

CONTRA COSTA 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, 2002, through June 30, 2004



JOHN CHIANG
California State Controller

June 2010



JOHN CHIANG
California State Controller

June 11, 2010

John Gioia, Chairman
Board of Supervisors
Contra Costa County
11780 San Pablo Avenue, Suite D
El Cerrito, CA 94530

Dear Mr. Gioia:

The State Controller's Office audited the costs claimed by Contra Costa 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, 2002, through June 30, 2004.

The county claimed \$1,152,807 (\$1,153,807 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$224,940 is allowable and \$927,867 is unallowable. The costs are unallowable because the county claimed unsupported costs. The State made no payment to the county. The State will pay allowable costs claimed, contingent upon available appropriations.

If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). 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 the CSM's Web site at www.csm.ca.gov/docs/IRCForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: The Honorable Stephen Ybarra
Auditor-Controller
Contra Costa County
Elizabeth Verigin
Assistant Auditor-Controller
Contra Costa County
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Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Official	3
Restricted Use	3
Schedule 1—Summary of Program Costs.....	4
Finding and Recommendation	5

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Contra Costa 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, 2002, through June 30, 2004.

The county claimed \$1,152,807 (\$1,153,807 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$224,940 is allowable and \$927,867 is unallowable. The costs are unallowable because the county claimed unsupported costs. The State made no payment to the county. The State will pay allowable costs claimed that exceed the amount paid, contingent upon available appropriations.

Background

Open Meetings Act Program

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 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 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 sessions requirements of the Brown Act.

The Commission on State Mandates (CSM) 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 reimbursement criteria. The CSM adopted the 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 the 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, 2002, through June 30, 2004.

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 this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the county's financial statements. We conducted the 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 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, Contra Costa County claimed \$1,152,807 (\$1,153,807 less a \$1,000 penalty for filing a late claim) for costs of the Open Meetings Act/Brown Act Reform Program. Our audit disclosed that \$224,940 is allowable and \$927,867 is unallowable. The State made no payment to the county. The State will pay allowable costs claimed, contingent upon available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on February 25, 2010. Marie Rulloda, Chief Accountant, responded by letter dated March 15, 2010 (Attachment). The county neither agreed nor disagreed with the audit results. However, the county did request additional documentation supporting our FY 2003-04 calculations under the standard-time option, as well as the option to submit additional information necessary to calculate allowable FY 2002-03 costs under the standard-time option.

In a March 25, 2010 e-mail, we provided the requested information. In an April 6, 2010 e-mail, Ms. Rulloda stated that the county received the additional documentation for FY 2003-04 and would not be sending a revised response to the draft audit report.

On April 26, 2010, and May 4, 2010, Ms. Rulloda provided us with FY 2002-03 agenda items and blended PHR information necessary to calculate allowable Board of Supervisors costs under the standard-time allowance. As a result, allowable costs increased by \$78,920. We adjusted the finding for the increased costs. Ms. Rulloda responded by a May 6, 2010 e-mail agreeing with the calculation.

Restricted Use

This report is solely for the information and use of Contra Costa 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

June 11, 2010

**Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2004**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2002, through June 30, 2003</u>			
Actual time	\$ 652,111	\$ —	\$ (652,111)
Standard time	—	83,707	83,707
Flat rate	—	27,011	27,011
Total program costs	<u>\$ 652,111</u>	110,718	<u>\$ (541,393)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 110,718</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Actual time	\$ 299,496	\$ —	\$ (299,496)
Standard time	182,974	91,020	(91,954)
Flat rate	19,226	24,202	4,976
Subtotal	501,696	115,222	(386,474)
Less late filing penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 500,696</u>	114,222	<u>\$ (386,474)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 114,222</u>	
<u>Summary: July 1, 2002, through June 30, 2004</u>			
Actual time	\$ 951,607	\$ —	\$ (951,607)
Standard time	182,974	174,727	(8,247)
Flat rate	19,226	51,213	31,987
Subtotal	1,153,807	225,940	(927,867)
Less late filing penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 1,152,807</u>	224,940	<u>\$ (927,867)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 224,940</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

FINDING— Unallowable costs

The county overstated costs by \$927,867 during the audit period. It claimed unsupported costs, totaling \$951,607, under the actual-time option, overstated costs of \$8,247 under the standard-time option, and understated costs of \$31,987 under the flat-rate option.

The program's parameters and guidelines allow claimants to claim costs under one of three reimbursable methodologies: the actual-time option, the standard-time option, or the flat-rate option.

Actual-Time Option

For the actual-time option, the parameters and guidelines require the claimant to list the meeting names and dates, as well as show the names of the employees involved, the classification of the employees, the mandated function performed, the actual number of hours devoted to each function, and the productive hourly rates.

We determined that all of the costs claimed under the actual-time option were unsupported for the reasons stated below.

- The Human Resources Department computed salaries and benefits claimed based on timesheet documentation maintained for one week during each fiscal year. The county multiplied each employee's actual hours reported for one week by the number of meetings held during the fiscal year. The county did not show that one week of timesheet documentation is representative of each fiscal year and can reasonably be projected to approximate actual costs. In addition, the county did not provide any documentation supporting the employee hours reflected in the time study. The unallowable cost is \$233,919 for fiscal year (FY) 2002-03.
- The County Counsel's Office (CCO) and Public Works Department (PWD) certified the hours claimed through a memorandum without any source documents to support the hours. Representatives from the county stated that calendars were used to capture the mandated activities; however, they did not produce the calendars for verification. The unallowable costs are \$33,279 for FY 2002-03 for CCO, and \$35,732 for FY 2003-04 for PWD.
- The county used worksheets for the County Administrator's Office that identified time spent on "Agenda Prep/Review Follow-up mtg. or other." The worksheet did not detail the costs necessary to prepare and post a single agenda. In addition, the county provided no source documents to support the information presented in the worksheet. The unallowable costs are \$215,283 for FY 2002-03 and \$236,537 for FY 2003-04.

- The Community Development Department kept cost codes that employees used to show time spent on a “Joint Billing timekeeping/cost recovery system” for all daily time worked by project. The timekeeping report did not detail costs by mandated activities. The county claimed costs for all activities without identifying the reimbursable portion. The unallowable cost is \$123,805 for FY 2002-03.

The following table summarizes the unsupported costs under the actual-time option:

	Fiscal Year		Total
	2002-03	2003-04	
Unsupported time claimed	\$ (606,286)	\$ (272,269)	\$ (878,555)
Related indirect costs	(45,825)	(27,227)	(73,052)
Audit adjustment, actual-time option	<u>\$ (652,111)</u>	<u>\$ (299,496)</u>	<u>\$ (951,607)</u>

Standard-Time Option

For the standard-time option, the parameters and guidelines require the claimant to list the meeting names and dates. The parameters and guidelines allow claimants to claim a specified standard time for each meeting agenda item multiplied by a blended productive hourly rate of the involved employees.

For FY 2002-03, the county claimed unsupported costs of Board of Supervisors’ meetings under the actual-time option. We recalculated and allowed costs for 42 meetings under the flat-rate option totaling \$4,787. Subsequent to issuance of the draft report, the county provided documentation supporting the number of agenda items totaling 3,773 and related blended productive hourly rate (PHR). Consequently, we recalculated the costs and allowed \$83,707 under the standard-time option.

For FY 2003-04, the county claimed costs of Board of Supervisors’ meetings under the standard-time option. In calculating reimbursable cost, the county overstated the blended PHR, resulting in overclaimed costs of \$91,954. The blended PHR factored in the costs to develop agenda items that are not reimbursable under the mandate.

The following table summarizes the adjustment to reimbursable costs under the standard-time option:

	Fiscal Year		Total
	2002-03	2003-04	
Number of agenda items	3,773	3,806	
Allowable hours	0.5	0.5	
Subtotal	1,887	1,903	
Blended PHR	\$44.36	\$47.83	
Allowable costs	83,707	91,020	\$174,727
Claimed costs	—	182,974	182,974
Audit adjustment	<u>\$ 83,707</u>	<u>\$ 91,954</u>	<u>\$ 175,661</u>

Flat-Rate Option

For the flat-rate option, the parameters and guidelines require the claimant to list the meeting names and dates. The parameters and guidelines allow the claimant to claim a uniform cost allowance for each meeting.

For FY 2002-03, we allowed costs in the draft report under the flat-rate option. Based on county-provided documentation, we allowed 279 meetings, including 42 Board of Supervisors meetings. Using the \$113.97 uniform costs allowance, we allowed \$31,798. As noted in the standard-time option section above, the county subsequently provided documentation supporting the number of agenda items and related blended PHR for the Board of Supervisors meetings. Therefore, we allowed costs of the Board of Supervisors’ meetings totaling \$83,707 under the standard-time allowance. We recalculated the remaining costs under the flat-rate option and allowed 237 meetings totaling \$27,011.

For FY 2003-04, the county claimed 168 department and section meetings (exclusive of Board of Supervisors’ meetings) under the flat-rate option. However, the county supported 209 meetings, an understatement of 41 meetings. County staff stated that the probable cause of the understatement was the county’s desire to be consistent with the meetings claimed in prior years. Using the uniform cost allowance, we allowed \$24,202.

The following table summarizes the underclaimed costs under the flat-rate option:

	Fiscal Year		Total
	2002-03	2003-04	
Number of meetings allowed	237	209	
Uniform cost allowance	\$ 113.97	\$ 115.80	
Allowable costs	27,011	24,202	\$ 51,213
Claimed costs	—	(19,226)	(19,226)
Audit adjustment, flat-rate option	\$ 27,011	\$ 4,976	\$ 31,987

The parameters and guidelines allow reimbursement only for the increased costs that claimants are required to incur to prepare and post, at a site accessible to the public and at least 72 hours before the meeting, a single agenda containing a brief general description of each item of business to be transacted or discussed at one regular meeting, and citing the time and location of the regular meeting.

The parameters and guidelines for the mandated program specify that costs claimed must be traceable to source documents and/or worksheets that show evidence of, and the validity of, such costs.

The following table summarizes the audit adjustments under the three reimbursement options:

	Fiscal Year		Total
	2002-03	2003-04	
Actual-time option	\$ (652,111)	\$ (299,496)	\$ (951,607)
Standard-time option	83,707	(91,954)	(8,247)
Flat-rate option	27,011	4,976	31,987
Total audit adjustment	<u>\$ (541,393)</u>	<u>\$ (386,474)</u>	<u>\$ (927,867)</u>

Recommendation

We recommend that the county establish procedures to ensure that all costs claimed are supported and allowable under the parameters and guidelines.

County’s Response

For the finding related to costs claimed under the actual-time option, the county stated that it provided meeting information, time spent for the period audited, and additional documentation requested during the audit. The county believes that the main issue of contention is the level of documentation needed to support the time spent providing the mandated services.

For the finding related to the standard-time option, the county requested additional documentation supporting our calculation of allowable costs for FY 2003-04.

For the finding related to the flat-rate option, the county responded to the draft report indicating that, “if the county subsequently provides documentation supporting the number of agenda items, we will revise the calculation to allow such costs under the standard time option.” The county’s response stated that the county wants the option to provide additional documentation related to agenda items.

SCO’s Comment

Based on additional supporting information provided by the county, we increased allowable costs by \$78,920, from \$146,020 to \$224,050.

In a March 25, 2010 e-mail, we provided the county with information on the calculation of FY 2003-04 allowable costs under the standard-time option. On April 26, 2010, and May 4, 2010, the county provided us with the FY 2002-03 agenda items and blended PHR information necessary to calculate allowable Board of Supervisors’ costs under the standard-time allowance. Allowable costs increased by \$78,920. The county agreed with the revised calculation.

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

Contra Costa County

Office of
COUNTY AUDITOR-CONTROLLER

625 Court Street
Martinez, California 94553-1282
Telephone (925) 646-2181
Fax (925) 646-2649

March 15, 2010



Stephen J. Ybarra
Auditor-Controller

Elizabeth A. Verigin
Assistant Auditor-Controller

Jim L. Spano, Chief
Mandated Cost Audits Bureau
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

RE: Open Meetings Act/Brown Act Reform Program Audit
July 1, 2002 – June 30, 2004

Dear Mr. Spano,

Thank you for providing the County of Contra Costa with the opportunity to comment on the draft findings in your audit report on the Open Meetings Act state mandated program. This letter provides you with a response to the draft findings in the report received by the County on March 3, 2010.

Finding for Actual Time Option:

The audit determined that all of the costs claimed under the actual time option were unsupported. The result is an audit adjustment in the amount of \$951,607. The county provided meeting information, time spent for period audited, and additional documentation requested during the audit. The main issue of contention appears to be the level of documentation to support the time spent providing the mandated services.

Finding for Standard Time Option:

The audit determined that the county overstated the blended productive hourly rate resulting in FY 03-04 overclaimed costs of \$91,954. After the exit conference on February 24, 2009, we received an email on July 27, 2009, from Toni Cellini, the Auditor, stating that \$186,454 is allowed under the standard time option because the blended productive hourly rate was understated. Additionally, \$19,454 was also allowed under the flat rate method, however, the draft audit report shows \$91,020 allowed under Standard time and \$24,202 under the flat rate method. Please provide us documentation supporting the recalculation of the allowable amount from \$186,454 to the reduced draft audit report amount of \$ 91,020.

Finding for Flat Rate Option:

The flat rate option requires the claimant to list the meeting names and dates and allows the claimant to claim uniform cost allowance for each meeting. The audit allowed 279 meetings using the flat rate option calculation in the amount of \$31,798. The audit also states that "if the county subsequently provides documentation supporting the number of agenda items, we will revise the calculation to allow such costs under the standard time option." We are reviewing our records and want to have the option open to provide additional documentation.

The county anticipates reimbursement of the allowable costs in the amount of \$146,020 contingent upon available appropriations. Again, thank you for the opportunity to submit written comments on the draft audit report findings. We look forward to working with your Office to discuss parameters and guidelines for the mandated program specification that costs claimed must be traceable to source documents and/or worksheets that show evidence of, and the validity of such costs to improve documentation for the county's future claims.

If you have further questions, please do not hesitate to contact me at (925)646-2186, email address mrull@ac.cccounty.ca.us.

Sincerely,

Stephen J. Ybarra
Auditor Controller



By: Marie Rulloda
Chief Accountant
Special Accounting Division

Cc: Lisa Driscoll
County Finance Director
Contra Costa County Administrator's Office

Elizabeth Verigin
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