

MONTEREY 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

December 2006



STEVE WESTLY
California State Controller

December 29, 2006

The Honorable Michael J. Miller
Auditor-Controller
Monterey County
P.O. Box 390
Salinas, CA 93902

Dear Mr. Miller:

The State Controller's Office audited the costs claimed by Monterey 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 \$410,907 for the mandated program. Our audit disclosed that \$330,674 is allowable and \$80,233 is unallowable. The unallowable costs occurred because the county claimed unsupported costs. The State paid the county \$189,266. Allowable costs claimed exceed the amount paid by \$141,408.

If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site, at www.csm.ca.gov (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail at csminfo@csm.ca.gov.

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:ams

cc: Liz Reta
Senior Administrative Analyst
County Administrative Office
Monterey County
Todd Jerue, Program Budget Manager
Corrections and General Government
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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Monterey 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 June 19, 2006.

The county claimed \$410,907 for the mandated program. Our audit disclosed that \$330,674 is allowable and \$80,233 is unallowable. The unallowable costs occurred because the county claimed unsupported costs. The State paid the county \$189,266. Allowable costs claimed exceed the amount paid by \$141,408.

Background

Open Meetings Act

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 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 that the agenda 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 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

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 sessions 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 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 for mandated programs to assist local agencies and school districts in claiming 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.

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 an instance of noncompliance with the requirements outlined above. This instance is described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, Monterey County claimed \$410,907 for costs of the Open Meetings Act/Brown Act Reform Program. Our audit disclosed that \$330,674 is allowable and \$80,233 is unallowable.

For FY 2000-01, the State paid the county \$143,534. Our audit disclosed that \$114,210 is allowable. The county should return \$29,324 to the State.

For FY 2001-02, the State paid the county \$45,732. Our audit disclosed that \$110,073 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$64,341, contingent upon available appropriations.

For FY 2002-03, the State made no payment to the county. Our audit disclosed that \$106,391 is allowable. The State will pay that amount, contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft audit report on October 27, 2006. Brad Burgess, Consultant, responded on behalf of the county by e-mail dated November 27, 2006. Mr. Burgess stated that the county has no further response at this time.

Restricted Use

This report is solely for the information and use of Monterey 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 ¹
<u>July 1, 2000, through June 30, 2001</u>			
Actual-time reimbursement option	\$ 84,957	\$ 55,633	\$ (29,324)
Standard-time reimbursement option	—	—	—
Flat-rate reimbursement option	<u>58,577</u>	<u>58,577</u>	—
Total net reimbursable costs	<u>\$ 143,534</u>	114,210	<u>\$ (29,324)</u>
Less amount paid by the State		<u>(143,534)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (29,324)</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Actual-time reimbursement option	\$ 60,696	\$ 33,339	\$ (27,357)
Standard-time reimbursement option	3,370	3,370	—
Flat-rate reimbursement option	<u>73,364</u>	<u>73,364</u>	—
Total net reimbursable costs	<u>\$ 137,430</u>	110,073	<u>\$ (27,357)</u>
Less amount paid by the State		<u>(45,732)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 64,341</u>	
<u>July 1, 2002, through June 30, 2003</u>			
Actual-time reimbursement option	\$ 54,410	\$ 30,858	\$ (23,552)
Standard-time reimbursement option	2,820	2,820	—
Flat-rate reimbursement option	<u>72,713</u>	<u>72,713</u>	—
Total net reimbursable costs	<u>\$ 129,943</u>	106,391	<u>\$ (23,552)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 106,391</u>	
<u>Summary: July 1, 2000, through June 30, 2003</u>			
Actual-time reimbursement option	\$ 200,063	\$ 119,830	\$ (80,233)
Standard-time reimbursement option	6,190	6,190	—
Flat-rate reimbursement option	<u>204,654</u>	<u>204,654</u>	—
Total net reimbursable costs	<u>\$ 410,907</u>	330,674	<u>\$ (80,233)</u>
Less amount paid by the State		<u>(189,266)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 141,408</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

**FINDING—
Unsupported costs
claimed**

The county claimed unsupported agenda preparation costs totaling \$80,233. The county claimed these costs under the actual-time reimbursement option. The county did not support these costs with actual time records.

For fiscal year (FY) 2000-01 and FY 2001-02, the county provided summary schedules showing the number of agenda items that each employee submitted. The county calculated costs claimed by multiplying the number of agenda items by an estimated time of 0.25 hours per agenda item. The county did not provide any documentation to support FY 2002-03 costs claimed. For the audit period, the county did not provide actual time records or other documentation that supports the actual time spent to perform the mandated activities.

For FY 2000-01, the Open Meetings Act *Parameters and Guidelines* specifies that the county must “show the names of the employees involved, the classification of the employees, mandated functions performed, actual number of hours devoted to each function, and productive hourly rates and benefits.” For FY 2001-02 and FY 2002-03, the Open Meetings Act/Brown Act Reform *Parameters and Guidelines* specifies that each claim shall report actual costs. In addition, *Parameters and Guidelines* states that “costs claimed must be traceable to source documents that show evidence of their validity and relationship to the reimbursable activities.”

The following table summarizes the audit adjustment.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Actual-time reimbursement option:				
Board of Supervisors’ meetings	<u>\$(29,324)</u>	<u>\$(27,357)</u>	<u>\$(23,552)</u>	<u>\$(80,233)</u>

Recommendation

We recommend that the county maintain documentation that supports actual costs incurred to perform the mandate-related activities.

County’s Response

The county did not respond to the audit finding.

**State Controller's Office
Division of Audits
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<http://www.sco.ca.gov>