

# **SAN LUIS OBISPO COUNTY**

Audit Report

## **OPEN MEETINGS ACT/BROWN ACT REFORM PROGRAM**

Chapter 641, Statutes of 1986;  
and Chapters 1136, 1137, and 1138, Statutes of 1993

*July 1, 2005, through June 30, 2012*



**BETTY T. YEE**  
California State Controller

April 2016



**BETTY T. YEE**  
California State Controller

April 14, 2016

The Honorable Lynn Compton, Chair  
Board of Supervisors  
San Luis Obispo County  
1055 Monterey Street, Suite D430  
San Luis Obispo, CA 93408

Dear Ms. Compton:

The State Controller's Office audited the costs claimed by San Luis Obispo County for the legislatively mandated Open Meetings Act/Brown Act Reform Program (Chapter 641, Statutes of 1986; and Chapters 1136, 1137, and 1138, Statutes of 1993) for the period of July 1, 2005, through June 30, 2012.

The county claimed \$866,344 for the mandated program. Our audit found that \$687,792 is allowable and \$178,552 is unallowable. The costs are unallowable because the county applied incorrect blended productive hourly rates, used an incorrect time increment to compute costs, and omitted eligible agendas. The State will pay allowable costs claimed that exceed the amount paid, totaling \$687,792, contingent upon available appropriations.

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, by telephone at (916) 323-5849.

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/rg

cc: James P. Erb, CPA, Auditor-Controller  
San Luis Obispo County  
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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by San Luis Obispo County for the legislatively mandated Open Meetings Act/Brown Act Reform Program (Chapter 641, Statutes of 1986; and Chapters 1136, 1137, and 1138, Statutes of 1993) for the period of July 1, 2005, through June 30, 2012.

The county claimed \$866,344 for the mandated program. Our audit found that \$687,792 is allowable and \$178,552 is unallowable. The costs are unallowable because the county applied incorrect blended productive hourly rates, used an incorrect time increment to compute costs, and omitted eligible agendas. The State will pay allowable costs claimed that exceed the amount paid, totaling \$687,792, contingent upon available appropriations.

## Background

### Open Meetings Act Program

Chapter 641, Statutes of 1986, added Government Code sections 54954.2 and 54954.3. Section 54954.2 requires the legislative body of a local agency, or its designee, to post an agenda containing a brief general description of each item or business to be transacted or discussed at the regular meeting, subject to exceptions stated therein, specifying the time and location of the regular meeting. It also requires that the agenda to be posted at least 72 hours before the meeting in a location freely accessible to the public. Section 54954.3 requires members of the public to be provided an opportunity to address the legislative body on specific agenda items or an item of interest that is within the subject matter jurisdiction of the legislative body. The legislation requires that this opportunity be stated on the posted agenda.

### Open Meetings Act/Brown Act Reform Program

Chapters 1136 through 1138, Statutes of 1993, amended Government Code sections 54952, 54954.2, 54957.1, and 54957.7, expanding the types of legislative bodies that are required to comply with the notice and agenda requirements of sections 54954.2 and 54954.3. These sections also require all legislative bodies to perform additional activities related to the closed session requirements of the Brown Act.

The Commission on State Mandates (Commission) determined that the Open Meetings Act Program (October 22, 1987) and the Open Meetings Act/Brown Act Reform Program (June 28, 2001) resulted in state-mandated costs that are reimbursable under Government Code section 17561.

The program's parameters and guidelines establish the State mandate and define the reimbursement criteria. The Commission adopted parameters and guidelines on September 22, 1988 (last amended on November 30, 2000) for the Open Meetings Act Program, and on April 25, 2002, for the Open Meetings Act/Brown Act Reform Program. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

The Open Meetings Act Program was effective August 29, 1986. Commencing in fiscal year (FY) 1997-98, a local agency may claim costs using the actual time reimbursement option, the standard-time reimbursement option, or the flat rate reimbursement option as specified in parameters and guidelines. The Open Meetings Act/Brown Act Reform Program was effective for FY 2001-02.

Based on the passage of Proposition 30 adopted by the voters on November 7, 2012, the Department of Finance filed a request for redetermination of the Open Meetings Act and Brown Act Reform Program. On January 23, 2015, the Commission found that the Open Meetings Act/Brown Act Reform Program no longer constitutes a reimbursable state-mandated program, effective November 7, 2012.

## **Objectives, Scope, and Methodology**

We conducted this performance audit to determine whether costs claimed represent increased costs resulting from the Open Meetings Act/Brown Act Reform Program for the period of July 1, 2005, through June 30, 2012.

The legal authority to conduct this audit is provided by Government Code sections 12410, 17558.5, and 17561. We did not audit the county's financial statements. We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We limited our review of the county's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures. Our audit scope did not assess the efficiency or effectiveness of program operations. We did not audit the county's financial statements.

The objectives of our audit were to determine whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

To achieve our audit objectives, we performed the following procedures:

- Reviewed annual claims filed with SCO to identify any mathematical errors and performed analytical procedures to determine any unusual or unexpected variances from year-to-year.
- Completed an internal control questionnaire and performed a walk-through of the claim preparation process to determine what information was used, who obtained it, and how it was obtained.
- Judgmentally selected a haphazard sample of agenda preparation and posting costs claimed and traced the costs to documentation to determine that the costs were supported and related to the mandated program.

- Traced blended productive hourly rate calculations for county employees to supporting documentation in the county's payroll system.
- Inquired whether the county realized any offsetting savings or reimbursements from the statutes which created the mandated program.

## **Conclusion**

Our audit found instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Schedule (Summary of Program Costs) and in the Findings and Recommendations section of this report.

For the audit period, San Luis Obispo County claimed \$866,344 for costs of the Open Meetings Act/Brown Act Reform Program. Our audit found that \$687,792 is allowable and \$178,552 is unallowable. The State made no payment to the county. The State will pay allowable costs claimed that exceed the amount paid, totaling \$687,792, contingent upon available appropriations.

## **Views of Responsible Officials**

We issued a draft audit report on March 11, 2016. James Erb, CPA, Auditor-Controller responded by letter dated March 15, 2016 (Attachment), agreeing with the audit results. This final audit report includes the county's response.

## **Restricted Use**

This report is solely for the information and use of San Luis Obispo County, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

April 14, 2016

**Schedule—**  
**Summary of Program Costs**  
**July 1, 2005, through June 30, 2012**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2005, through June 30, 2006</u>				
Standard time	\$ 57,306	\$ 34,363	\$ (22,943)	Finding 1
Indirect costs	32,717	39,052	6,335	Finding 2
Total program costs	<u>\$ 90,023</u>	73,415	<u>\$ (16,608)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 73,415</u>		
<u>July 1, 2006, through June 30, 2007</u>				
Standard time	\$ 72,052	\$ 35,164	\$ (36,888)	Finding 1
Indirect costs	40,409	46,731	6,322	Finding 2
Total program costs	<u>\$ 112,461</u>	81,895	<u>\$ (30,566)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 81,895</u>		
<u>July 1, 2007, through June 30, 2008</u>				
Standard time	\$ 100,212	\$ 52,545	\$ (47,667)	Finding 1
Indirect costs	66,490	76,827	10,337	Finding 2
Total program costs	<u>\$ 166,702</u>	129,372	<u>\$ (37,330)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 129,372</u>		
<u>July 1, 2008, through June 30, 2009</u>				
Standard time	\$ 96,581	\$ 53,827	\$ (42,754)	Finding 1
Indirect costs	63,419	55,123	(8,296)	Finding 2
Total program costs	<u>\$ 160,000</u>	108,950	<u>\$ (51,050)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 108,950</u>		
<u>July 1, 2009, through June 30, 2010</u>				
Standard time	\$ 122,863	\$ 101,517	\$ (21,346)	Finding 1
Indirect costs	-	-	-	
Total program costs	<u>\$ 122,863</u>	101,517	<u>\$ (21,346)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 101,517</u>		
<u>July 1, 2010, through June 30, 2011</u>				
Standard time	\$ 112,001	\$ 93,706	\$ (18,295)	Finding 1
Indirect costs	-	-	-	
Total program costs	<u>\$ 112,001</u>	93,706	<u>\$ (18,295)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 93,706</u>		

## Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2011, through June 30, 2012</u>				
Standard time	\$ 102,294	\$ 98,937	\$ (3,357)	Finding 1
Indirect costs	-	-	-	
Total program costs	<u>\$ 102,294</u>	<u>98,937</u>	<u>\$ (3,357)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 98,937</u>		
<u>Summary: July 1, 2005, through June 30, 2012</u>				
Standard time	\$ 663,309	\$ 470,059	\$(193,250)	
Indirect costs	203,035	217,733	14,698	
Total program costs	<u>\$ 866,344</u>	<u>687,792</u>	<u>\$(178,552)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 687,792</u>		

<sup>1</sup> See the Findings and Recommendations section.

# Findings and Recommendations

## **FINDING 1— Overstated standard- time costs**

The county overstated agenda preparation and posting costs by \$193,250 under the standard-time reimbursement option for the audit period. The county applied incorrect blended productive hourly rates, used an incorrect time increment to compute costs, and omitted eligible agendas.

The county did not support the blended productive hourly rates used for the audit period. The claimed rates included staff members who did not participate in the preparation and posting of agendas. The county also computed some of its blended rates based on unsupported productive hours for other legislative bodies related to the Planning and Building Department. The county subsequently revised its allocations by determining the percentage of work effort spent by staff involved in preparing and posting agendas. We reviewed the county's revised allocations and determined them to be reasonable. We also reviewed support provided for productive hours and excluded inappropriate reductions for breaks, meetings, and training hours. We used the revised allocations and supported productive hours to recalculate the blended productive hourly rates.

The county used an incorrect time increment to compute costs for legislative bodies other than the county's main body. Under the standard-time option, main legislative body meetings can use a preparation and posting time of 30 minutes per agenda item, while other legislative body meetings are limited to 20 minutes per agenda item. The main legislative body for the county is its Board of Supervisors. The county incorrectly applied the 30-minute time increment to other legislative bodies such as the Airport Land Use Commission, Planning Commission, and Subdivision Review Board. We recalculated the preparation and posting costs for the other legislative-body meetings using the appropriate 20-minute time increment.

The county erroneously omitted a number of Board of Supervisors' agenda items from its claims. For fiscal year (FY) 2007-08, the county omitted one agenda totaling \$1,576 and for FY 2008-09 the county omitted two agendas totaling \$2,257. These agendas and costs were included in the supporting schedules for the claims; however, the amounts were excluded in claim summary totals. We considered these omitted agendas when recalculating allowable costs.

The following table summarizes the overstated standard-time option costs:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Amount Allowable</u>	<u>Audit Adjustment</u>
2005-06	\$ 57,306	\$ 34,363	\$ (22,943)
2006-07	72,052	35,164	(36,888)
2007-08	100,212	52,545	(47,667)
2008-09	96,581	53,827	(42,754)
2009-10	122,863	101,517	(21,346)
2010-11	112,001	93,706	(18,295)
2011-12	102,294	98,937	(3,357)
Total	<u>\$ 663,309</u>	<u>\$ 470,059</u>	<u>\$ (193,250)</u>

The program's parameters and guidelines (section VI(A)) require that all costs claimed be traceable to source documents that show evidence of their validity and relationship to the reimbursable activities.

The SCO's *Mandated Cost Manual for Local Agencies*, applicable for the audit period, states that one of three options may be used to compute productive hourly rates:

- Actual annual productive hours for each employee,
- The weighted-average annual productive hour for each job title, or
- 1,800 annual productive hours for all employees. (The 1,800 annual productive hours excludes time for paid holidays, vacation earned, sick leave taken, informal time off, jury duty, and military leave taken.)

The parameters and guidelines (section V(A)(2)(a)) for the standard-time option provide that claimants use 30 minutes per agenda item to compute eligible costs for main legislative body meetings. For other legislative body meetings, the parameters and guidelines (section V(A)(2)(b)) provide that claimants use 20 minutes per agenda item to compute eligible costs.

#### Recommendation

No recommendation is applicable for this audit, as the Open Meetings Act/Brown Act Reform Program is no longer mandated.

#### County's Response

The county agrees with the finding.

**FINDING 2—  
Understated indirect costs**

The county understated indirect costs by \$14,698 for the audit period. Net costs were understated because the county used incorrect indirect cost rates and applied the rates to unsupported direct costs. The county claimed indirect costs only for FY 2005-06 through FY 2008-09. Beginning in FY 2009-10, the indirect costs were included in the blended productive hourly rates used to compute direct costs.

For the audit period, the county used expenditure amounts obtained from its prior year’s Annual Financial Budget and step-down allocation reports when calculating the indirect cost rates. Therefore, the computed rates were not based on actual costs. The county then applied the incorrect rates to unsupported direct costs.

The county also claimed indirect costs for the legislative bodies related to the Planning and Building Department’s legislative bodies and included indirect costs in the blended rates when calculating costs for FY 2005-06 through FY 2008-09. As a result, the county claimed the same indirect costs twice.

We recalculated the county’s indirect cost rates for each affected fiscal year of the audit period using the county’s corresponding financial information. We applied the rates to eligible direct costs resulting in a net understatement for the audit period. We also excluded the direct costs of Planning and Building Department’s legislative bodies from our recalculation of indirect costs.

The following table summarizes the adjustment to misstated rates and unallowable salaries and benefits:

	Fiscal Year				Total
	2005-06	2006-07	2007-08	2008-09	
Allowable direct costs <sup>1</sup>	\$ 27,978	\$ 28,830	\$ 45,864	\$ 48,260	
Indirect cost rates	139.58%	162.09%	167.51%	114.22%	
Allowable indirect costs	39,052	46,731	76,827	55,123	217,733
Claimed indirect costs	32,717	40,409	66,490	63,419	203,035
Audit adjustments	\$ 6,335	\$ 6,322	\$ 10,337	\$ (8,296)	\$ 14,698

<sup>1</sup>Direct costs do not include Planning and Building Department’s legislative bodies costs because indirect costs are included in the blended rates used.

The parameters and guidelines specify that indirect costs incurred in the performance of the mandated activities and adequately documented are reimbursable. Further, the parameters and guidelines, Section V, state that counties and cities may claim indirect costs for the actual time and standard time options; no provision is included for the flat-rate option.

Recommendation

No recommendation is applicable for this audit, as the Open Meetings Act/Brown Act Reform Program is no longer mandated.

County’s Response

The county agrees with the finding.

**Attachment—  
County’s Response to  
Draft Audit Report**

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## COUNTY OF SAN LUIS OBISPO

AUDITOR • CONTROLLER • TREASURER • TAX COLLECTOR

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JAMES P. ERB, CPA

Auditor-Controller  
Treasurer-Tax Collector

James W. Hamilton, CPA  
Assistant

TO: JIM L. SPANO, CHIEF, MANDATED COST AUDITS BUREAU

FROM: JAMES P. ERB *J.P.E.*

DATE: MARCH 15, 2016

SUBJECT: STATE CONTROLLER'S OFFICE AUDIT OF COST CLAIMED BY SAN LUIS OBISPO FOR THE LEGISLATIVE MANDATED OPEN MEETINGS ACT/BROWN ACT REFORM PROGRAM FOR THE PERIOD OF JULY 1, 2005 THROUGH JUNE 30, 2012

We have received your draft report for the above audit. The County agrees with the audit findings in your report.

Thank you for the professionalism and courteousness of your auditor, Jack Rahmeyer.

James P. Erb  
Auditor-Controller-Treasurer-Tax Collector-Public Administrator  
County of San Luis Obispo

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Division of Audits  
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