MERCED COUNTY

Audit Report

PESTICIDE USE REPORTS PROGRAM

Chapter 1200, Statutes of 1989

July 1, 1997, through June 30, 2001

STEVE WESTLY
California State Controller

September 2003

STEVE WESTLY
California State Controller

September 30, 2003

Mr. David A. Robinson
Agricultural Commissioner
Merced County
2139 West Wardrobe Avenue
Merced, CA 95340

Dear Mr. Robinson:

The State Controller's Office (SCO) has completed an audit of the claims filed by Merced County for costs of the legislatively mandated Pesticide Use Reports Program (Chapter 1200, Statutes of 1989) for the period of July 1, 1997, through June 30, 2001.

The county claimed and was paid $300,601 for the mandated program. Our audit disclosed that $52,628 is allowable and $247,973 is unallowable. The unallowable costs occurred because the county claimed unsupported and ineligible costs and understated claimed revenue offsets. The amount paid in excess of allowable costs claimed, totaling $247,973, should be returned to the State.

The SCO has established an informal audit review process to resolve a dispute of facts. The auditee should submit, in writing, a request for a review and all information pertinent to the disputed issues within 60 days after receiving the final report. The request and supporting documentation should be submitted to: Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250-0001.

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

Sincerely,

Original Signed By:

WALTER BARNES
Chief Deputy State Controller, Finance

WB:ams

cc: (See page 2)

cc: The Honorable M. Stephen Jones
Auditor-Controller
Merced County
Calvin Smith, Program Budget Manager
Corrections and General Government
Department of Finance

Contents

Audit Report

Summary

The State Controller's Office (SCO) has completed an audit of the claims filed by Merced County for costs of the legislatively mandated Pesticide Use Reports Program (Chapter 1200, Statutes of 1989) for the period of July 1, 1997, through June 30, 2001. The last day of fieldwork was December 24, 2002.

The county claimed and was paid $300,601 for the mandated program. The audit disclosed that $52,628 is allowable and $247,973 is unallowable. The unallowable costs occurred because the county claimed unsupported and ineligible costs and understated claimed revenue offsets. The amount paid in excess of allowable costs claimed, totaling $247,973, should be returned to the State.

Background

Chapter 1200, Statutes of 1989, added *Food and Agricultural Code* Section 12979 and its implementing regulations in Title 3, *California Code of Regulations*. This legislation requires increased pesticide reporting requirements by pesticide users, which includes all agricultural users, and increases recordkeeping requirements by pesticide dealers that are licensed by the State. It also requires county agricultural commissioners to issue operator site identification numbers to specified persons, inspect and audit certain records, and file the newly-required pesticide use reports with the State. On November 19, 1992, the Commission on State Mandates determined that Chapter 1200, Statutes of 1989, resulted in state mandated costs that are reimbursable pursuant to Title 2, Division 4, Part 7, of the *Government Code*.

Parameters and Guidelines, adopted by the Commission on State Mandates, establishes state mandates and defines criteria for reimbursement. 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

The objective of the audit was to determine whether costs claimed are increased costs incurred as a result of the legislatively mandated Pesticide Use Reports Program (Chapter 1200, Statutes of 1989) for the period of July 1, 1997, through June 30, 2001.

The auditor performed the following procedures:

- Reviewed the costs claimed to determine if they were increased costs resulting from the mandated program;

- Traced the costs claimed to the supporting documentation to determine whether the costs were properly supported;

- Confirmed that the costs claimed were not funded by another source; and

- Reviewed the costs claimed to determine that the costs were not unreasonable and/or excessive.

The SCO conducted the audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. The SCO did not audit the county's financial statements. The scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance concerning the allowability of expenditures claimed for reimbursement. Accordingly, transactions were examined, on a test basis, to determine whether the amounts claimed for reimbursement were supported.

Review of the county's management controls was limited to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

The audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the Findings and Recommendations section of this report and in the accompanying Summary of Program Costs (Schedule 1).

For the audit period, Merced County claimed and was paid $300,601 for costs of the legislatively mandated Pesticide Use Reports Program. The audit disclosed that $52,628 is allowable and $247,973 is unallowable.

For fiscal year (FY) 1997-98, the county was paid $44,942 by the State. The audit disclosed that no costs were allowable. The amount paid in excess of allowable costs claimed, totaling $44,942, should be returned to the State.

For FY 1998-99, the county was paid $50,575 by the State. The audit disclosed that no costs were allowable. The amount paid in excess of allowable costs claimed, totaling $50,575, should be returned to the State.

For FY 1999-2000, the county was paid $92,281 by the State. The audit disclosed that $29,618 is allowable. The amount paid in excess of allowable costs claimed, totaling $62,663, should be returned to the State.

For FY 2000-01, the county was paid $112,803 by the State. The audit disclosed that $23,010 is allowable. The amount paid in excess of allowable costs claimed, totaling $89,793, should be returned to the State.

Views of Responsible Officials

The SCO issued a draft audit report on May 30, 2003. David A. Robinson, county Agricultural Commissioner, responded by the attached letter dated June 24, 2003, disagreeing with some aspects of the audit results. The county's response is included in this final audit report.

Restricted Use

This report is solely for the information and use of Merced County 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

Findings and Recommendations

FINDING 1— Labor costs overclaimed

The county overclaimed labor costs by $109,659 as follows:

- The county claimed salary and related fringe benefit costs related to the issuance of restricted pesticide use permits. However, this function was required before the mandate was enacted, resulting in an overclaim of $8,789.

- The county claimed labor costs for staff biologists to review pesticide use reports and for clerical staff to log in and file those reports. These labor costs were computed using a composite productive hourly salary and fringe benefit rate based primarily on the salary rates of its staff biologists. However, most of the labor hours claimed were incurred by clerical staff members who earned substantially less than the biologists. As a result, the auditor allowed the hours claimed for each employee classification and an hourly labor rate representative of the two employee classifications, resulting in an overclaim of $100,870. Should the county furnish the actual labor rates of the individual employees who performed these functions, the audit adjustment will be revised as necessary.

Parameters and Guidelines for the Pesticide Use Reports program specifies that only actual increased costs incurred in the performance of the mandated activities and supported by appropriate documentation are reimbursable.

Claimed labor costs have been adjusted as follows:

	Audit Adjustment				
	Fiscal Year				
	1997-98	1998-99	1999-2000	2000-01	Total
Issuing ID numbers–ineligible costs	$ (1,437)	$ (1,732)	$ (1,899)	$ (3,721)	$ (8,789)
Reviewing and filing with DPR–labor rates overstated	(16,445)	(20,969)	(16,373)	(37,641)	(91,428)
Totals	$ (17,882)	$ (22,701)	$ (18,272)	$ (41,362)	$ (100,217)

<u>Recommendation</u>

The county should ensure that all costs claimed are eligible increased costs incurred as a result of the mandate, and are supported by its accounting records.

<u>Auditee's Response</u>

The county believes that claimed labor costs were overstated by $64,645 rather than the $109,659 reported in the draft audit report and has submitted additional information in support of the amount of $45,014.

SCO's Comment

The additional labor costs submitted by the county included $35,572 of salaries that were already claimed and allowed as indirect costs. The SCO auditor accepted the remaining $9,442 of direct labor costs submitted. Accordingly, the finding has been revised to reduce audit adjustment by $9,442, from $109,659 to $100,217.

FINDING 2—Indirect costs overclaimed

The county overclaimed indirect costs by $40,211 as follows:

- In FY 1999-2000 and FY 2000-01, the county computed indirect cost rates based on salaries and benefits, but applied the rates to salaries only, resulting in an underclaim of $17,580.
- All vehicle mileage costs incurred by the Agricultural Commissioner's Office were classified as indirect costs in the indirect cost rate proposal even though these costs are identified in the department's records as direct costs. The auditor allowed mileage costs attributable to the mandated program as direct costs, and removed mileage costs from the indirect cost rate claimed, resulting in an overclaim of $24,185.
- Indirect costs related to labor costs questioned in Finding 1 above were overstated by $33,606.

Parameters and Guidelines and the SCO's claiming instructions require the county, when claiming an indirect cost rate exceeding 10%, to submit with its claim a departmental indirect cost rate proposal prepared in accordance with federal Office of Management and Budget (OMB) Circular A-87 (*Cost Principles for State, Local, and Indian Tribal Governments*). OMB Circular A-87 specifies that indirect costs are allowable only when costs cannot reasonably be identified to a particular program, and are allocated to each program relative to the benefits received. Furthermore, costs must be consistent with policies that apply uniformly to all programs.

Claimed indirect costs have been adjusted as follows:

	Audit Adjustment				
	Fiscal Year				
	1997-98	1998-99	1999-2000	2000-01	Total
Indirect cost rates applied to salaries only	$ —	$ —	$ 7,998	$ 9,582	$ 17,580
Mileage costs incorrectly included in indirect costs	(4,187)	(5,268)	(7,357)	(7,381)	(24,193)
Indirect costs related to overclaimed labor costs	(4,729)	(8,159)	(5,440)	(12,417)	(30,745)
Totals	$ (8,916)	$ (13,427)	$ (4,799)	$ (10,216)	$ (37,358)

Recommendation

The county should ensure that indirect costs claimed are supported by an acceptable indirect cost rate proposal prepared in accordance with OMB Circular A-87.

Auditee's Response

The county stated that the revised direct labor costs (discussed in Finding 1) should be the basis for the calculation of indirect costs.

SCO's Comment

The SCO auditor agrees with the county and recomputed allowable indirect costs based on the changes to allowable direct labor in Finding 1 above. Accordingly, the finding has been revised to reduce audit adjustments by $2,853, from $40,211 to $37,358.

FINDING 3— Revenue offsets understated

The county understated revenues allocable to the mandate, which are required to be deducted on its claims. The county received revenues from the following sources:

- Unclaimed gas tax allotment: These state funds are allocated to counties under the state *Food and Agricultural Code* to help fund all of the activities carried out by the county Agricultural Commissioner's Office.

- Mill tax assessment: These state funds are allocated to counties by the state Department of Pesticide Regulation (DPR) to help fund county pesticide use enforcement costs within the county Agricultural Commissioner's Office.

- Memorandum of understanding: These state funds are allocated by DPR to counties under the *Food and Agricultural Code* to help fund the counties mandated activities.

Parameters and Guidelines specifies that any offsetting savings or reimbursements received by the county from any source as a result of this mandate shall be identified and deducted so only net county costs are claimed.

The county offset its claims by the revenues received under the Memorandum of Understanding. The county did not offset its claims by unclaimed gas tax or mill tax assessment revenues because it believed these revenues were not allocable to the mandate. As a result, claimed revenue offsets have been adjusted as follows:

	Amount Claimed	Amount Per Audit	Audit Adjustment
Fiscal Year 1997-98:			
Unclaimed gas tax allotment	$ —	$ (11,296)	$ (11,296)
Mill tax assessment	—	(18,739)	(18,739)
Memorandum of understanding	(34,400)	(34,400)	—
Totals, FY 1997-98	(34,400)	(64,435)	(30,035)
Fiscal Year 1998-99:			
Unclaimed gas tax allotment	—	(15,550)	(15,550)
Mill tax assessment	—	(19,522)	(19,522)
Memorandum of understanding	(43,000)	(43,000)	—
Totals, FY 1998-99	(43,000)	(78,072)	(35,072)
Fiscal Year 1999-2000:			
Unclaimed gas tax allotment	—	(10,963)	(10,963)
Mill tax assessment	—	(28,629)	(28,629)
Memorandum of understanding	—	—	—
Totals, FY 1999-2000	—	(39,592)	(39,592)
Fiscal Year 2000-01:			
Unclaimed gas tax allotment	—	(9,971)	(9,971)
Mill tax assessment	—	(28,244)	(28,244)
Memorandum of understanding	—	—	—
Totals, FY 2000-01	—	(38,215)	(38,215)
Totals	$ (77,400)	$ (220,314)	$ (142,914)

Recommendation

The county should ensure that all applicable revenues are offset on its claims against its mandated program costs.

Auditee's Response

The county disagreed that unclaimed gas tax and mill tax assessment revenues should be included as offsetting revenue on its claims. It stated, "there has never been any increase in unclaimed gas tax funds allotted" to the counties to cover the mandate. Further, it contended that this revenue source would be unaffected if the mandate were eliminated. Regarding mill tax assessments, the county stated that these revenues are distributed based on work hours spent on pesticide-related activities and expenditures reported for pesticide-related activities, rather than net costs. Further, it stated that no additional funding for the Pesticide Use Reporting Program was provided through the pesticide mill assessment.

<u>SCO's Comment</u>

The SCO disagrees with the county's contention. The SCO's calculations for mill tax assessment offsets were in fact based on total expenditures—not net cost. Both mill tax assessment and unclaimed gas tax revenues are allocated by the state Departments of Pesticide Regulation and Food and Agriculture, respectively, based on total pesticide and/or agricultural program costs reported by counties statewide.

While the SCO agrees that there has not been an increase in revenue due to the mandate, there has never been an increase specific to any program. When a county reports its mandated costs within total agricultural program costs on its Annual Financial Statement submitted to the Department of Food and Agriculture, as did Merced County, it increases the county's share of statewide revenue allocations.

Allowable labor and indirect costs have been increased in Findings 1 and 2 due to additional information provided by the county. As a result, required revenue offsets have been increased by $6,748, from $136,166 to $142,914.

Schedule 1—
Summary of Program Costs
July 1, 1997, through June 30, 2001

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference [1]
July 1, 1997, through June 30, 1998				
Direct costs:				
Issuing ID numbers	$ 5,066	$ 3,629	$ (1,437)	Finding 1
Reviewing and filing with DPR	52,607	36,162	(16,445)	Finding 1
Auditing and inspecting records	1,759	1,759	—	
Total direct costs	59,432	41,550	(17,882)	
Indirect costs	19,910	10,994	(8,916)	Finding 2
Total costs	79,342	52,544	(26,798)	
Less offsetting revenues	(34,400)	(64,435)	(30,035)	Finding 3
Net costs	44,942	(11,891)	(56,833)	
Adjustment to increase allowable costs to zero	—	11,891	11,891	
Adjusted net costs	$ 44,942	—	$ (44,942)	
Less amount paid by the State		(44,942)		
Allowable costs claimed in excess of (less than) amount paid		$ (44,942)		
July 1, 1998, through June 30, 1999				
Direct costs:				
Issuing ID numbers	$ 3,437	$ 1,705	$ (1,732)	Finding 1
Reviewing and filing with DPR	58,929	37,960	(20,969)	Finding 1
Auditing and inspecting records	2,594	2,594	—	
Total direct costs	64,960	42,259	(22,701)	
Indirect costs	28,615	15,188	(13,427)	Finding 2
Total costs	93,575	57,447	(36,128)	
Less offsetting revenues	(43,000)	(78,072)	(35,072)	Finding 3
Net costs	50,575	(20,625)	(71,200)	
Adjustment to increase allowable costs to zero	—	20,625	20,625	
Adjusted net costs	$ 50,575	—	$ (50,575)	
Less amount paid by the State		(50,575)		
Allowable costs claimed in excess of (less than) amount paid		$ (50,575)		
July 1, 1999, through June 30, 2000				
Direct costs:				
Issuing ID numbers	$ 3,622	$ 1,723	$ (1,899)	Finding 1
Reviewing and filing with DPR	63,865	47,492	(16,373)	Finding 1
Auditing and inspecting records	4,118	4,118	—	
Total direct costs	71,605	53,333	(18,272)	
Indirect costs	20,676	15,877	(4,799)	Finding 2

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference [1]
July 1, 1999, through June 30, 2000 (continued)				
Total costs	92,281	69,210	(23,071)	
Less offsetting revenues	—	(39,592)	(39,592)	Finding 3
Net costs	92,281	29,618	(62,663)	
Adjustment to increase allowable costs to zero	—	–	—	
Adjusted net costs	$ 92,281	29,618	$ (62,663)	
Less amount paid by the State		(92,281)		
Allowable costs claimed in excess of (less than) amount paid		$ (62,663)		
July 1, 2000, through June 30, 2001				
Direct costs:				
Issuing ID numbers	$ 6,112	$ 2,391	$ (3,721)	Finding 1
Reviewing and filing with DPR	76,670	39,029	(37,641)	Finding 1
Auditing and inspecting records	5,669	5,669	—	
Total direct costs	88,451	47,089	(41,362)	
Indirect costs	24,352	14,136	(10,216)	Finding 2
Total costs	112,803	61,225	(51,578)	
Less offsetting revenues	—	(38,215)	(38,215)	Finding 3
Net costs	112,803	23,010	(89,793)	
Adjustment to increase allowable costs to zero	—	—	—	
Adjusted net costs	$ 112,803	23,010	$ (89,793)	
Less amount paid by the State		(112,803)		
Allowable costs claimed in excess of (less than) amount paid		$ (89,793)		
Summary: July 1, 1997, through June 30, 2001				
Direct costs:				
Issuing ID numbers	$ 18,237	$ 9,448	$ (8,789)	Finding 1
Reviewing and filing with DPR	252,071	160,643	(91,428)	Finding 1
Auditing and inspecting records	14,140	14,140	—	
Total direct costs	284,448	184,231	(100,217)	
Indirect costs	93,553	56,195	(37,358)	Finding 2
Total costs	378,001	240,426	(137,575)	
Less offsetting revenues	(77,400)	(220,314)	(142,914)	Finding 3
Net costs	300,601	20,112	(280,489)	
Adjustment to increase allowable costs to zero	—	32,516	32,516	
Adjusted net costs	$ 300,601	52,628	$(247,973)	
Less amount paid by the State		(300,601)		
Allowable costs claimed in excess of (less than) amount paid		$(247,973)		

[1] See the Findings and Recommendations section.

Attachment— Auditee's Response to Draft Audit Report

MERCED COUNTY

DEPARTMENT OF AGRICULTURE

David A. Robinson
Agricultural Commissioner
Director of Weights and Measures
Director of Animal Control

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Equal Opportunity Employer

June 24, 2003

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

Dear Mr. Spano:

On June 9, 2003, I received the draft audit report on Merced County's Pesticide Use Reports Program unfunded mandate claims from July 1, 1997 through June 30, 2001. I appreciate the opportunity to provide comments and further information which should improve the accuracy of the report.

FINDING 1 – Labor Costs Overclaimed

The audit report came to the conclusion that claimed direct labor costs of $284,448 were overstated by $109,659 during the four-year period. Enclosed are spreadsheet from the four fiscal years which indicate, by employee, time worked in each reimbursable component and the actual hourly labor cost per employee. (Attachment A)

The actual labor cost per hour for each employee is routinely calculated each year to prepare the annual financial statement for the California Department of Food and Agriculture. In fiscal years 97/98 and 98/99 these calculations were not done by employee for extra help (temporary) agricultural technicians. For these employees, in the Attachment A spreadsheets we used the salary and fringe hourly figure which the Merced County Auditor's Office provided us to use as weighted hourly average rates for those fiscal years.

These spreadsheets indicate that a direct labor cost of $219,803 should have been claimed for the four-year period. Therefore, it appears that direct labor costs were overstated by $64,645, not $109,659.

FINDING 2 – Indirect Costs Overclaimed

The audit report came to the conclusion that claimed indirect costs of $93,553 were overstated by $40,211 during the four-year period. The revised direct labor cost figure of $219,803 should be the basis for recalculating the correct indirect costs allowed and reduce the amount of overstatement of indirect costs

FINDING 3 – Revenue Offsets Understated

The audit report came to the conclusion that proportional amounts of two county agricultural commissioner (CAC) funding sources (unclaimed gas tax allotment and pesticide mill tax assessment) were not included as offsetting revenue for the Pesticide Use Reports Program.

Pesticide Mill Tax disbursement is made to CACs per the provisions in 3CCR6393. This section provides reimbursement for certain tasks performed (inspections, permits issued, investigations performed, etc.), work hours expended on pesticide-related activities, and expenditures reported by each county for pesticide-related activities. The portion of pesticide mill tax set aside for CAC activities is thus distributed based primarily on work activity (expenditures) not net county cost. Attachment B is an historical review of pesticide mill assessment designated for CACs. In summary, at the time FAC12979 took effect (1/1/90), CACs were receiving 5.625 mills. The base amount of 5.625 mills remained unchanged through 3/31/97. From 7/1/92 through 6/30/97, FAC12979 activities were partially funded by a 0.325 increase in mill assessment earmarked for CACs through contracts. Thus, during this time period, total CAC portion of mill assessment was 5.95 mills. From 4/1/98 to date, the CAC portion of the mill assessment has been 6.0 mills. Other than the additional mill assessment from 7/1/92 through 6/30/97 (prior to the 4-year audit period), no additional funding for the Pesticide Use Reports Program was provided through pesticide mill assessment. Therefore, it appears improper to apply pesticide mill disbursement to CACs toward the cost of the Pesticide Use Reports Program.

Similarly, there has never been any increase in unclaimed gas tax funds allotted to CACs specifically covering the Pesticide Use Reports Mandate. Also, if the mandate were to be rescinded, and CACs statewide reduce workload and staffing levels, overall we would not see any reduction in the total amount of mill tax and unclaimed gas tax available to fund our programs. The total pot of available funds would not change, but the value of workload indicators and hours worked would increase proportionally throughout the state. Thus, while some counties would gain and some counties would lose, overall there would be no reduction in funding. If this mandate was indeed funded, a logical conclusion would be that the overall value of these funding sources would decline. Since they would not decline, we feel it is improper to apply these funds toward the mandate.

Thank you for your consideration of these points. If you have questions, please contact me or my assistant, Dan Cismowski, at (209) 385-7431.

Sincerely,

David A. Robinson
Agricultural Commissioner

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