding period of eight days.

The examples described in the two paragraphs above demonstrate that the use of the *average* increased holding period days includes ineligible animals and produces results favorable to the city.

Summary

When summarizing all possible impound scenarios for the category of dogs and cats, using an *average* increased three-day holding period benefits the claimant in a Tuesday, Wednesday, Thursday, Friday, and Saturday impound scenario. For a Sunday impound, it's neither advantageous nor disadvantageous to use the *average* three-day increased holding period. A Monday impound is the only day of the week that may produce disadvantageous results when determining the eligible population of animals. However, a Monday impound would not occur more frequently than impounds occurring on all the other days of the week combined. Therefore, the probability of excluding eligible animals, as with a Monday impound scenario, is far less than the probability of including non-eligible animals, as with a Tuesday, Wednesday, Thursday, Friday, or Saturday impound.

When summarizing all possible impound scenarios for the category of "other animal" and "bird," using an *average* required six-day holding period benefits the claimant in a Tuesday, Wednesday, Thursday, Friday, and Saturday impound scenario. For Sunday impound, the result is neutral when using the *average* required six-day holding period. Once again, a Monday impound is the only day of the week that may produce disadvantageous results when determining the eligible population of animals. However, a Monday impound would not occur more frequently than impounds occurring on all the other days of the week combined. Therefore, the potential probability of excluding eligible animals, as with a Monday impound scenario, is far less than the probability of including non-eligible animals, as with a Tuesday, Wednesday, Thursday, Friday, or Saturday impound.

Therefore, the SCO maintains that any reductions in costs associated with using an *average* increased holding period did not adversely affect accurate computation of allowable costs and were not arbitrary, capricious, and entirely lacking in evidentiary support. The SCO also maintains that using an *average* of increased holding period days in determining allowable costs is the only practical methodology available to execute the requirements outlined in the parameters and guidelines. We are asking the Commission to reconsider its position on this subject in light of the examples contained in this letter.

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 October 21, 2016, I served the:

SCO Late Comments on the Proposed Decision

Animal Adoption, 13-9811-I-02

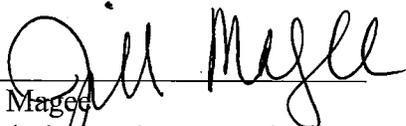
Civil Code Sections 1834 and 1846; Food and Agriculture Code Sections 31108, 31752, 31752.5, 31753, 32001, and 32003; As Added or Amended by Statutes 1998, Chapter 752 (SB 1785)

Fiscal Years 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003; 2005-2006, 2006-2007, and 2007-2008

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 October 21, 2016 at Sacramento, California.



Jill L. Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/10/16

Claim Number: 13-9811-I-02

Matter: Animal Adoption

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.)

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