

RIVERSIDE 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

May 2016



BETTY T. YEE
California State Controller

May 20, 2016

The Honorable John J. Benoit, Chairman
Board of Supervisors
Riverside County
4080 Lemon Street, 5th Floor
Riverside, CA 92501

Dear Mr. Angulo:

The State Controller's Office audited the costs claimed by Riverside 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 \$1,893,951 for the mandated program. Our audit found that \$1,697,310 is allowable and \$196,641 is unallowable. The costs are unallowable primarily because the county applied incorrect blended productive hourly rates to eligible agenda items and claimed an ineligible board. The State made no payments to the county. The State will pay allowable costs claimed that exceed the amount paid, totaling \$1,697,310, contingent upon available appropriations.

This final audit report contains an adjustment to costs previously claimed by the county. If you disagree with the review finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (Commission). Pursuant to Section 1185, subdivision (c), of the Commission's regulations (*California Code of Regulations*, Title 3), an IRC challenging this adjustment must be filed with the Commission no later than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended. You may obtain IRC information on the Commission's website at www.csm.ca.gov/forms/IRCFORM.pdf.

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

The Honorable Paul Angulo, CPA,
MA, Auditor Controller

-2-

May 20, 2016

JVB/lb

Attachment

cc: Paul Angulo, Auditor-Controller
Riverside County
Rene Casillas, Interim Chief of Internal Audits
Riverside County
Kecia Harper-Ihem, Clerk of the Board
Riverside County
Mary Halterman, Principal Program Budget Analyst
Mandates Unit, Department of Finance
Jay Lal, Manager
Division of Accounting and Reporting
State Controller's Office

Contents

Audit Report

Summary	1
Background	1
Objectives, Scope, and Methodology	2
Conclusion	3
Views of Responsible Officials.....	3
Restricted Use	4
Schedule—Summary of Program Costs	5
Findings and Recommendations.....	7
Attachment—County’s Response to Draft Report	

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Riverside 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 \$1,893,951 for the mandated program. Our audit found that \$1,697,310 is allowable and \$196,641 is unallowable. The costs are unallowable primary because the county applied incorrect blended productive hourly rates to eligible agenda items and claimed an ineligible board. The State made no payments to the county. The State will pay allowable costs claimed that exceed the amount paid, totaling \$1,697,310, 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, Riverside County claimed \$1,893,951 for costs of the Open Meetings Act/Brown Act Reform Program. Our audit found that \$1,697,310 is allowable and \$196,641 is unallowable. The State made no payments to the county. Our audit found that \$1,710,500 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$1,697,310, contingent upon available appropriations.

Views of Responsible Officials

We issued a draft report on April 5, 2016. Subsequent to the issuance of the draft report, the county contacted us regarding the consideration of additional information. We agreed and reviewed the additional support.

The county provided information regarding its indirect cost rates and requested that we consider costs incurred to prepare and post its Assessment Appeals Board agendas under the standard-time option for the audit period. The county claimed board agendas under the flat rate option for fiscal year (FY) 2005-06 through FY 2008-09 and no costs for FY 2009-10 through FY 2011-12. The board does not prepare a public notice; therefore, such costs are not reimbursable. Consequently, we determined that costs claimed to prepare and post agendas under the flat rate option, totaling \$30,710 for FY 2005-06 through FY 2008-09, are unallowable (Finding 2). In reviewing the documentation, we also found that the county understated its indirect cost rates for FY 2005-06 through FY 2008-09, and that the claimed rates for FY 2009-10 through FY 2011-12 are accurate, resulting in understated costs of \$17,520 (Finding 1). As a result, unallowable costs increased by \$13,190, from \$183,451 to \$196,641.

On April 22, 2016, we provided our revised audit results to the county. Paul Angulo, Auditor-Controller, responded to the revised results by letter dated April 27, 2016 (Attachment), acknowledging receipt of the report. This final report includes the county's response.

Restricted Use

This report is solely for the information and use of Riverside 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

May 20, 2016

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

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2005, through June 30, 2006</u>				
Standard time	\$ 207,500	\$ 210,464	\$ 2,964	Finding 1
Flat rate	65,117	58,470	(6,647)	Finding 2
Total program costs	<u>\$ 272,617</u>	268,934	<u>\$ (3,683)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 268,934</u>		
<u>July 1, 2006, through June 30, 2007</u>				
Standard time	\$ 247,273	\$ 251,789	\$ 4,516	Finding 1
Flat rate	69,357	62,449	(6,908)	Finding 2
Total program costs	<u>\$ 316,630</u>	314,238	<u>\$ (2,392)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 314,238</u>		
<u>July 1, 2007, through June 30, 2008</u>				
Standard time	\$ 274,891	\$ 279,026	\$ 4,135	Finding 1
Flat rate	66,547	59,304	(7,243)	Finding 2
Total program costs	<u>\$ 341,438</u>	338,330	<u>\$ (3,108)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 338,330</u>		
<u>July 1, 2008, through June 30, 2009</u>				
Standard time	\$ 231,293	\$ 180,174	\$ (51,119)	Finding 1
Flat rate	71,864	61,952	(9,912)	Finding 2
Total program costs	<u>\$ 303,157</u>	242,126	<u>\$ (61,031)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 242,126</u>		
<u>July 1, 2009, through June 30, 2010</u>				
Standard time	\$ 196,283	\$ 150,792	\$ (45,491)	Finding 1
Flat rate	50,525	50,525	-	
Total program costs	<u>\$ 246,808</u>	201,317	<u>\$ (45,491)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 201,317</u>		
<u>July 1, 2010, through June 30, 2011</u>				
Standard time	\$ 189,283	\$ 143,979	\$ (45,304)	Finding 1
Flat rate	48,356	48,356	-	
Total program costs	<u>\$ 237,639</u>	\$ 192,335	<u>\$ (45,304)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 192,335</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2011, through June 30, 2012</u>				
Standard time	\$ 140,356	\$ 104,724	\$ (35,632)	Finding 1
Flat rate	35,306	35,306	-	
Total program costs	<u>\$ 175,662</u>	140,030	<u>\$ (35,632)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 140,030</u>		
<u>Summary: July 1, 2005, through June 30, 2012</u>				
Standard time	\$ 1,486,879	\$ 1,320,948	\$(165,931)	
Flat rate	407,072	376,362	(30,710)	
Total program costs	<u>\$ 1,893,951</u>	1,697,310	<u>\$(196,641)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,697,310</u>		

¹ See the Finding and Recommendation section.

Findings and Recommendations

FINDING 1— Overstated standard-time costs

The county overstated agenda preparation and posting costs by \$165,931 under the standard-time reimbursement option for the audit period. The costs claimed consist of the preparation and posting of agenda items for the county’s Board of Supervisors. The county applied incorrect blended productive hourly rates to eligible agenda items. To compute its blended productive hourly rates, the county used understated indirect cost rates, inaccurate staff time allocations, erroneous annual productive hours, and miscalculated fringe benefit rates.

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

	Fiscal Year							Total
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	
Number of claimed agenda items	3,467	4,050	3,900	4,267	3,818	3,658	2,532	
Standard time (hour) per agenda	x 0.5	x 0.5	x 0.5	x 0.5	x 0.5	x 0.5	x 0.5	
Total claimed hours	1,733.5	2,025.0	1,950.0	2,133.5	1,909.0	1,829.0	1,266.0	
Claimed productive hourly rate	x 119.70	x 122.11	x 140.97	x 108.41	x 102.82	x 103.49	x 110.87	
Total claimed costs ¹	\$ 207,500	\$ 247,273	\$ 274,891	\$ 231,293	\$ 196,283	\$ 189,283	\$ 140,356	\$ 1,486,879
Number of allowable agenda items	3,467	4,050	3,900	4,267	3,818	3,658	2,532	
Standard time (hour) per agenda	x 0.5	x 0.5	x 0.5	x 0.5	x 0.5	x 0.5	x 0.5	
Total allowable hours	1,733.5	2,025.0	1,950.0	2,133.5	1,909.0	1,829.0	1,266.0	
Allowable blended productive hourly rate	x 121.41	x 124.34	x 143.09	x 84.45	x 78.99	x 78.72	x 82.72	
Total allowable costs	\$ 210,464	\$ 251,789	\$ 279,026	\$ 180,174	\$ 150,792	\$ 143,979	\$ 104,724	\$ 1,320,948
Audit adjustment	\$ 2,964	\$ 4,516	\$ 4,135	\$ (51,119)	\$ (45,491)	\$ (45,304)	\$ (35,632)	\$ (165,931)

¹Totals rounded to match claimed costs.

Blended Productive Hourly Rates

The county applied inaccurate elements in its blended productive hourly rates used to compute standard-time option costs. In reviewing the rates, we noted the following:

- For fiscal year (FY) 2005-06 through FY 2008-09, the county understated indirect cost rates used to determine standard-time costs. The county recovered indirect costs by including its rates in the calculation of the blended productive hourly rates. However, in its indirect cost rate calculations, the county included cost centers that recovered costs through the flat-rate option. In our analysis of the reports, we excluded cost centers that were included in the flat-rate option. We recalculated the indirect cost rates based on documentation provided by the county. Then, we used the revised indirect cost rates to recalculate the blended productive hourly rates.

The following table summarizes the adjustments to indirect cost rates:

Fiscal Year	Claimed Rate	Allowable Rate	Audit Adjustment
2005-06	74.84%	78.67%	3.83%
2006-07	59.18%	63.59%	4.41%
2007-08	73.72%	77.65%	3.93%
2008-09	80.22%	82.11%	1.89%

- For FY 2005-06 through FY 2008-09, the county overstated fringe benefit rates used to determine standard-time costs. In these years, the county prepared aggregated fringe benefit rates and used the rates in the calculation of the blended productive hourly rates. However, in its fringe benefit rate calculations, the county included cost centers that recovered costs through the flat rate option. In our analysis of the reports, we excluded cost centers that were included in the flat rate option. We recalculated the fringe benefit rates based on documentation provided by the county, then we used the revised fringe benefit rates to recalculate the blended productive hourly rates.

The following table summarizes the adjustments to fringe benefit rates:

Fiscal Year	Claimed Rate	Allowable Rate	Audit Adjustment
2005-06	47.53%	46.87%	-0.66%
2006-07	47.59%	46.95%	-0.64%
2007-08	46.26%	45.63%	-0.63%
2008-09	45.96%	45.47%	-0.49%

- For FY 2008-09 through FY 2011-12, the county claimed an allocation of staff time based on prior processes. When the new Clerk of the Board assumed responsibility for the preparation and posting of agenda items, the process underwent a change that affected staff involved. The change resulted in a reallocation of staff time related to the preparation and posting of agenda items. We reviewed the county’s revised allocations and determined them to be reasonable. As a result, we recalculated the blended productive hourly rates using the appropriate staff time allocation.
- For FY 2010-11 and FY 2011-12, the county used incorrect annual productive hours to compute its blended productive hourly rates. The county used annual productive hours of 1,743 to compute the blended productive hourly rates, excluding 17 training hours from the total. The SCO’s *Mandated Cost Manual for Local Agencies* does not provide a reduction to productive hours for training time, so we included the training hours in the total productive hours and recalculated the blended productive hourly rates using annual staff productive hours of 1,760.

The county should not reduce training time that benefits specific departments or training common to all departments when calculating the countywide productive hours. The county is indirectly claiming reimbursement for ineligible training time by excluding training hours from the county’s annual productive hour calculations.

The following table summarizes the claimed allowable, and audit adjustments related to the productive hours used to calculate claimed and allowable blended productive hourly rates:

Type	Claimed Productive Hours	Allowable Productive Hours
Productive hours:		
Total work time	2,080	2,080
Holiday	(96)	(96)
Vacation	(120)	(120)
Sick leave	(104)	(104)
Training	(17)	-
Total hours	1,743	1,760

- For FY 2009-10 and FY 2010-11, the county applied understated fringe benefit rates for staff involved in the preparation and posting of agenda items. The county computed fringe benefits based on each individuals actual costs. In doing so, the county miscalculated some of the rates. We recalculated the blended productive hourly rates for affected staff using the actual fringe benefit costs.

Criteria

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 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.

**FINDING 2—
Ineligible flat-rate
costs**

The county overstated agenda preparation and posting costs by \$30,710 under the flat-rate reimbursement option for the audit period. The costs claimed included agendas prepared for various county boards and commissions. For FY 2005-06 through FY 2008-09, the county claimed costs for its Assessment Appeals Board. The board conducts meetings, but does not produce an agenda for public notice. The parameters and guidelines of the program provide reimbursement for the preparation and posting (public notice) of agendas. Therefore, the costs of the Assessment Appeals Board are not eligible for reimbursement in accordance with the mandated cost program. As a result, we reduced total flat-rate costs claimed by the ineligible board costs.

The following table summarizes the adjustments to flat rate costs:

Fiscal Year	Claimed Costs	Allowable Costs	Audit Adjustment
2005-06	\$ 65,117	\$ 58,470	\$ (6,647)
2006-07	69,357	62,449	(6,908)
2007-08	66,547	59,304	(7,243)
2008-09	71,864	61,952	(9,912)
Total	<u>\$ 272,885</u>	<u>\$ 242,175</u>	<u>\$ (30,710)</u>

Criteria

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 parameters and guidelines (section IV (A)) provide that reimbursable activities include the preparation of a single agenda that is posted 72 hours before the meeting in a location freely accessible to the public.

Recommendation

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

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



**COUNTY OF RIVERSIDE
OFFICE OF THE
AUDITOR-CONTROLLER**

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Paul Angulo, CPA, M.A.
County Auditor-Controller

Frankie Ezzat, MPA
Assistant Auditor-Controller

April 27, 2016

Jim L. Spano, Chief, Mandated Cost Audits Bureau
State Controller's Office
Division of Audits
P. O. Box 942850
Sacramento, CA 94250-5874

Re: Riverside County Audit Report – Open Meetings Act/Brown Act Reform Program

Dear Mr. Brownfield,

We are in receipt of your April 2016 Audit Report for the Open Meeting/Brown Act Reform Program, mandated cost claim reimbursement program 219, for the claiming period of July 1, 2005 through June 30, 2012. Based on the results of your audit, \$196,641, 11%, will be disallowed out of the \$1,893,951 program cost claimed for reimbursement.

Sincerely,


Paul Angulo, CPA, MA
Riverside County Auditor-Controller

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>