

September 22, 2020

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September 22, 2020
Commission on
State Mandates

Heather Halsey Executive Director Commission on State Mandates 980 9th Street, Suite 300 Sacramento, CA 95814

Vote By Mail Ballots: Prepaid Postage (19-TC-01) – Eligible Claimants

Dear Ms. Halsey,

I am responding as an "Interested Party" to the Commission on State Mandates Draft Proposed Decision and Parameters and Guidelines (P's & G's) for the approved Test Claim "Vote By Mail Ballots: Prepaid Postage" (19-TC-01), dated September 1, 2020. In the Draft Proposed P's & G's, the Commission has identified eligible claimants as:

"Any city, county, or city and county that incurs increased costs as a result of this mandate is eligible to claim reimbursement. When counties conduct elections for cities or special districts; or when cities and counties conduct an election solely on behalf of a school district or community college district (with no other non-educational issues or elective offices on the ballot). In these elections, there is fee authority sufficient to cover the costs of the mandate pursuant to Government Code section 17556(d) so there are no costs mandated by the state."

In the instances when counties and cities conduct elections for cities or special districts, the Commission staff is recommending the following limitations on reimbursement for counties and cities that conduct such elections:

"When counties conduct elections for cities or special districts; or when cities and counties conduct an election solely on behalf of a school district or community college district (with no other non-educational issues or elective offices on the ballot). In these elections, there is fee authority sufficient to cover the costs of the mandate pursuant to Government Code section 17556(d) so there are no costs mandated by the state."

This "fee authority" limitation for Counties/Cities conducting elections for other local government agencies is understandable and makes perfect sense for the election conducting entities.

Cities/Special Districts Costs From a County/City Conducting an Election on Their Behalf

What I did not see addressed by the Commission in these Draft P's & G's are the increased costs for cities and special districts who are billed by the counties and cities (as required by their fee authority) who conduct their elections and in turn, bill the portion of elections costs related to "Vote By Mail: Prepaid Ballots" mandate on their election invoice.

"Racial and Identity Profiling" (18-TC-02)

Previously, the Commission has adopted decisions that approve reimbursement when costs are billed by counties (or other cities) to cities to provide a mandated activity as being reimbursable to the affected city. One has to look no further than the most recently approved Test Claim & the Adopted Statement of Decision (SOD) by the Commission for the program, "Racial and Identity Profiling" (18-TC-02) on May 22, 2022. In the adopted SOD for "Racial and Identity Profiling" the Commission approved:

"... the Commission partially approves this Test Claim, with a reimbursement period beginning November 7, 2017, and finds that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224-999.229 (Register 2017, No. 46), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution only on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) to perform the requirements of the test claim statute and regulations for stops within their own jurisdictions, and city and county law enforcement agencies that contract for officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions..."

Thus, cities that contract with county sheriff (and other city police departments) to provide law enforcement services to their cities are eligible for reimbursement for the approved reimbursable Test Claim activities for the "Racial and Identity Profiling" program.

"Absentee Ballots" (02-PGA-02)

The Commission on State Mandates has previously addressed the issue of mandated election costs billed by counties to cities and special districts for conducting the cities and special districts elections. Those affected cities and special districts were eligible to claim those costs in the program, "Absentee Ballots" (02-PGA-02). The Parameters & Guidelines (P's & G's) for "Absentee Ballots" were most recently amended in February 2003.

In these P's & G's, under "IV. Reimbursable Activities" Section A. "Elections Done by the County Election Official and Billed to the Local Agency" the Commission adopted three (3) separate methods for calculating reimbursement for instances "where a local agency election is done by the county election official and billed to the local agency."

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Comments on Draft Expedited Parameters and Guidelines - Test Claim 19-TC-01 September 22, 2020

Please let me know if you have any questions. I can be reached at (916) 455-3939 or via e-mail at andy@nichols-consulting.com. Thank you for your consideration.

Sincerely,

F. Andy Nichols

President

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 September 23, 2020, I served the:

• Nichols Consulting's Comments on the Draft Proposed Decision and Parameters and Guidelines filed September 22, 2020

Vote by Mail Ballots: Prepaid Postage, 19-TC-01 Elections Code Section 3010; Statutes 2018, Chapter 120 (AB 216) County 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 September 23, 2020 at Sacramento, California.

Jill L. Magee

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Mailing List

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Matter: Vote by Mail Ballots: Prepaid Postage

Claimant: County 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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