CITY OF LONG BEACH

Audit Report

OPEN MEETINGS ACT/BROWN ACT REFORM PROGRAM

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

July 1, 2005, through June 30, 2012

BETTY T. YEE
California State Controller

September 2016

BETTY T. YEE
California State Controller

September 29, 2016

The Honorable Robert Garcia, Mayor
City of Long Beach
333 W. Ocean Blvd, 14th Floor
Long Beach, CA 90802

Dear Mr. Garcia:

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

The city claimed $681,777 for the mandated program. Our audit found that $588,970 is allowable and $92,807 is unallowable. The costs are unallowable because the city overstated its standard-time costs by applying an incorrect blended productive hourly rate to the eligible agenda items and claimed unsupported flat-rate costs. The city also overstated its indirect costs in the first four years of the audit period. The State made no payment to the city. The State will pay allowable costs claimed that exceed the amount paid, totaling $588,970, 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: John Gross, Director of Financial Management
City of Long Beach
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City of Long Beach
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Audit Report

Summary

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

The city claimed $681,777 for the mandated program. Our audit found that $588,970 is allowable and $92,807 is unallowable. The costs are unallowable because the city overstated its standard-time costs by applying an incorrect blended productive hourly rate to the eligible agenda items and claimed unsupported flat-rate costs. The city also overstated its indirect costs in the first four years of the audit period. The State made no payments to the city. The State will pay allowable costs claimed that exceed the amount paid, totaling $588,970, contingent upon available appropriations.

Background

Open Meetings Act Program

Chapter 913641, 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 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 city'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 city'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 city's payroll system.
- Inquired whether the city 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, the City of Long Beach claimed $681,777 for costs of the Open Meetings Act/Brown Act Reform Program. Our audit found that $588,970 is allowable and $92,807 is unallowable. The State made no payments to the city. Our audit found that $588,970 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $588,970, contingent upon available appropriations.

Views of Responsible Officials

We discussed our audit results with the city's representatives during an exit conference conducted on August 22, 2016. John Gross, Director of Financial Management, responded by letter dated September 15, 2016 (Attachment), agreeing with the audit results. This final report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of Long Beach, 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

September 29, 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]
July 1, 2005, through June 30, 2006				
Standard rate	$ 42,206	$ 31,511	$ (10,695)	Finding 1
Flat rate	43,683	42,055	(1,628)	Finding 2
Indirect costs	12,836	8,260	(4,576)	Finding 3
Total program costs	$ 98,725	81,826	$ (16,899)	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		$ 81,826		
July 1, 2006, through June 30, 2007				
Standard rate	$ 42,155	$ 32,388	$ (9,767)	Finding 1
Flat rate	53,851	52,159	(1,692)	Finding 2
Indirect costs	14,775	13,697	(1,078)	Finding 3
Total program costs	$ 110,781	98,244	$ (12,537)	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		$ 98,244		
July 1, 2007, through June 30, 2008				
Standard rate	$ 46,033	$ 36,691	$ (9,342)	Finding 1
Flat rate	55,984	54,173	(1,811)	Finding 2
Indirect costs	18,152	15,434	(2,718)	Finding 3
Total program costs	$ 120,169	106,298	$ (13,871)	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		$ 106,298		
July 1, 2008, through June 30, 2009				
Standard rate	$ 39,399	$ 29,085	$ (10,314)	Finding 1
Flat rate	52,814	50,955	(1,859)	Finding 2
Indirect costs	10,566	8,302	(2,264)	Finding 3
Total program costs	$ 102,779	88,342	$ (14,437)	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		$ 88,342		
July 1, 2009, through June 30, 2010				
Standard rate	$ 54,883	$ 56,522	$ 1,639	Finding 1
Flat rate	26,978	26,978	-	
Total claimed costs	81,861	83,500	1,639	
Less allowable costs that exceed claimed[2]	-	(1,639)	(1,639)	
Total program costs	$ 81,861	81,861	$ -	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		$ 81,861		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference[1]
July 1, 2010, through June 30, 2011				
Standard rate	$ 86,008	$ 50,945	$ (35,063)	Finding 1
Flat rate	18,512	18,512	-	
Total program costs	$ 104,520	69,457	$ (35,063)	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		$ 69,457		
July 1, 2011, through June 30, 2012				
Standard rate	$ 46,279	$ 55,927	$ 9,648	Finding 1
Flat rate	16,663	16,663	-	
Total claimed costs	62,942	72,590	9,648	
Less allowable costs that exceed claimed[2]	-	(9,648)	(9,648)	
Total program costs	$ 62,942	62,942	$ -	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		$ 62,942		
Summary: July 1, 2005, through June 30, 2012				
Standard rate	$ 356,963	$ 293,069	$ (63,894)	
Flat rate	268,485	261,495	(6,990)	
Indirect Costs	56,329	45,693	(10,636)	
Total claimed costs	681,777	600,257	(81,520)	
Less allowable costs that exceed claimed[2]	-	(11,287)	(11,287)	
Total program costs	$ 681,777	588,970	$ (92,807)	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		$ 588,970		

[1] See the Findings and Recommendations section.

[2] Government Code section 17568 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in the SCO's claiming instructions. That deadline has expired for FY 2009-10 and FY 2011-12.

Findings and Recommendations

FINDING 1—
Overstated standard-time costs

The city overstated agenda preparation and posting costs by $63,894 under the standard-time reimbursement option for the audit period. The costs claimed consist of the preparation and posting of agenda items for the city council. The city applied incorrect blended productive hourly rates to eligible agenda items. To compute its blended productive hourly rates the city utilized misstated salaries and benefits, inaccurate staff time allocations, and unallowable indirect cost rates.

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

	Fiscal Year							
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Total
Number of claimed agenda items	1,219	1,153	1,188	970	1,090	924	832	
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	609.5	576.5	594.0	485.0	545.0	462.0	416.0	
Claimed productive hourly rate	x 69.25	x 73.12	x 77.50	x 81.23	x 100.70	x 186.16	x 111.25	
Total claimed costs[1]	$ 42,206	$ 42,155	$ 46,033	$ 39,399	$ 54,883	$ 86,008	$ 46,279	$ 356,963
Number of allowable agenda items	1,219	1,153	1,188	970	1,090	924	832	
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	609.5	576.5	594.0	485.0	545.0	462.0	416.0	
Allowable blended productive hourly rate	x 51.70	x 56.18	x 61.77	x 59.97	x 103.71	x 110.27	x 134.44	
Total allowable costs	$ 31,511	$ 32,388	$ 36,691	$ 29,085	$ 56,522	$ 50,945	$ 55,927	$ 293,069
Audit adjustment	$ (10,695)	$ (9,767)	$ (9,342)	$ (10,314)	$ 1,639	$ (35,063)	$ 9,648	$ (63,894)

[1]Totals rounded to match claimed costs.

Blended Productive Hourly Rates

The city did not support and misstated elements of the blended productive hourly rates used to compute standard-time option costs, in reviewing the rates we noted the following:

- For the audit period, the city used inaccurate salary and benefit amounts to compute its productive hourly rates. We recalculated the productive hourly rates using salary and benefit information supported by the city's payroll records.

- For FY 2005-06 through FY 2008-09, the city claimed an allocation of staff time that was not supported. The city's staff time allocation was not consistent with its process for preparing and posting agenda items. In subsequent period, FY 2009-10 through FY 2011-12, the city used an allocation of staff time that reflected the processes in place to prepare and post agenda items. We reviewed the allocation used in the subsequent fiscal years and determined them to be reasonable. As a result, we recalculated the blended productive hourly rates for affected years using the appropriate staff time allocation.

- For FY 2010-11, the city made a clerical error in the time allocation portion of the productive hourly rate calculation. The city erroneously calculated the blended productive hourly rate for the highest paid individual using an 80% allocation of time when the actual allocation was 0.8%. This mistake grossly inflated the productive hourly rate for

the fiscal year. We recalculated the blended productive hourly rate using the correct allocation of time.

- For FY 2009-10 and FY 2011-12, the city used inaccurate indirect cost rates to determine standard-time costs. In these fiscal years, the city recovered indirect costs by including its rates in the calculation of blended productive hourly rates. For FY 2009-10, the indirect cost rate was based on costs from the previous fiscal year. For FY 2011-12, elements of the calculation were not supported by the city's expenditure reports. As a result, we recalculated the indirect cost rates for the affected years using expenditure reports provided by the city for the appropriate fiscal year.

The following table summarizes the adjustments to indirect cost rates:

Fiscal Year	Department	Claimed Rate	Allowable Rate	Audit Adjustment
2009-10	City Clerk	68.20%	83.90%	15.70%
2011-12	City Clerk	79.80%	74.00%	-5.80%

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 eligible activities include the preparation and posting of a single agenda for a regular meeting of a legislative body. Further, the agenda must be posted 72 hours before meeting in a location freely accessible by the public.

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.

City's Response

The city agreed with the audit finding.

FINDING 2—Unsupported flat-rate costs

The county overstated agenda preparation and posting costs by $6,990 under the flat-rate reimbursement option for the audit period. The costs claimed included agendas prepared for various city boards and commissions. For FY 2005-06 through FY 2008-09, the county claimed costs for its Disabled Access Appeals Board; the city did not provide support for the claimed agendas. The parameters and guidelines of the program require that all costs claimed be traceable to source documents. Therefore, the costs of the Disabled Access 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 unsupported board costs.

The following table summarizes the adjustments to flat-rate costs:

Fiscal Year	Claimed Costs	Allowable Costs	Audit Adjustment
2005-06	$ 43,683	$ 42,055	$ (1,628)
2006-07	53,851	52,159	(1,692)
2007-08	55,984	54,173	(1,811)
2008-09	52,814	50,955	(1,859)
Total	$ 206,332	$ 199,342	$ (6,990)

Criteria

The 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.

Recommendation

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

City's Response

The city agreed with the audit finding.

FINDING 3—Overstated indirect costs

The city overstated indirect costs by $10,636 for the audit period. The city claimed indirect costs for FY 2005-06 through FY 2008-09 only. For the remainder of the audit period, the city recovered indirect costs as part of its blended productive hourly rates.

The city overstated indirect costs by including unallowable and unsupported expenditures in its indirect cost rate proposals (ICRP). The city's ICRPs included expenses that are not eligible for allocation per the Office of Management and Budget (OMB) Circular A-87. In addition, some of the expense items did not agree to the support provided. The city then applied these incorrect rates to unallowable standard-time costs.

Using substantiated, allowable indirect costs, we recalculated the allowable indirect cost rates, then applied the rates to allowable standard-time costs pertaining only to salaries and wages. The city opted to calculate its indirect costs based only on salaries and wages; therefore, the rate can be applied only to these costs.

The following table summarizes the adjustments to indirect costs:

	Allowable Indirect Cost Rates	Allowable Direct Costs[1]	Allowable Indirect Costs	Claimed Indirect Costs	Audit Adjustments
FY 2005-06					
City Clerk	37.15%	$ 22,235	$ 8,260	$ 12,836	$ (4,576)
FY 2006-07					
City Clerk	59.95%	22,847	13,697	14,775	(1,078)
FY 2007-08					
City Clerk	58.88%	26,213	15,434	18,152	(2,718)
FY 2008-09					
City Clerk	40.2%	$ 20,651	8,302	10,566	(2,264)
Total			$ 45,693	$ 56,329	$ (10,636)

[1]Direct costs include only salaries and wages.

Criteria

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 to claim indirect costs for the flat rate option. In determining indirect costs, claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an ICRP using the procedure provided in the OMB Circular A-87.

Recommendation

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

City's Response

The city agreed with the audit finding.

Attachment—
City's Response to
Audit Report

CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Boulevard 6th Floor • Long Beach, CA 90802 • (562) 570-6465 • Fax (562) 570-5836

September 15, 2016

Mr. Jim L. Spano, Chief
Mandated Costs Audit Bureau
State Controller's Office, Division of Audits
3301 C Street, Suite 700
Sacramento, CA 95816

Subject: State Mandated Cost Audit Program - Open Meetings Act

Dear Mr. Spano:

Thank you for providing the City of Long Beach with the draft findings for your audit on the Open Meetings Act state mandated program.

The City understands and agrees with Findings #1, 2 and 3. Upon completion of our work with your audit staff and all parties involved in the City's claims preparation process, the department will put into place a more detailed process to ensure the proper claim counts, productive hourly rates and indirect cost rates are claimed for future filings that will occur once the program is reinstated.

While the City agrees with finding #2, which found that during this audit process agendas were not provided for the Disabled Access Appeals Board to support the flat-rate meetings claimed, it finds this circumstance to be a legal quandary. State records retention law requires agendas to be kept for 7 years. Yet the lack of timely payments from the State of California keeps the audit window open and thus the documentation requirement for these claims also open for an unrealistic 11 years. The City understands that it cannot support claims without documentation but finds that Government Code 12410, 17558.5, and 17561 documentation requirements conflict with Government Code 34090-34090.7. Had this finding been significant, the City would consider pursuing an incorrect reduction claim. Because the finding is only for one Board and the disallowed claim a small amount, the City of Long Beach will agree to the finding, but would like these comments noted in the audit record and final report.

Staff will carefully consider the issues raised by your audit, and adjust the approach to future claims accordingly. We appreciate the information and recommendations provided by your audit. Thank you for this opportunity to submit our comments on your draft report and if you have any questions about this response, please do not hesitate to contact me at (562) 570-6425.

Sincerely,

for

John Gross, Finance Director
City of Long Beach

cc: Lea Eriksen, Assistant Finance Director
Maria de la Luz Garcia, City Clerk
Julissa José-Murray, Revenue Management Officer

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