

# **MONTEREY COUNTY**

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

October 2018



**BETTY T. YEE**  
California State Controller

October 11, 2018

The Honorable Luis Alejo, Chairman  
Monterey County Board of Supervisors  
168 West Alisal Street, 2<sup>nd</sup> Floor  
Monterey, CA 93901

Dear Mr. Alejo:

The State Controller's Office (SCO) audited the costs claimed by Monterey County for the legislatively mandated Open Meetings Act/Brown Act Reform Program for the period of July 1, 2005, through June 30, 2012.

The county claimed \$951,436 for the mandated program. Our audit found that \$528,640 is allowable and \$422,796 is unallowable because the county overstated its standard-time costs by misstating the number of eligible agenda items, applied incorrect blended productive hourly rates to eligible agenda items, and overstated its flat-rate costs by claiming non-existent and ineligible meeting agendas. The State made no payments to the county. The State will pay \$528,640, contingent upon available appropriations. Following issuance of this audit report, the SCO's Local Government Programs and Services Division will notify the county of the adjustment to its claims via a system-generated letter for each fiscal year in the audit period.

If you have any questions, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138.

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD, CPA**  
Chief, Division of Audits

JVB/as

cc: The Honorable Michael J, Miller, CPA, CISA, Auditor-Controller  
Monterey County  
Burcu Mousa, CPA, Chief Deputy Auditor-Controller  
General Accounting Division, Auditor-Controller's Office  
Monterey County  
Rupa Shah, CPA, Assistant Auditor-Controller  
Monterey County  
Chris Hill, Principal Program Budget Analyst  
Local Government Unit  
California Department of Finance  
Steven Pavlov, Finance Budget Analyst  
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California Department of Finance  
Anita Dagan, Manager  
Local Government Programs and Services Division  
State Controller's Office

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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 for the period of July 1, 2005, through June 30, 2012.

The county claimed \$951,436 for the mandated program. Our audit found that \$528,640 is allowable and \$422,796 is unallowable because the county overstated its standard-time costs by misstating the number of eligible agenda items and applied incorrect blended productive hourly rates (PHRs) to eligible agenda items and overstated its flat-rate costs by claiming non-existent and ineligible meeting agendas. The State made no payments to the county. The State will pay \$528,640, contingent upon available appropriations.

## Background

### Open Meetings Act Program

Chapter 641, Statutes of 1986, added Government Code (GC) sections 54954.2 and 54954.3. GC 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. GC 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 GC 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 GC 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 GC 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 GC section 17558, the SCO issues claiming instructions to assist local agencies in claiming mandated program reimbursable costs.

The Open Meetings Act Program became effective August 29, 1986. The Open Meetings Act/Brown Act Reform Program was effective for FY 2001-02. 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 the parameters and guidelines.

Based on the passage of Proposition 30, adopted by the voters on November 7, 2012, the California 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.

## **Objective, Scope, and Methodology**

The objective of our audit was to determine whether costs claimed represent increased costs resulting from the Open Meetings Act/Brown Act Reform Program. Specifically, we conducted this audit to determine whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

The audit period was July 1, 2005, through June 30, 2012.

To achieve our audit objective, we:

- Reviewed the annual mandated cost claims filed by the county for the audit period and identified the material cost components of each claim for the standard-time option as the number of agenda items, the minutes per agenda item, and the blended PHR; and for the flat-rate option as the number of agenda items and the uniform cost allowance. Determined whether there were any mathematical errors or any unusual or unexpected variances from year to year, and whether the claims adhered to the SCO's claiming instructions and the program's parameters and guidelines;
- Completed an internal control questionnaire by interviewing key county staff, and discussed the claim preparation process with county staff to determine what information was obtained, who obtained it, and how it was used;
- Inquired of county employees whether the county realized any offsetting savings or reimbursements from the statutes that created the mandated program;

### Standard-time option

- Selected a judgmental non-statistical sample of meeting agendas claimed, ranging from 14.53% to 19.82% for each fiscal year of the audit period:
  - Counted the number of agenda items identified on the sampled meeting agendas and compared the results to the number of agenda items claimed for that meeting and determined an error percentage for each fiscal year in the audit period;

- Increased testing for FY 2009-10 and FY 2010-11 to 100% of the agenda items claimed, due to the large error percentages from initial testing for those years;
- Consistent with the American Institute of Certified Public Accountants (AICPA) Audit Sampling Guide, we projected the results from the sample by applying each fiscal year's error rate to the total population of agenda items for that year;
- Discussed with county staff which employee classifications performed the reimbursable activities and their extent of involvement:
  - Recalculated the PHR calculations for FY 2005-06 through FY 2011-12 for all county employee classifications that performed the mandated activities using documentation from the county's payroll system;

#### Flat-rate option

- Selected a judgmental non-statistical sample of meeting agendas from three of the county's 16 departments per fiscal year, comprising 19.6% of costs claimed under this option for the audit period. Ensured that all 16 departments were represented in our testing for the audit period:
  - Determined the existence of the meeting agendas claimed and compared the number of supported meeting agendas to the number of meeting agendas claimed; and
  - Developed error rates for each of the 16 county departments based on the number of eligible meeting agendas. Consistent with the AICPA Audit Sampling Guide, we applied the error rate for each department to the total costs claimed by that department for the audit period.

GC sections 12410, 17558.5, and 17561 provide the legal authority to conduct this audit. We conducted this performance 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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.

## **Conclusion**

Our audit found instances of noncompliance with the requirements outlined in the Objective, Scope, and Methodology section. We found that the county did not claim costs that were funded by other sources; however, the county claimed ineligible costs, as quantified in the accompanying Schedule and described in the Findings and Recommendations section of this report.

For the audit period, Monterey County claimed \$951,436 for costs of the Open Meetings Act/Brown Act Reform Program. Our audit found that \$528,640 is allowable and \$422,796 is unallowable. The State made no payments to the county. The State will pay \$528,640, contingent upon available appropriations.

Following issuance of this audit report, the SCO's Local Government Programs and Services Division will notify the county of the adjustment to its claims via a system-generated letter for each fiscal year in the audit period.

**Follow-up on  
Prior Audit  
Findings**

The county has satisfactorily resolved the findings noted in our prior audit report, issued December 29, 2006.

**Views of  
Responsible  
Officials**

We issued a draft audit report on August 30, 2018. Burcu Mousa, CPA, Chief Deputy Auditor-Controller, responded by letter dated September 10, 2018 (Attachment), agreeing with the audit results. This final audit report includes the county's response.

**Restricted Use**

This audit 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 audit report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

October 11, 2018



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

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2005, through June 30, 2006</u>				
Standard rate	\$ 54,231	\$ 38,900	\$ (15,331)	Finding 1
Flat rate	80,718	32,569	(48,149)	Finding 2
Total program costs	<u>\$ 134,949</u>	71,469	<u>\$ (63,480)</u>	
Less amount paid by the State <sup>2</sup>		-		
Allowable costs claimed in excess of amount paid		<u>\$ 71,469</u>		
<u>July 1, 2006, through June 30, 2007</u>				
Standard rate	\$ 63,559	\$ 44,559	\$ (19,000)	Finding 1
Flat rate	85,851	36,541	(49,310)	Finding 2
Total program costs	<u>\$ 149,410</u>	81,100	<u>\$ (68,310)</u>	
Less amount paid by the State <sup>2</sup>		-		
Allowable costs claimed in excess of amount paid		<u>\$ 81,100</u>		
<u>July 1, 2007, through June 30, 2008</u>				
Standard rate	\$ 48,958	\$ 39,524	\$ (9,434)	Finding 1
Flat rate	90,239	37,683	(52,556)	Finding 2
Total program costs	<u>\$ 139,197</u>	77,207	<u>\$ (61,990)</u>	
Less amount paid by the State <sup>2</sup>		-		
Allowable costs claimed in excess of amount paid		<u>\$ 77,207</u>		
<u>July 1, 2008, through June 30, 2009</u>				
Standard rate	\$ 46,725	\$ 37,368	\$ (9,357)	Finding 1
Flat rate	92,928	37,312	(55,616)	Finding 2
Total program costs	<u>\$ 139,653</u>	74,680	<u>\$ (64,973)</u>	
Less amount paid by the State <sup>2</sup>		-		
Allowable costs claimed in excess of amount paid		<u>\$ 74,680</u>		
<u>July 1, 2009, through June 30, 2010</u>				
Standard rate	\$ 42,787	\$ 31,519	\$ (11,268)	Finding 1
Flat rate	92,316	36,766	(55,550)	Finding 2
Total program costs	<u>\$ 135,103</u>	68,285	<u>\$ (66,818)</u>	
Less amount paid by the State <sup>2</sup>		-		
Allowable costs claimed in excess of amount paid		<u>\$ 68,285</u>		

## Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2010, through June 30, 2011</u>				
Standard rate	\$ 52,085	\$ 42,962	\$ (9,123)	Finding 1
Flat rate	91,764	37,242	(54,522)	Finding 2
Total program costs	<u>\$ 143,849</u>	80,204	<u>\$ (63,645)</u>	
Less amount paid by the State <sup>2</sup>		-		
Allowable costs claimed in excess of amount paid		<u>\$ 80,204</u>		
<u>July 1, 2011, through June 30, 2012</u>				
Standard rate	\$ 53,347	\$ 55,658	\$ 2,311	Finding 1
Flat rate	55,928	20,037	(35,891)	Finding 2
Total program costs	<u>\$ 109,275</u>	75,695	<u>\$ (33,580)</u>	
Less amount paid by the State <sup>2</sup>		-		
Allowable costs claimed in excess of amount paid		<u>\$ 75,695</u>		
<u>Summary: July 1, 2005, through June 30, 2012</u>				
Standard rate	\$ 361,692	\$ 290,490	\$ (71,202)	Finding 1
Flat rate	589,744	238,150	(351,594)	Finding 2
Total program costs	<u>\$ 951,436</u>	528,640	<u>\$ (422,796)</u>	
Less amount paid by the State <sup>2</sup>		-		
Allowable costs claimed in excess of amount paid		<u>\$ 528,640</u>		

<sup>1</sup> See the Findings and Recommendations section.

<sup>2</sup> Payment amount current as of September 17, 2018.

# Findings and Recommendations

## FINDING 1— Overstated standard-time costs

The county claimed \$361,692 under the standard-time option for the preparation and posting of agenda items for the Open Meetings Act/Brown Act Reform Program for the audit period. The costs claimed were based on the number of the county’s Board of Supervisors (Board) meeting agenda items multiplied by the standard-time allowance of 30 minutes per agenda item multiplied by the blended hourly rate, which includes related benefits and indirect costs for the employee classifications that performed the reimbursable activity.

During testing, we found that \$290,490 is allowable and \$71,202 is unallowable. The unallowable costs occurred because the county misstated the number of eligible agenda items (\$18,816), applied incorrect blended PHRs to eligible agenda items (\$52,388), and underclaimed allowable costs by \$2. The county misstated the number of eligible agenda items by 390 items (overstated by 428 and understated by 38) and overstated the blended PHRs for the entire audit period. The county misstated the elements of the PHR calculations (employee annual salaries, productive hours, benefit percentages, and the percentage of involvement by various staff members in the reimbursable activities). County representatives could not identify how these errors occurred, and explained that the county had fully relied on its mandated cost consultant to prepare its claims for the audit period.

The following table summarizes the claimed, allowable, and audit adjustment amounts for the standard-time option costs by fiscal year:

	Fiscal Year							Total
	2005-06	2006-07	2007-08	2008-09	2009-10 <sup>1</sup>	2010-11 <sup>1</sup>	2011-12 <sup>1</sup>	
Number of claimed agenda items	1,791	2,030	1,576	1,537	1,524	1,508	1,167	
Standard time (hours) 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	895.5	1,015.5	788.0	768.5	762.0	754.0	583.5	
Claimed PHR	x 60.56	x 62.62	x 62.13	x 60.80	x 56.15	x 69.08	x 91.43	
Totals	\$ 54,231	\$ 63,559	\$ 48,958	\$ 46,725	\$ 42,786	\$ 52,086	\$ 53,349	\$ 361,694
Claim calculation errors	-	-	-	-	1	(1)	(2)	(2)
Claimed costs	\$ 54,231	\$ 63,559	\$ 48,958	\$ 46,725	\$ 42,787	\$ 52,085	\$ 53,347	\$ 361,692
Number of allowable agenda items	1,655	1,804	1,431	1,468	1,287	1,413	1,362	
Standard time (hours) 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	827.5	902.0	715.5	734.0	643.5	706.5	681.0	
Allowable blended PHR	x 47.01	x 49.40	x 55.24	x 50.91	x 48.98	x 60.81	x 81.73	
Total allowable costs	\$ 38,900	\$ 44,559	\$ 39,524	\$ 37,368	\$ 31,519	\$ 42,962	\$ 55,658	\$ 290,490
Audit adjustment	\$ (15,331)	\$ (19,000)	\$ (9,434)	\$ (9,357)	\$ (11,267)	\$ (9,123)	\$ 2,309	\$ (71,202)

<sup>1</sup>Minor claim calculation variances due to rounding errors.

### Misstated Agenda Items

The county claimed costs for preparing 11,133 agenda items for its Board of Supervisors meetings during the audit period. We found that 10,743 items are allowable and the county overstated the number of eligible agenda items by 390 (overstated by 428 and understated by 38) during the audit period.

We haphazardly sampled agendas for Board meetings during each year of the audit period, which comprised agenda items ranging from 14.53% to 19.82% of the number of agenda items claimed per year. We reviewed the Board meeting agendas to determine the number of eligible items.

Following the requirements of the parameters and guidelines, our testing strategy was as follows:

- We did not count regular agenda items such as roll call, flag salute, public comments, consent calendars, and adjournment;
- We did not count closed sessions items as one item. Instead, we counted the individual items discussed within closed sessions, as they were all non-related separate business items;
- We counted regular items by their appropriation number and/or alphabetical points with sub-points. For instance, if an item contained no sub-points or five sub-points, both items were counted as one agenda item, since sub-points were all related to the same particular item of business discussed; and
- For supplemental addendum and additions and corrections, we counted additional agenda items, but not the corrections to these items and/or titles, as that did not affect the number of items discussed. In cases where the county removed and/or deleted agenda items, we removed them from the count accordingly.

Our initial testing results are summarized in the following table:

Fiscal Year	Items Claimed (a)	Items Tested (b)	Testing Percentage (c) = (a) / (b)	Items Variance (d)	Variance Percentage (e) = (d) / (b)
2005-06	1,791	355	19.82%	(27)	-7.61%
2006-07	2,030	324	15.96%	(36)	-11.11%
2007-08	1,576	229	14.53%	(21)	-9.17%
2008-09	1,537	268	17.44%	(12)	-4.48%
2009-10	1,524	242	15.88%	(109)	-45.04%
2010-11	1,508	248	16.45%	(104)	-41.94%
2011-12	1,167	228	19.54%	38	16.67%
Total	<u>11,133</u>	<u>1,894</u>	<u>17.01%</u>	<u>(271)</u>	<u>-14.31%</u>

Due to the high variances of initial testing for FY 2009-10 and FY 2010-11, we expanded our testing for those years to 100% of agenda items claimed. As a result of that testing, the number of ineligible agenda items increased from 109 to 237 for FY 2009-10 (a total error rate of 15.55%) and decreased from 104 to 95 for FY 2010-11 (a total error rate of 6.30%). Therefore, the increased number of tested ineligible agenda items for the audit period increased by 119, from 271 to 390.

We then applied the variance percentages that we computed for sampled items during each year of the audit period to the number of agenda items claimed to determine the overall audit adjustment.

The following table presents the calculation of the audit adjustment for the misstated number of agenda items:

Fiscal Year	Items Claimed	Variance Percentage	Overall Variance	Time Allowance	Claimed PHR	Audit Adjustment <sup>1</sup>
2005-06	1,791	-7.61%	(136)	0.50	\$ 60.56	\$ (4,118)
2006-07	2,030	-11.11%	(226)	0.50	62.62	(7,076)
2007-08	1,576	-9.17%	(145)	0.50	62.13	(4,504)
2008-09	1,537	-4.48%	(69)	0.50	60.80	(2,098)
2009-10	1,524	-15.55%	(237)	0.50	56.15	(6,653)
2010-11	1,508	-6.30%	(95)	0.50	69.08	(3,281)
2011-12	1,167	16.67%	195	0.50	91.43	8,914
<b>Total</b>	<b>11,133</b>	<b>-7.89%</b>	<b>(713)</b>			<b>\$ (18,816)</b>

<sup>1</sup>Some minor calculation variances due to rounding

**Overstated Productive Hourly Rates**

The county claimed blended PHRs based on the percentage of involvement in the reimbursable activities during each fiscal year for the following three job classifications:

- Clerk to the Board
- Board of Supervisors (BOS) Clerk
- Senior BOS Clerk

To validate the county’s assertion as to who performed the reimbursable activities and the extent of their involvement, we met with representatives of the Clerk to the Board Office. Based on the interviews we held with the representatives, we adjusted the percentage involvement for FY 2007-08 through FY 2011-12. We also requested actual payroll information from the Auditor-Controller’s Office for the staff members performing the reimbursable activities during the audit period. We used this actual cost information to compute blended PHRs and found that the county overstated the claimed rates for all years of the audit period.

The following table summarizes the claimed and actual percentages of involvement for county staff performing the reimbursable activities during the audit period:

Classification	Fiscal Year						
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
<u>Claimed percentages:</u>							
Clerk to the Board	100%	100%	26.4%	0.0%	0.0%	49.6%	49.6%
BOS Clerk	0%	0%	24.6%	0.7%	0.7%	0.7%	0.7%
Senior BOS Clerk	0%	0%	49.0%	99.3%	99.3%	49.6%	49.6%
<u>Actual percentages:</u>							
Clerk to the Board	100%	100%	26.4%	0.0%	0.0%	25.0%	45.0%
BOS Clerk	0%	0%	24.6%	40.0%	40.0%	15.0%	20.0%
Senior BOS Clerk	0%	0%	49.0%	60.0%	60.0%	60.0%	35.0%

We used the actual salary and benefit information that the county provided to compute blended PHRs for the audit period. We used the indirect cost percentages that the county calculated. For example, the following table shows the calculation of the blended PHR used to calculate allowable costs for FY 2011-12:

Employee Classification	PHR (a)	Percentage Involvement (b)	Benefit Percentage (c)	Indirect Percentage (d)	Blended PHR (a)*(b)*(c)*(d)
Clerk to the Board	\$ 60.136	45%	31.39%	55.11%	\$ 55.15
BOS Clerk	24.930	20%	47.34%	55.11%	11.39
Senior BOS Clerk	25.073	35%	11.57%	55.11%	15.19
		100%			\$ 81.73

We performed a similar calculation for all other years of the audit period.

The following table summarizes the blended PHRs claimed, allowable, and the audit adjustments made for standard time activities by fiscal year:

Fiscal Year	Claimed Blended PHR	Audited Blended PHR	Audit Adjustment
2005-06	\$ 60.56	\$ 47.01	\$ (13.55)
2006-07	62.62	49.40	(13.22)
2007-08	62.13	55.24	(6.89)
2008-09	60.80	50.91	(9.89)
2009-10	56.15	48.98	(7.17)
2010-11	69.08	60.81	(8.27)
2011-12	91.43	81.73	(9.70)

The following table presents the audit adjustment due to PHR variances by fiscal year based on the allowable number of agenda items:

Fiscal Year	Allowable Agenda Items	Standard Time Allowance	PHR Variance	Audit Adjustment <sup>1</sup>
2005-06	1,655	0.5	\$ (13.55)	\$ (11,213)
2006-07	1,804	0.5	(13.22)	(11,924)
2007-08	1,431	0.5	(6.89)	(4,930)
2008-09	1,468	0.5	(9.89)	(7,259)
2009-10	1,287	0.5	(7.17)	(4,614)
2010-11	1,413	0.5	(8.27)	(5,843)
2011-12	1,362	0.5	(9.70)	(6,605)
Total	10,420			\$ (52,388)

<sup>1</sup>Some minor calculation variances due to rounding.

## Criteria

Section IV. (A) (Reimbursable Activities – Agenda Preparation and Posting Activities) of the parameters and guidelines states, in part, that reimbursable activities include “Prepare a single agenda for a regular meeting of a legislative body of a local agency” and “Post a single agenda 72 hours before a meeting.”

Section V. (A) (2) (a) (Claim Preparation and Submission – Reimbursement Options for Agenda Preparation and Posting, Including Closed Session Agenda Items – Standard Time Option) of the parameters and guidelines states:

List the meeting name and dates. For each meeting, multiply the number of agenda items, excluding standard agenda items [emphasis added] such as ‘adjournment’, ‘call to order’, ‘flag salute’, and ‘public comments’, by 30 minutes and then by the blended productive hourly rate of the involved employees.

Section VI. (A) (Supporting Data – Source Documents) of the parameters and guidelines states that “all incurred costs claimed must be traceable to source documents that show evidence of their validity and relationship to the reimbursable activities.” Section VI. (A) also states:

For those entities that elect reimbursement pursuant to the standard time methodology, option 2 in section V.A, documents showing the calculation of the blended productive hourly rate and copies of agendas shall be sufficient evidence.

## Recommendation

No recommendation is applicable for this finding, as the period of reimbursement for this mandated program expired on November 7, 2012, due to the passage of Proposition 30, approved by voters on November 6, 2012. For other mandated programs, we recommend that the county:

- Follow the mandated program’s parameters and guidelines and claiming instructions when preparing its reimbursement claims; and
- Ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

## County’s Response

The county agrees with the finding.

## **FINDING 2— Overstated flat-rate costs**

The county claimed \$589,744 under the flat-rate option allowable per the parameters and guidelines under the Open Meetings Act/Brown Act Reform Program for the audit period. During testing, we found that \$238,150 is allowable and \$351,594 is unallowable.

Claimed costs under the flat-rate option are determined by multiplying an annual uniform cost allowance by the number of meetings. The uniform cost allowance is adjusted each year by the Implicit Price Deflator referenced in GC section 17523.

The costs are unallowable because the county overstated the number of meetings claimed in all years of the audit period. We worked with county representatives and searched the county’s website to obtain meeting agendas, but neither the county nor its departments were able to locate all of the meeting agendas claimed. In addition, some meeting agendas were ineligible for claiming purposes because the meetings did not include an item for public comment or were canceled. County representatives could not identify how these errors occurred, and explained that they fully relied on their mandated cost consultant to prepare the county’s claims for the audit period.

The following table summarizes the claimed, allowable, and audit adjustment amounts for the flat-rate option by fiscal year:

	Fiscal Year							Total
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	
Claimed costs	\$ 80,718	\$ 85,851	\$ 90,239	\$ 92,928	\$ 92,316	\$ 91,764	\$ 55,928	\$ 589,744
Allowable costs	<u>32,569</u>	<u>36,541</u>	<u>37,683</u>	<u>37,312</u>	<u>36,766</u>	<u>37,242</u>	<u>20,037</u>	<u>238,150</u>
Audit adjustment	<u>\$ (48,149)</u>	<u>\$ (49,310)</u>	<u>\$ (52,556)</u>	<u>\$ (55,616)</u>	<u>\$ (55,550)</u>	<u>\$ (54,522)</u>	<u>\$ (35,891)</u>	<u>\$ (351,594)</u>

**Overstated Agendas**

The county claimed costs for preparing agendas for 3,908 meetings during the audit period. We found that 1,580 agendas are allowable and 2,328 are unallowable.

The county claimed agenda items comprising 16 county departments during the audit period. We selected three county departments per fiscal year to ensure that we tested all 16 departments. We then requested all meeting agendas for legislative bodies within those departments for the years selected. We retrieved as many agendas as possible from the county’s website and requested that the county provide copies of agendas that were not posted on its website. Allowable agendas were for the meetings that actually occurred and were supported. Unallowable agendas were for meetings that were not supported, were for cancelled meetings, or were for meetings that did not include the opportunity for public comment. Based on the testing results, we developed error rates for each of the 16 departments based on the number of eligible agenda items that the county provided compared to the number claimed. We applied these error rates to the dollar amounts claimed by each county department for each fiscal year of the audit period.



The following table presents the number of agenda items claimed, the error percentage, and the audit adjustment for meeting agendas claimed during the audit period:

County Department	Agenda Items Claimed	Error Percentage	Audit Adjustment
Agriculture	48	31.25%	15
Clerk of the Board	61	22.22%	14
Administrative Office (CAO)	376	-33.80%	(127)
Emergency Medical Services	181	-100.00%	(181)
Equal Opportunity Office	96	-100.00%	(96)
Health	68	-8.33%	(6)
Human Resources	19	200.00%	38
Natividad Medical Center	237	-65.38%	(155)
Parks	166	-12.00%	(20)
Planning	1,047	-27.21%	(285)
Probation	140	-100.00%	(140)
Public Works	61	-100.00%	(61)
Redevelopment and Housing	160	-72.50%	(116)
Social Services	930	-95.65%	(890)
Transportation	311	-100.00%	(311)
Treasurer and Tax Collector	7	-100.00%	(7)
Totals	<u>3,908</u>		<u>(2,328)</u>

The following table presents the amount claimed, the error percentage, and the audit adjustment amount by county department for the audit period:

County Department	Amount Claimed	Error Percentage	Audit Adjustment
Agriculture	\$ 7,275	31.25%	\$ 2,273
Clerk of the Board	9,145	22.22%	2,032
Administrative Office (CAO)	56,724	-33.80%	(19,173)
Emergency Medical Services	27,364	-100.00%	(27,364)
Equal Opportunity Office	14,357	-100.00%	(14,357)
Health	10,182	-8.33%	(848)
Human Resources	2,909	200.00%	5,818
Natividad Medical Center	35,321	-65.38%	(23,093)
Parks	24,728	-12.00%	(2,967)
Planning	157,967	-27.21%	(42,983)
Probation	20,988	-100.00%	(20,988)
Public Works	9,227	-100.00%	(9,227)
Redevelopment and Housing	24,255	-72.50%	(17,585)
Social Services	141,847	-95.65%	(135,677)
Transportation	46,378	-100.00%	(46,378)
Treasurer and Tax Collector	1,077	-100.00%	(1,077)
Totals	<u>\$589,744</u>		<u>\$(351,594)</u>

## Criteria

Section I. (Summary of Mandate) of the parameters and guidelines states:

Statutes of 1986, chapter 641 also added Government Code section 54954.3 to provide an opportunity for members of the public to address the legislative body on specific agenda items or any item of interest that is within the subject matter jurisdiction of the legislative body, and this opportunity for comment must be stated on the posted agenda.

Section IV. (A) (Reimbursable Activities – Agenda Preparation and Posting Activities) of the parameters and guidelines states, in part, that reimbursable activities include “Prepare a single agenda for a regular meeting of a legislative body of a local agency” and “Post a single agenda 72 hours before a meeting.”

Section V. (A) (3) (Claim Preparation and Submission – Reimbursement Options for Agenda Preparation and Posting, Including Closed Session Agenda Items – Flat Rate Option) of the parameters and guidelines states, “List the meeting names and dates. Multiply the uniform cost allowance...by the number of meetings.”

Section VI. (A) (Supporting Data – Source Documents) of the parameters and guidelines states that “all incurred costs claimed must be traceable to source documents that show evidence of their validity and relationship to the reimbursable activities.” Section VI. (A) also states:

For those entities that elect reimbursement pursuant to the flat-rate methodology, option 3 in section V.A, copies of agendas shall be sufficient evidence.

## Recommendation

No recommendation is applicable for this finding, as the period of reimbursement for this mandated program expired on November 7, 2012, due to the passage of Proposition 30, approved by voters on November 6, 2012. For other mandated programs, we recommend that the county:

- Follow the mandated program’s parameters and guidelines and claiming instructions when preparing its reimbursement claims; and
- Ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

## County’s Response

The county agrees with the finding. There were several departments who didn’t retain the agendas as it was past the County’s retention policy. The County will be educating applicable departments with SB-90 claims to ensure the claim support is retained if subject to audit, regardless of the retention policies.

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

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# MONTEREY COUNTY

## AUDITOR - CONTROLLER

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Michael J. Miller, CPA  
AUDITOR-CONTROLLER

Rupa Shah, CPA  
ASSISTANT AUDITOR-CONTROLLER



September 10, 2018

To Ms. Kurokawa, Chief, Compliance Audits Bureau  
State Controller's Office  
3301 C Street, Suite 700, Sacramento, CA

Ms. Kurokawa,

We have compiled the responses for the audit findings of the Open Meetings Act/Brown Act Reform Program for the period of July 1, 2005, through June 30, 2012.

**County Response to Finding #1:**

The County agrees with the finding.

**County Response to Finding #2:**

The County agrees with the finding. There were several departments who didn't retain the agendas as it was past the County's retention policy. The County will be educating applicable departments with SB-90 claims to ensure the claim support is retained if subject to audit, regardless of the retention policies.

Sincerely,

Burcu Mousa, Chief Deputy Auditor-Controller  
General Accounting Division, Auditor-Controller's Office

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

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