

MARIN COUNTY

Audit Report

REGIONAL HOUSING NEED DETERMINATION PROGRAM

Chapter 1143, Statutes of 1980

July 1, 2000, through June 30, 2003



STEVE WESTLY
California State Controller

January 2006



STEVE WESTLY
California State Controller

January 6, 2006

The Honorable Richard 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 Regional Housing Need Determination Program (Chapter 1143, Statutes of 1980) for the period of July 1, 2000, through June 30, 2003.

The county claimed \$376,241 (\$377,241 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$149,014 is allowable and \$227,227 is unallowable. The unallowable costs occurred primarily because the county claimed unsupported costs. The State paid the county \$31,609. Allowable costs claimed exceed the amount paid by \$117,405.

If you disagree with the audit findings, 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/ams

cc: Alex Hinds, Director

Community Development Agency
Marin County

Ian Roth

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Marin County

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Marin County for the legislatively mandated Regional Housing Need Determination Program (Chapter 1143, Statutes of 1980) for the period of July 1, 2000, through June 30, 2003. The last day of fieldwork was June 13, 2005.

The county claimed \$376,241 (\$377,241 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$149,014 is allowable and \$227,227 is unallowable. The unallowable costs occurred primarily because the county claimed unsupported costs. The State paid the county \$31,609. Allowable costs claimed exceed the amount paid by \$117,405.

Background

Chapter 1143, Statutes of 1980, established substantially more detailed requirements for the housing element of local agencies' general plan. Cities and counties were required to have provisions in their housing elements for meeting their "appropriate share of the regional demand for housing" as determined by their regional Council of Government.

On August 19, 1981, the State Board of Control (now the Commission on State Mandates) ruled that Chapter 1143, Statutes of 1980, resulted in state-mandated costs that are reimbursable pursuant to *Government Code* Section 17561.

Parameters and Guidelines establishes the state mandate and defines criteria for reimbursement. The State Board of Control adopted *Parameters and Guidelines* on March 25, 1982. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for each mandate requiring state reimbursement to assist local agencies in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Regional Housing Need Determination 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* Section 17558.5. 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 \$376,241 (\$377,241 less a \$1,000 penalty for filing a late claim) for costs of the Regional Housing Need Determination Program. Our audit disclosed that \$149,014 is allowable and \$227,227 is unallowable.

For fiscal year (FY) 2000-01, the State paid the county \$21,205. Our audit disclosed that \$19,885 is allowable. The county should return \$1,320 to the State.

For FY 2001-02, the State paid the county \$10,404. Our audit disclosed that \$96,013 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$85,609, contingent upon available appropriations.

For FY 2002-03, the State made no payments to the county. Our audit disclosed that \$33,116 is allowable. The State will pay that amount, contingent upon available appropriations.

Views of Responsible Official

We issued a draft audit report on October 12, 2005. Alex Hinds, Director of the Marin County Community Development Agency, responded by letter dated November 3, 2005, in which he disagreed with Finding 1. The county's response is included as an attachment to this final audit 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> | | | | |
| Salaries and benefits | \$ 3,481 | \$ 2,008 | \$ (1,473) | Finding 1 |
| Services and supplies | 17,000 | 17,000 | — | |
| Indirect costs | 724 | 877 | 153 | Finding 3 |
| Total costs | 21,205 | 19,885 | (1,320) | |
| Less late filing penalty | — | — | — | |
| Total reimbursable costs | <u>\$ 21,205</u> | 19,885 | <u>\$ (1,320)</u> | |
| Less amount paid by the State | | (21,205) | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ (1,320)</u> | | |
| <u>July 1, 2001, through June 30, 2002</u> | | | | |
| Salaries and benefits | \$ 80,981 | \$ 416 | \$ (80,565) | Finding 1 |
| Services and supplies | 83,750 | 96,500 | 12,750 | Finding 2 |
| Indirect costs | 44,053 | 97 | (43,956) | Finding 3 |
| Total costs | 208,784 | 97,013 | (111,771) | |
| Less late filing penalty | (1,000) | (1,000) | — | |
| Total reimbursable costs | <u>\$ 207,784</u> | 96,013 | <u>\$ (111,771)</u> | |
| Less amount paid by the State | | (10,404) | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ 85,609</u> | | |
| <u>July 1, 2002, through June 30, 2003</u> | | | | |
| Salaries and benefits | \$ 81,763 | \$ 603 | \$ (81,160) | Finding 1 |
| Services and supplies | 29,350 | 32,316 | 2,966 | Finding 2 |
| Indirect costs | 36,139 | 197 | (35,942) | Finding 3 |
| Total costs | 147,252 | 33,116 | (114,136) | |
| Less late filing penalty | — | — | — | |
| Total reimbursable costs | <u>\$ 147,252</u> | 33,116 | <u>\$ (114,136)</u> | |
| Less amount paid by the State | | — | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ 33,116</u> | | |
| <u>Summary: July 1, 2000, through June 30, 2003</u> | | | | |
| Salaries and benefits | \$ 166,225 | \$ 3,027 | \$ (163,198) | Finding 1 |
| Services and supplies | 130,100 | 145,816 | 15,716 | Finding 2 |
| Indirect costs | 80,916 | 1,171 | (79,745) | Finding 3 |
| Total costs | 377,241 | 150,014 | (227,227) | |
| Less late filing penalty | (1,000) | (1,000) | — | |
| Total reimbursable costs | <u>\$ 376,241</u> | 149,014 | <u>\$ (227,227)</u> | |
| Less amount paid by the State | | (31,609) | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ 117,405</u> | | |

¹ See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Salary and fringe
benefit costs
unsupported**

The county claimed salary and fringe benefit costs that were unsupported.

- In fiscal year (FY) 2000-01 through FY 2002-03, the county did not maintain employee timesheets to support the labor hours devoted to the mandated activities. The county claimed a total of 3,532 hours. The county submitted copies of its contract consultant’s invoices and daily planners that documented only 60 county employee hours devoted to meetings held with the consultant.
- In FY 2000-01 through FY 2002-03, the county claimed salary costs for two employees of the Community Development Agency using productive hourly labor rates that understated the employees’ actual salaries and benefits. During our audit fieldwork, the county provided corrected labor rates, which included allowable fringe benefits.

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

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

| | Fiscal Year | | | Total |
|--------------------------|-------------|-------------|-------------|--------------|
| | 2000-01 | 2001-02 | 2002-03 | |
| Salary and benefit costs | \$ (1,473) | \$ (80,565) | \$ (81,160) | \$ (163,198) |

Recommendation

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

County’s Response

The county contends that the mandate’s *Parameters and Guidelines* allows for alternatives to actual employee time records to support labor costs claimed. The county contends that a comparison of costs incurred by two similar Northern California counties demonstrates that its claimed costs are justifiable and reasonable.

SCO’s Comment

The mandate’s *Parameters and Guidelines* specifies that, for all labor costs claimed, the county must be able to document the classification of the employees involved, the mandated function performed, the number of hours devoted to the function, the hourly salary rate, and the fringe benefit costs. It further states that if claimed costs cannot be supported, they will be disallowed by the State Controller.

The county’s comparison of its claimed costs to other counties’ costs does not represent appropriate documentation of actual increased costs incurred. The finding and recommendation remain unchanged.

**FINDING 2—
Understated services
and supplies**

In FY 2001-02 and FY 2002-03, the county, due to errors in compiling its claims, underreported allowable services and supplies costs by a total of \$15,716.

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

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

| | Fiscal Year | | | Total |
|-----------------------|-------------|-----------|----------|-----------|
| | 2000-01 | 2001-02 | 2002-03 | |
| Services and supplies | \$ — | \$ 12,750 | \$ 2,966 | \$ 15,716 |

Recommendation

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

County’s Response

The county did not respond to this finding.

SCO’s Comment

The finding and recommendation remain unchanged.

**FINDING 3—
Indirect costs
unsupported**

The county claimed indirect costs at incorrect rates, and applied the rates to salaries and benefits that were unsupported.

We determined in Finding 1 that most salary and benefit costs claimed were unsupported; therefore, indirect costs related to these unsupported salary and benefit costs are unallowable.

In addition, we determined that the indirect cost rates claimed were in error. The county erroneously classified some labor and services and supplies costs as indirect. Also, the county charged the wrong years’ countywide cost allocation plan charges to the indirect cost pool.

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

We recomputed allowable indirect cost rates for each fiscal year and applied these revised rates to allowable salary and benefit costs, which resulted in the following adjustments.

| | Fiscal Year | | | Total |
|----------------|-------------|-------------|-------------|-------------|
| | 2000-01 | 2001-02 | 2002-03 | |
| Indirect costs | \$ 153 | \$ (43,956) | \$ (35,942) | \$ (79,745) |

Recommendation

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

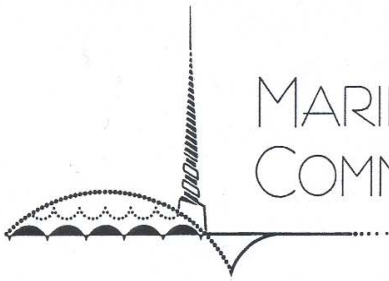
County's Response

The county did not respond to this finding.

SCO's Comment

The finding and recommendation remain unchanged.

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



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
ALEX HINDS, DIRECTOR

November 3, 2005

Jim L. Spano, Chief
Compliance Audits Bureau
State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874

RE: Appeal of Determination of Staff Costs for the Marin County Housing Element Reasonable Cost Determination

Dear Mr. Spano:

In response to the question of reasonable cost determination for production of its housing element, Marin County has conducted a survey of counties in Northern California, obtaining information from "like counties" to determine which Community Development agencies have actively tracked their staff time and other hard costs related to the mandated components of the Regional Housing Needs portion of their respective housing elements.

Two of the counties provided Marin County with their statistics related to the production of their 2004 housing elements: Solano and Humboldt. In both counties, the time statistics provided came from their internal time tracking systems.

It is hoped that by comparing the relative processes between the three counties, the County of Marin can demonstrate that its process and costs are proportionate and reasonable.

Comparing the Housing Elements

The following table compares the relative size and complexity of the housing elements from the three studied counties. Marin County's housing element is four times the size of Humboldt County's, while slightly less than double the size of Solano County's plan.

Marin County's housing element can be accessed directly from this URL:
<http://www.co.marin.ca.us/depts/cd/main/pdf/planning/HE4Web.pdf>

| <i>County</i> | <i># of Pages</i> | <i>Combined Staff Hours</i> | <i>Project Payroll</i> |
|-----------------|-------------------|-----------------------------|------------------------|
| <i>Humboldt</i> | 34 | 1,248 | \$82,400 |
| <i>Marin</i> | 124 | 4,712 | \$224,589 |
| <i>Solano</i> | 75 | 548 | \$35,649 |

The size and complexity of Humboldt's housing element is proportional to Marin County when comparing the number of pages and the number of staff hours required to produce the respective

documents. The largest difference is the average cost per page (\$2,423 for Humboldt vs. \$1,811 for Marin). Solano County primarily relied on outside consultants to produce their document, so this county's value in the comparison is somewhat limited.

Solano County's housing element can be accessed directly from this URL:

<http://www.co.solano.ca.us/resources/EnvironmentalManagement/Housing%20Element%20Draft%202004%20report.pdf>

Humboldt County's housing element can be accessed directly from this URL:

<http://www.co.humboldt.ca.us/planning/gp/housing%20element/pdf/He.pdf>

Demographics

As a point of reference, here are the comparative populations for the counties:

| <i>County</i> | <i>Population (2004)</i> |
|-----------------|--------------------------|
| <i>Humboldt</i> | 130,000 |
| <i>Marin</i> | 247,289 |
| <i>Solano</i> | 416,500 |

Other demographic points of comparison between these three counties include median household income, median value of owner-occupied housing units, and home ownership rate:

| <i>County</i> | <i>Income</i> | <i>Value of OOHU</i> | <i>Home Ownership</i> |
|-----------------|---------------|----------------------|-----------------------|
| <i>Humboldt</i> | \$31,226 | \$133,500 | 57.0% |
| <i>Marin</i> | \$71,306 | \$514,600 | 63.6% |
| <i>Solano</i> | \$54,099 | \$178,300 | 65.2% |

Conclusion

The Regional Housing Needs Determination program is non-repetitive in nature. Counties are compelled to comply with this State mandated program every five years.

The State Controller's representatives have indicated that, in the absence of contemporaneous time records, it is impossible to determine how much time is justifiable to claim for this program. Therefore, no staff time should be considered as eligible for state reimbursement.

The County of Marin contends that the Parameters and Guidelines for this program allow for alternatives to actual Marin County employee time records. The County would like to reference the following section of the Regional Housing Needs Determination Ps & Gs:

8A. Form RH-2, Component/Activity Cost Detail

This form is used to segregate the detailed costs by claim component. A separate form RH-2 must be completed for each cost component being claimed. Costs reported on this form must be supported as follows:

- (1) Salaries and Benefits

Source documents required to be maintained by the claimant may include, but are not limited to, employee time records that show the employee's actual time spent on this mandate.

1. The County believes that it has tangible documentation that this mandate was performed, namely the actual award-winning Housing Element referenced earlier. Some mandates are purely process driven and don't produce a final product; this mandate does. The County is proud of this document and the staff time that was invested producing it. However, it was a costly process implementing this State mandate.

2. The County has obtained contemporaneous employee time records from two other counties that were included as part of this comparison. The finding that Humboldt County's personnel costs per page of their housing element were actually higher than Marin County's further strengthens our contention that our claimed hours and costs are justifiable and reasonable.

3. We believe the State Controller is taking an overly restrictive interpretation of the Ps & Gs in this case. The meaning of this section appears very straightforward:

Source documents required to be maintained by the claimant **may include, but are not limited to**, employee time records that show the employee's actual time spent on this mandate. (Emphasis added)

If this section had said, that claimant time records must be maintained, and that said records were the only acceptable way to document and support this claim, we then agree with the State Controller's preliminary conclusions. However, that is not the level of documentation or rigor specified by the Ps and Gs.

Finally, Marin County produced this housing element as the result of a State of California mandate. Article XIII B, Section 6 of the State Constitution provides a protection for local agencies against unfunded state mandates. The Constitution provides the State Controller with the authority to perform audits, but clearly the spirit of Article XIII B, Section 6 should not be violated due to a difference of opinion on what constitutes "adequate documentation."

Thank you for your consideration of this matter. Any further clarification to this issue will be promptly forthcoming upon written request.

Respectfully,

Ian Roth for Alex Hinds

Alex Hinds, Director
County of Marin Community Development Agency

cc: Richard Arrow, Auditor Controller
Danny Briones, Accounting Manager
Barbara Collins, Affordable Housing Strategist
Ian Roth, Administrative Services Manager

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