

# **SAN BERNARDINO 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, 2000, through June 30, 2003*



**STEVE WESTLY**  
California State Controller

November 2005



**STEVE WESTLY**  
California State Controller

November 30, 2005

The Honorable Larry Walker  
Auditor-Controller  
San Bernardino County  
222 West Hospitality Lane, 4th Floor  
San Bernardino, CA 92415-0018

Dear Mr. Walker:

The State Controller's Office audited the costs claimed by San Bernardino County for the legislatively mandated Open Meetings Act/Brown Act Reform Program (Chapter 641, Statutes of 1986, and Chapters 1136 through 1138, Statutes of 1993) for the period of July 1, 2000, through June 30, 2003.

The county claimed \$358,175 (\$359,175 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$340,165 is allowable and \$18,010 is unallowable. The unallowable costs occurred because the county claimed costs for unallowable agendas. The State paid the county \$25,154. The State will pay allowable costs claimed that exceed the amount paid, totaling \$315,011, 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/ams

cc: Jai Prasad  
SB 90 Coordinator  
Auditor-Controller's Office  
San Bernardino 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 San Bernardino County for the legislatively mandated Open Meetings Act/Brown Act Reform Program (Chapter 641, Statutes of 1986, and Chapters 1136 through 1138, Statutes of 1993) for the period of July 1, 2000, through June 30, 2003. The last day of fieldwork was February 23, 2005.

The county claimed \$358,175 (\$359,175 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$340,165 is allowable and \$18,010 is unallowable. The unallowable costs occurred because the county claimed costs for unallowable agendas. The State paid the county \$25,154. The State will pay allowable costs claimed that exceed the amount paid, totaling \$315,011, 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

*Government Code* Sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7 (added or amended by Chapters 1136, 1137, and 1138, Statutes of 1993) expand 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 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 became effective on 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* 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 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, San Bernardino County claimed \$358,175 (\$359,175 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 \$340,165 is allowable and \$18,010 is unallowable.

For FY 2000-01, the State made no payments to the county. Our audit disclosed that \$75,139 is allowable. The State will pay that amount, contingent upon available appropriations.

For FY 2001-02, the State paid the county \$25,154. Our audit disclosed that \$105,603 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$80,449, contingent upon available appropriations.

For FY 2002-03, the State made no payments to the county. Our audit disclosed that \$159,423 is allowable. The State will pay that amount, contingent upon available appropriations.

**Views of  
Responsible  
Official**

We issued a draft report on September 15, 2005. Bonnie Ter Keurst, Reimbursable Projects Section Manager in the County Auditor-Controller's Office, responded by letter dated October 12, 2005, agreeing with the audit results. The county's response is included as an attachment to this audit report.

**Restricted Use**

This report is solely for the information and use of San Bernardino 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**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u> <sup>1</sup>
<u>July 1, 2000, through June 30, 2001</u>			
Standard time	\$ 57,858	\$ 57,858	\$ —
Flat rate	24,521	18,281	(6,240)
Subtotal	82,379	76,139	(6,240)
Less late penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 81,379</u>	75,139	<u>\$ (6,240)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 75,139</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Standard time	\$ 80,212	\$ 80,212	\$ —
Flat rate	31,121	25,391	(5,730)
Subtotal	111,333	105,603	(5,730)
Less late penalty	—	—	—
Total program costs	<u>\$ 111,333</u>	105,603	<u>\$ (5,730)</u>
Less amount paid by the State		(25,154)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 80,449</u>	
<u>July 1, 2002, through June 30, 2003</u>			
Standard time	\$ 131,502	\$ 131,502	\$ —
Flat rate	33,961	27,921	(6,040)
Subtotal	165,463	159,423	(6,040)
Less late penalty	—	—	—
Total program costs	<u>\$ 165,463</u>	159,423	<u>\$ (6,040)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 159,423</u>	
<u>Summary: July 1, 2000, through June 30, 2003</u>			
Standard time	\$ 269,572	\$ 269,572	\$ —
Flat rate	89,603	71,593	(18,010)
Subtotal	359,175	341,165	(18,010)
Less late penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 358,175</u>	340,165	<u>\$ (18,010)</u>
Less amount paid by the State		(25,154)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 315,011</u>	

<sup>1</sup> See the Finding and Recommendation section.

# Finding and Recommendation

**FINDING—  
Unallowable agendas  
claimed**

The county claimed a portion of its costs under the flat-rate reimbursement option. Under this method, reimbursable costs are based on the number of eligible meetings/agendas and a uniform cost allowance per meeting.

Costs claimed for meetings of the Assessment Appeals Board are unallowable because its agendas did not contain all the information necessary to inform the public about its meetings as required. These agendas did not state the time and location of the meeting, did not contain a brief description of what was to be discussed, and did not include a notice stating that members of the public have an opportunity to comment on the agenda items during the meeting.

*Parameters and Guidelines* for the Open Meetings Act/Brown Act Reform Program requires that meeting agendas contain a brief description of each item of business to be transacted or discussed at the meeting, the time and location of the meeting, and a notice stating that members of the public have an opportunity to comment on the agenda items.

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

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Flat-rate option:				
Assessment Appeals Board	\$ (6,240)	\$ (5,730)	\$ (6,040)	\$ (18,010)

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.

County’s Response

The county agreed with the finding.

SCO’s Comment

The finding and recommendation remain unchanged.



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

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# AUDITOR/CONTROLLER-RECORDER COUNTY CLERK



COUNTY OF SAN BERNARDINO

**AUDITOR/CONTROLLER** • 222 West Hospitality Lane, Fourth Floor  
San Bernardino, CA 92415-0018 • (909) 387-8322 • Fax (909) 386-8830

**RECORDER • COUNTY CLERK** • 222 West Hospitality Lane, First Floor  
San Bernardino, CA 92415-0022 • (909) 387-8306 • Fax (909) 386-8940

**LARRY WALKER**

Auditor/Controller-Recorder  
County Clerk

**ELIZABETH A. STARBUCK**

Assistant Auditor/Controller-Recorder  
Assistant County Clerk

October 12, 2005

Mr. Jim L. Spano  
Chief, Compliance Audits Bureau  
Office of the State Controller  
Division of Audits  
P. O. Box 942850  
Sacramento, California 94250-5874

**RE: Response to Draft Audit Report**

*Open Meetings Act/Brown Act Reform Program* - Chapter 641, Statutes of 1986 and Chapters  
1136, through 1138, Statutes of 1993

Dear Mr. Spano:

We have reviewed the State Controller's (SCO) draft audit report for the above mandated program dated September 15, 2005. The County review has been completed and we concur with the finding and recommendation proposed in the Open Meetings Act/Brown Act Reform Program draft audit, July 1, 2000 through June 30, 2003.

If you have any questions, please feel free to call me at (909) 386-8850.

Sincerely,

A handwritten signature in cursive script that reads "Bonnie Ter Keurst".

Bonnie Ter Keurst  
Reimbursable Projects Section Manager

**State Controller's Office  
Division of Audits  
Post Office Box 942850  
Sacramento, California 94250-5874**

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