

MARIN 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, 2000, through June 30, 2003



STEVE WESTLY
California State Controller

March 2006



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California State Controller

March 30, 2006

The Honorable Richard S. Arrow
Auditor-Controller
Marin County
3501 Civic Center Drive, Room 225
San Rafael, CA 94903

Dear Mr. Arrow:

The State Controller's Office audited the costs claimed by Marin 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, 2000, through June 30, 2003.

The county claimed \$304,199 for the mandated program. Our audit disclosed that \$234,984 is allowable and \$69,215 is unallowable. The unallowable costs occurred because the county claimed unsupported labor costs or overstated labor costs. The State paid the county \$46,310. The State will pay allowable costs claimed that exceed the amount paid, totaling \$188,674, contingent upon available appropriations.

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

Sincerely,

Original Signed By:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: Danny Briones, Accounting Manager
Auditor-Controller's Office
Marin County
James Tilton, Program Budget Manager
Corrections and General Government
Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Marin 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, 2000, through June 30, 2003. The last day of fieldwork was April 11, 2005.

The county claimed \$304,199 for the mandated program. Our audit disclosed that \$234,984 is allowable and \$69,215 is unallowable. The unallowable costs occurred because the county claimed unsupported labor costs or overstated labor costs. The State paid the county \$46,310. The State will pay allowable costs claimed that exceed the amount paid, totaling \$188,674, contingent upon available appropriations.

Background

Open Meetings Act

Chapter 641, Statutes of 1986, added Sections 54954.2 and 54954.3 to the *Government Code*. 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 of 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 the agenda to be posted at least 72 hours before the meeting in a location freely accessible to the public. Section 54954.3 requires that members of the public be provided an opportunity to address the legislative body on specific agenda items or on any 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

Chapters 1136, 1137, and 1138, Statutes of 1993, added or amended *Government Code* Sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7. The legislation expands the types of legislative bodies that are required to comply with the notice and agenda requirements of Section 54954.2 and 54954.3. These sections also require all legislative bodies to perform a number of additional activities in relation to the closed session requirements of the Brown Act.

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

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. The COSM adopted *Parameters and Guidelines* on September 22, 1988 (last amended on November 30, 2000), for the Open Meetings Act, and on April 25, 2002, for the Open Meetings Act/Brown Act Reform. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies and school districts in claiming reimbursable costs.

The Open Meetings Act was effective August 29, 1986. Commencing in fiscal year (FY) 1997-98, a local agency may use the standard-time or flat-rate reimbursement options specified in *Parameters and Guidelines* instead of actual costs. The Open Meetings Act/Brown Act Reform was effective for FY 2001-02.

Objective, Scope, and Methodology

We conducted the 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, 2000, through June 30, 2003.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Sections 12410, 17558.5, and 17561. We did not audit the county's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

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.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, Marin County claimed \$304,199 for costs of the Open Meetings Act/Brown Act Reform Program. Our audit disclosed that \$234,984 is allowable and \$69,215 is unallowable.

For FY 2000-01, the State made no payment to the county. Our audit disclosed that \$81,375 is allowable. The State will pay that amount, contingent upon available appropriations.

For FY 2001-02, the State paid the county \$46,310. Our audit disclosed that \$71,589 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$25,279, contingent upon available appropriations.

For FY 2002-03, the State made no payment to the county. Our audit disclosed that \$82,020 is allowable. The State will pay that amount, contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft audit report on December 14, 2005. We contacted Danny Briones, Accounting Manager in the county Auditor-Controller's Office, by telephone on January 27, 2006. Mr. Briones agreed with the audit results and declined to respond in writing to the draft report.

Restricted Use

This report is solely for the information and use of Marin 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
Chief, Division of Audits

**Schedule 1—
Summary of Program Costs
July 1, 2000, through June 30, 2003**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2000, through June 30, 2001</u>				
Actual time	\$ 6,949	\$ —	\$ (6,949)	Finding 1
Standard time	101,999	58,186	(43,813)	Finding 2
Flat rate	<u>23,189</u>	23,189	<u>—</u>	
Total program costs	<u>\$ 132,137</u>	81,375	<u>\$ (50,762)</u>	
Less amount paid by the State		<u>—</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 81,375</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Actual time	\$ —	\$ —	\$ —	
Standard time	62,220	48,445	(13,775)	Finding 2
Flat rate	<u>23,144</u>	<u>23,144</u>	<u>—</u>	
Total program costs	<u>\$ 85,364</u>	71,5889	<u>\$ (13,775)</u>	
Less amount paid by the State		<u>(46,310)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 25,279</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Actual time	\$ —	\$ —	\$ —	
Standard time	60,827	56,149	(4,678)	Finding 2
Flat rate	<u>25,871</u>	<u>25,871</u>	<u>—</u>	
Total program costs	<u>\$ 86,698</u>	82,020	<u>\$ (4,678)</u>	
Less amount paid by the State		<u>—</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 82,020</u>		
<u>Summary: July 1, 2000, through June 30, 2003</u>				
Actual time	\$ 6,949	\$ —	\$ (6,949)	Finding 1
Standard time	225,046	162,780	(62,266)	Finding 2
Flat rate	<u>72,204</u>	<u>72,204</u>	<u>—</u>	
Total program costs	<u>\$ 304,199</u>	234,984	<u>\$ (69,215)</u>	
Less amount paid by the State		<u>(46,310)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 188,674</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Labor costs
unsupplemented**

The county claimed a small portion of its agenda costs under the actual-time reimbursement option, which is used when documentation is available to show which employees performed the mandated functions and how many hours they spent performing those functions. However, the county did not maintain time records to document the amount of time its employees spent performing those functions.

Parameters and Guidelines specifies that costs claimed under the actual-time reimbursement option must be documented by records that show the names of the employees involved, the classification of the employees, the mandated functions performed, the actual number of hours devoted to each function, and the productive hourly salary and benefit rates.

As a result, we have adjusted claimed costs as follows.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Actual-time option:				
Human Rights Commission	\$ (6,949)	\$ —	\$ —	\$ (6,949)

Recommendation

We recommend that the county ensure that costs claimed are eligible increased costs incurred as a result of the mandate and that they are supported by appropriate documentation.

**FINDING 2—
Labor rates
overstated**

The county claimed a portion of its costs under the standard-time reimbursement option. Under this method, reimbursable costs are based on the number of meeting agenda items, a blended productive hourly labor rate for employees involved in the mandated activities, and a standard number of minutes for each meeting agenda item prepared.

The county calculated its blended productive hourly labor rates incorrectly, overstating reimbursable costs by \$62,266.

Parameters and Guidelines specifies that only actual increased costs incurred in the performance of the mandated activities and adequately documented are reimbursable.

As a result, we have adjusted claimed costs as follows.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Standard-time option	\$ (43,813)	\$ (13,775)	\$ (4,678)	\$ (62,266)

Recommendation

We recommend that the county ensure that costs claimed are eligible increased costs incurred as a result of the mandate and that they are supported by appropriate documentation.

**State Controller's Office
Division of Audits
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