

CITY OF NORWALK

Audit Report

MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES PROGRAM

Los Angeles Regional Water Quality Control Board, Order
No. 01-182, Permit CAS004001, Part 4F5c3

July 1, 2002, through June 30, 2013



BETTY T. YEE
California State Controller

May 2017



BETTY T. YEE
California State Controller

May 23, 2017

The Honorable Luigi Vernola, Mayor
City of Norwalk
12700 Norwalk Boulevard
Norwalk, CA 90650

Dear Mayor Vernola:

The State Controller's Office audited the costs claimed by the City of Norwalk for the legislatively mandated Municipal Storm Water and Urban Runoff Discharges Program (Los Angeles Regional Water Quality Control Board, Order No. 01-182, Permit CAS004001, Part 4F5c3) for the period of July 1, 2002, through June 30, 2013.

The city claimed \$1,441,130 for the mandated program. Our audit found that \$361,508 is allowable and \$1,079,622 is unallowable. The costs are unallowable because the city claimed ineligible costs, overstated the annual number of trash collections, and did not report offsetting revenues. The State made no payments to the city. The State will pay \$361,508, contingent upon available appropriations.

This final audit report contains an adjustment to costs claimed by the city. If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on the State Mandates (Commission). Pursuant to Section 1185, subdivision (c), of the Commission's regulations (*California Code of Regulations*, Title 3), an IRC challenging this adjustment must be filed with the Commission no later than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended. You may obtain IRC information on the Commission's website at www.csm.ca.gov/forms/IRCForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/lis

cc: Inez Alvarez, Public Services Superintendent
Public Services Department, City of Norwalk
Jana Stuard, Director of Finance
Finance Department, City of Norwalk
Devon Jimenez, Controller
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Contents

Audit Report

Summary	1
Background	1
Objectives, Scope, and Methodology	2
Conclusion	3
Views of Responsible Officials.....	3
Restricted Use	3
Schedule—Summary of Program Costs	4
Findings and Recommendations.....	8
Attachment—City’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Norwalk for the legislatively mandated Municipal Storm Water and Urban Runoff Discharges Program (Los Angeles Regional Water Quality Control Board, Order No. 01-182, Permit CAS004001, Part 4F5c3) for the period of July 1, 2002, through June 30, 2013.

The city claimed \$1,441,130 for the mandated program. Our audit found that \$361,508 is allowable and \$1,079,622 is unallowable. The costs are unallowable because the city claimed ineligible costs, overstated the annual number of trash collections, and did not report offsetting revenues. The State made no payments to the city. The State will pay \$361,508, contingent upon available appropriations.

Background

The California Regional Water Quality Control Board, Los Angeles Region (Board), adopted a 2001 storm water permit (Permit CAS004001) that requires local jurisdictions to:

Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all other transit stops within its jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary.

On July 31, 2009, the Commission on State Mandates (Commission) determined that part 4F5c3 of the permit imposes a state mandate reimbursable under Government Code section 17561 and adopted the Statement of Decision. The Commission further clarified that each local agency subject to the permit and not subject to a trash total maximum daily load (TMDL) is entitled to reimbursement.

The Commission also determined that the period of reimbursement for the mandated activities begins July 1, 2002, and continues until a new National Pollutant Discharge Elimination System (NPDES) permit issued by the Board is adopted. On November 8, 2012, the Board adopted a new NPDES permit, Order No. R4-2012-0175, which became effective on December 28, 2012.

The program's parameters and guidelines establish the state mandate and define the reimbursement criteria. The Commission adopted the parameters and guidelines on March 24, 2011. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies, school districts, and community college districts in claiming mandated program reimbursable costs.

Objectives, Scope, and Methodology

We conducted this performance audit to determine whether costs claimed represent increased costs resulting from the Municipal Storm Water and Urban Runoff Discharges Program for the period of July 1, 2002, through June 30, 2013.

The legal authority to conduct this audit is provided by Government Code sections 12410, 17558.5, and 17561. We conducted this 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 city'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 city's financial statements.

The objectives of our audit were to determine whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

To achieve our audit objectives, we:

- Reviewed the annual claims filed with the SCO to identify any mathematical errors and performed analytical procedures to determine any unusual or unexpected variances from year-to-year;
- Completed an internal control questionnaire and performed a walk-through of claim preparation process to determine what information was used, who obtained it, and how it was obtained;
- Assessed whether computer-processed data provided by the city to support claimed costs was complete and accurate and could be relied upon;
- Researched the city's location within the Los Angeles River Watershed and gained an understanding of the trash TMDL effective date;
- Determined whether the city claimed reimbursement using the correct unit cost rate;
- Reviewed the documentation provided to support the number of transit stops containing trash receptacles, and corroborated the supporting documentation with physical inspections of a number of current transit stops;
- Reviewed the documentation provided to support the contracted waste haulers' processes in performing transit stop trash collections; and
- Determined whether the city realized any revenue from the statutes that created the mandated program or reimbursements from any federal, state, or non-local source.

Conclusion

Our audit found instances of noncompliance with the requirements outlined in the Objectives section. These instances are described in the accompanying Schedule (Summary of Program Costs) and in the Findings and Recommendations section of this report.

For the audit period, the City of Norwalk claimed \$1,441,130 for costs of the Municipal Storm Water and Urban Runoff Discharges Program. Our audit found that \$361,508 is allowable and \$1,079,622 is unallowable. The State made no payments to the city. The State will pay \$361,508, contingent upon available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on April 11, 2017. Jana Stuard, Director of Finance, responded by letter dated April 20, 2017 (Attachment), disagreeing with the audit results. This final audit report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of Norwalk, 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, CPA
Chief, Division of Audits

May 23, 2017

Schedule—
Summary of Program Costs
July 1, 2002, through June 30, 2013

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2002, through June 30, 2003</u>				
One-time activities:				
Salaries and benefits	\$ 5,756	\$ 5,756	\$ -	
Materials and supplies	+ 67,814	+ 67,814	+ -	
Contract services	+ 4,155	+ 4,155	+ -	
Indirect costs	+ 399	+ 399	+ -	
Total one-time costs	<u>78,124</u>	<u>78,124</u>	<u>-</u>	
Ongoing activities:				
Unit cost rate	6.74	6.74	6.74	
Annual number of trash collections	× 4,979	× 5,039	× 60	
Total ongoing costs	<u>33,558</u>	<u>33,963</u>	<u>405</u>	Finding 2
Total one-time costs and ongoing costs	111,682	112,087	405	
Less offsetting revenues and reimbursements	<u>-</u>	<u>(71,832)</u>	<u>(71,832)</u>	Finding 3
Total program costs	<u>\$ 111,682</u>	40,255	<u>\$ (71,427)</u>	
Less amount paid by the State		<u>-</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 40,255</u>		
<u>July 1, 2003, through June 30, 2004</u>				
One-time activities:				
Salaries and benefits	\$ 7,258	\$ 7,258	\$ -	
Materials and supplies	+ 2,403	+ 2,403	+ -	
Indirect costs	+ 502	+ 502	+ -	
Total one-time costs	<u>10,163</u>	<u>10,163</u>	<u>-</u>	
Ongoing activities:				
Unit cost rate	6.74	6.74	6.74	
Annual number of trash collections	× 11,804	× 9,256	× (2,548)	
Total ongoing costs	<u>79,559</u>	<u>62,385</u>	<u>(17,174)</u>	Finding 2
Total one-time costs and ongoing costs	89,722	72,548	(17,174)	
Less offsetting revenues and reimbursements	<u>-</u>	<u>(5,235)</u>	<u>(5,235)</u>	Finding 3
Total program costs	<u>\$ 89,722</u>	67,313	<u>\$ (22,409)</u>	
Less amount paid by the State		<u>-</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 67,313</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2004, through June 30, 2005</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74	\$ 6.74	
Annual number of trash collections	× 11,804	× 9,256	× (2,548)	
Total ongoing costs	79,559	62,385	(17,174)	Finding 2
Less offsetting revenues and reimbursements	-	-	-	Finding 3
Total program costs	<u>\$ 79,559</u>	62,385	<u>\$ (17,174)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 62,385</u>		
<u>July 1, 2005, through June 30, 2006</u>				
One-time activities:				
Salaries and benefits	\$ 15,787	\$ 15,787	\$ -	
Contract services	+ 10,040	+ 10,040	+ -	
Indirect costs	+ 1,093	+ 1,093	+ -	
Total one-time costs	<u>26,920</u>	<u>26,920</u>	<u>-</u>	
Ongoing activities:				
Unit cost rate	6.74	6.74	6.74	
Annual number of trash collections	× 11,804	× 10,712	× (1,092)	
Total ongoing activities	<u>79,559</u>	<u>72,199</u>	<u>(7,360)</u>	Finding 2
Total one-time costs and ongoing costs	106,479	99,119	(7,360)	
Less offsetting revenues and reimbursements	<u>-</u>	<u>(39,254)</u>	<u>(39,254)</u>	Finding 3
Total program costs	<u>\$ 106,479</u>	59,865	<u>\$ (46,614)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 59,865</u>		
<u>July 1, 2006, through June 30, 2007</u>				
One-time activities:				
Salaries and benefits	\$ 3,246	\$ -	\$ (3,246)	
Materials and supplies	+ 375,933	+ 70,683	+ (305,250)	
Contract services	+ 5,945	+ 5,945	+ -	
Indirect costs	+ 224	+ -	+ (224)	
Total one-time costs	<u>385,348</u>	<u>76,628</u>	<u>(308,720)</u>	Finding 1
Ongoing activities:				
Unit cost rate	6.74	6.74	6.74	
Annual number of trash collections	× 11,804	× 10,712	× (1,092)	
Total ongoing costs	<u>79,559</u>	<u>72,199</u>	<u>(7,360)</u>	Finding 2
Total one-time costs and ongoing costs	464,907	148,827	(316,080)	
Less offsetting revenues and reimbursements	<u>-</u>	<u>(113,177)</u>	<u>(113,177)</u>	Finding 3
Total program costs	<u>\$ 464,907</u>	35,650	<u>\$ (429,257)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 35,650</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2007, through June 30, 2008</u>				
One-time activities:				
Salaries and benefits	\$ 1,972	\$ -	\$ (1,972)	
Contract services	+ 1,709	+ 1,709	+ -	
Indirect costs	+ 137	+ -	+ (137)	
Total one-time costs	<u>3,818</u>	<u>1,709</u>	<u>(2,109)</u>	Finding 1
Ongoing activities:				
Unit cost rate	6.74	6.74	6.74	
Annual number of trash collections	× 12,883	× 13,000	× 117	
Total ongoing costs	<u>86,831</u>	<u>87,620</u>	<u>789</u>	Finding 2
Total one-time costs and ongoing costs	<u>90,649</u>	<u>89,329</u>	<u>(1,320)</u>	
Less offsetting revenues and reimbursements	<u>-</u>	<u>(31,709)</u>	<u>(31,709)</u>	Finding 3
Total program costs	<u>\$ 90,649</u>	<u>57,620</u>	<u>\$ (33,029)</u>	
Less amount paid by the State		<u>-</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 57,620</u>		
<u>July 1, 2008, through June 30, 2009</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74	\$ 6.74	
Annual number of trash collections	× 13,780	× 13,000	× (780)	
Total ongoing costs	<u>92,877</u>	<u>87,620</u>	<u>(5,257)</u>	Finding 2
Less offsetting revenues and reimbursements	<u>-</u>	<u>(57,736)</u>	<u>(57,736)</u>	Finding 3
Total program costs	<u>\$ 92,877</u>	<u>29,884</u>	<u>\$ (62,993)</u>	
Less amount paid by the State		<u>-</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 29,884</u>		
<u>July 1, 2009, through June 30, 2010</u>				
Ongoing activities:				
Unit cost rate	\$ 6.78	\$ 6.78	\$ 6.78	
Annual number of trash collections	× 11,492	× 13,000	× 1,508	
Total ongoing costs	<u>77,916</u>	<u>88,140</u>	<u>10,224</u>	Finding 2
Less offsetting revenues and reimbursements	<u>-</u>	<u>(79,604)</u>	<u>(79,604)</u>	Finding 3
Total program costs	<u>\$ 77,916</u>	<u>8,536</u>	<u>\$ (69,380)</u>	
Less amount paid by the State		<u>-</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 8,536</u>		
<u>July 1, 2010, through June 30, 2011</u>				
Ongoing activities:				
Unit cost rate	\$ 6.80	\$ 6.80	\$ 6.80	
Annual number of trash collections	× 15,392	× 13,000	× (2,392)	
Total ongoing costs	<u>104,666</u>	<u>88,400</u>	<u>(16,266)</u>	Finding 2
Less offsetting revenues and reimbursements	<u>-</u>	<u>(88,400)</u>	<u>(88,400)</u>	Finding 3
Total program costs	<u>\$ 104,666</u>	<u>-</u>	<u>\$ (104,666)</u>	
Less amount paid by the State		<u>-</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2011, through June 30, 2012</u>				
Ongoing activities:				
Unit cost rate	\$ 7.15	\$ 7.15	\$ 7.15	
Annual number of trash collections	× 15,392	× 13,000	× (2,392)	
Total ongoing costs	110,053	92,950	(17,103)	Finding 2
Less offsetting revenues and reimbursements	-	(92,950)	(92,950)	Finding 3
Total program costs	<u>\$ 110,053</u>	-	<u>\$ (110,053)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		
<u>July 1, 2012, through June 30, 2013</u>				
One-time activities:				
Salaries and benefits	\$ 98	\$ -	\$ (98)	
Indirect costs	6	-	(6)	
Total one-time costs	104	-	(104)	Finding 1
Ongoing activities:				
Unit cost rate	\$ 7.31	\$ 7.31	\$ 7.31	
Annual number of trash collections	× 15,392	× 6,500	× (8,892)	
Total ongoing costs	112,516	47,515	(65,001)	Finding 2
Total one-time costs and ongoing costs	112,620	47,515	(65,105)	
Less offsetting revenues and reimbursements	-	(47,515)	(47,515)	Finding 3
Total program costs	<u>\$ 112,620</u>	-	<u>\$ (112,620)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		
<u>Summary: July 1, 2002, through June 30, 2013</u>				
One-time costs	\$ 504,477	\$ 193,544	\$ (310,933)	Finding 1
Ongoing costs	936,653	795,376	(141,277)	Finding 2
Total one-time costs and ongoing costs	1,441,130	988,920	(452,210)	
Less offsetting revenues and reimbursements	-	(627,412)	(627,412)	Finding 3
Total program costs	<u>\$ 1,441,130</u>	361,508	<u>\$ (1,079,622)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 361,508</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Ineligible one-time costs**

The city claimed \$504,477 for one-time activities related to the purchase and installation of transit stop trash receptacles. We found that \$193,544 is allowable and \$310,933 is unallowable. The costs are unallowable because the city claimed reimbursement for improvements at existing bus stops.

The following table summarizes the audit adjustment by object account:

	Amount Claimed	Amount Allowable	Audit Adjustment
Salaries, benefits, and related indirect costs	\$ 36,478	\$ 30,795	\$ (5,683)
Materials and supplies	446,150	140,900	(305,250)
Contract services	21,849	21,849	-
Total one-time costs	<u>\$ 504,477</u>	<u>\$ 193,544</u>	<u>\$(310,933)</u>

Bus Stop Improvement Project (BSIP)

In the spring of 2003, the city contracted with Quick Crete Products for the purchase and installation of 165 trash receptacles. Total costs amounted to \$70,217 (\$67,814 in fiscal year (FY) 2002-03 and \$2,403 in FY 2003-04). Three years later, the city adopted the BSIP Master Plan (Project No. 7709), which “established guidelines for *improving* bus stops in the City of Norwalk that would assure consistently attractive, accessible, and secure bus stops that can be easily maintained” [emphasis added]. On June 20, 2006, the project was awarded to Olivas Valdez, Inc., who, among other activities, installed 194 transit stop trash receptacles. Funding for the project consisted of restricted revenues (see Finding 3).

Reimbursement for one-time activities is limited to one-time per transit stop. The cost to replace damaged or missing receptacles is allowable as an ongoing cost and is reimbursable through the Commission-adopted reasonable reimbursement methodology (see Finding 2). Therefore, we found that the costs to purchase and install 165 trash receptacles in FY 2002-03 and 29 trash receptacles in FY 2006-07, for a total of 194, are allowable as follows:

Fiscal Year	Total No. of Receptacles Installed	No. of Trash Receptacles Allowable
2002-03	165	165
2006-07	194	29
Total	<u>359</u>	<u>194</u>

The parameters and guidelines (section IV.A.) identify allowable one-time costs as follows:

- A. Install Trash Receptacles (one-time per transit stop, reimbursed using actual costs):
 - 1. Identify locations of all transit stops within the jurisdiction required to have a trash receptacle pursuant to the Permit.
 - 2. Select receptacle and pad type, evaluate proper placement of receptacles and prepare specifications and drawings.
 - 3. Prepare contracts, conduct specification review process, advertise bids, and review and award bids.
 - 4. Purchase or construct receptacles and pads and install receptacles and pads
 - 5. Move (including replacement if required) receptacles and pads to reflect changes in transit stops, including costs of removal and restoration of property at former receptacle location and installation at new location.

Salaries, benefits, and related indirect costs

For FY 2006-07, FY 2007-08, and FY 2012-13, the city claimed \$5,683 in unallowable salaries, benefits, and related indirect costs related to improvements at existing transit stops for the BSIP.

The following table summarizes the audit adjustment by fiscal year:

Fiscal Year	Amount Claimed	Amount Allowable	Audit Adjustment
2002-03	\$ 6,155	\$ 6,155	\$ -
2003-04	7,760	7,760	-
2005-06	16,880	16,880	-
2006-07	3,470	-	(3,470)
2007-08	2,109	-	(2,109)
2012-13	104	-	(104)
Total	<u>\$36,478</u>	<u>\$30,795</u> ¹	<u>\$ (5,683)</u>

¹ \$30,795 is made up of \$10,327 in general funds and \$20,468 in restricted funds.

Materials and supplies

For FY 2006-07, the city claimed \$305,250 in unallowable materials and supplies related to improvements at existing transit stops for the BSIP.

The following table summarizes the audit adjustment by fiscal year:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Amount Allowable</u>	<u>Audit Adjustment</u>
2002-03	\$ 67,814	\$ 67,814	\$ -
2003-04	2,403	2,403	-
2006-07	375,933	70,683	(305,250)
Total	\$446,150	\$ 140,900 ¹	\$ (305,250)

¹ \$140,900 is made up of \$6,274 in general funds and \$134,626 in restricted funds.

Recommendation

No recommendation is applicable for this finding, as the period of reimbursement expired on December 27, 2012, with the adoption of a new permit.

City's Response

FINDING 1 – Ineligible one-time costs

Salaries & Benefits

City does not dispute the disallowance of \$5,683.

Materials & Supplies

The City of Norwalk claimed the installation of 359 trash receptacles, 165 in FY 2002-03 and 194 trash receptacles in FY 2006-07. SCO is allowing only the installation of 194 receptacles.

Scope of the 2006-07 project included installation of 194 receptacles, this doesn't mean that the City didn't maintain 217 receptacles, as indicated in the maintenance agreement, dated April 3, 2008, between Nationwide and the City of Norwalk. This was the number of receptacles that City of Norwalk maintained after the completion of the 2006-07 Bus Stop Improvement Project. All the 217 receptacles are located in the Los Angeles River TMDL area. Therefore, we believe that SCO needs to consider the installation cost of additional 23 trash receptacles, or \$42,550 (cost of 2007 installation at \$1,850 × 23 receptacles) be added to the allowable one-time claim amount, and revised from \$193,544 to \$236,094.

SCO's Comments

The finding and recommendation remain unchanged.

Salaries and benefits

The city does not dispute the finding of \$5,683.

Materials and supplies

For the audit, we allowed reimbursement for the one-time installation costs of 194 trash receptacles at transit stops. The city believes it should be reimbursed for the installation costs of an additional 23 trash receptacles, totaling 217 trash receptacles, due to the fact that its contract with Nationwide Environmental Services Inc. (Nationwide) specifies maintenance of 217 bus stops. We disagree.

We recognize that the city’s maintenance agreement with Nationwide states that Nationwide maintains 217 bus stops, however, this statement is unsupported. The agreement with Nationwide does not include a transit stop listing with street locations for us to corroborate, as prior agreements did. In addition, based on a city-generated spreadsheet titled “Project 7709 – Bus Stop Work,” dated September 16, 2007, which identifies the 217 transit locations by street and cross-street, we confirmed that 23 transit stops are either abandoned or do not contain a trash receptacle. To corroborate the information identified in this spreadsheet, the city provided us with a 2016 Geographical Information System (GIS) transit map, which identified only 194 bus stop locations. Our review of the city’s FY 2012-13 budget also found that the city acknowledges that only 194 transit stops exist when it states “NTS [Norwalk Transit System] is continuing its bus stop improvement program since the completion of 194 bus stops in July 2007.” As such, the city has not demonstrated that it maintains 217 transit stop trash receptacles.

**FINDING 2—
Overstated ongoing
maintenance costs**

The city claimed \$936,653 for ongoing maintenance of the transit stop trash receptacles for the audit period. We found that \$795,376 is allowable and \$141,277 is unallowable. The costs are unallowable because the city misstated the annual number of trash collections during the audit period.

The following table summarizes the audit adjustment by fiscal year:

Fiscal Year	Amount Claimed			Amount Allowable			Audit Adjustment
	Annual No. of Trash Collections	Unit Cost Rate	Amount Claimed	Annual No. of Trash Collections	Unit Cost Rate	Amount Allowable	
2002-03	4,979	\$ 6.74	\$ 33,558	5,039	\$ 6.74	\$ 33,963	\$ 405
2003-04	11,804	6.74	79,559	9,256	6.74	62,385	(17,174)
2004-05	11,804	6.74	79,559	9,256	6.74	62,385	(17,174)
2005-06	11,804	6.74	79,559	10,712	6.74	72,199	(7,360)
2006-07	11,804	6.74	79,559	10,712	6.74	72,199	(7,360)
2007-08	12,883	6.74	86,831	13,000	6.74	87,620	789
2008-09	13,780	6.74	92,877	13,000	6.74	87,620	(5,257)
2009-10	11,492	6.78	77,916	13,000	6.78	88,140	10,224
2010-11	15,392	6.80	104,666	13,000	6.80	88,400	(16,266)
2011-12	15,392	7.15	110,053	13,000	7.15	92,950	(17,103)
2012-13	15,392	7.31	112,516	6,500	7.31	47,515	(65,001)
			<u>\$ 936,653</u>			<u>\$ 795,376</u>	<u>\$ (141,277)</u>

The city claimed reimbursement for ongoing maintenance costs using the Commission-adopted reasonable reimbursement methodology (RRM). Under the RRM, the unit cost (\$6.74 during the period of July 1, 2002, through June 30, 2009, and adjusted annually by the implicit price deflator) is multiplied by the number of city-wide transit stop trash receptacles and by the number of annual trash collections.

Misstated annual number of trash collections

The city did not provide documentation to support the annual number of trash collections claimed. As such, we worked with the information provided during audit fieldwork to determine the allowable number of annual trash collections. In reviewing the GIS transit map and number of trash receptacles serviced per the city's agreements with its waste haulers, we found that the city misstated the number of trash collections as follows:

FY 2002-03

On July 1, 2002, the city entered into a five-year agreement with Conservation Corps of Long Beach (Conservation Corps) for ongoing transit stop maintenance. The first year of the agreement with Conservation Corps was implemented in three phases. For FY 2002-03, we found that 5,039 trash collections are allowable as follows:

1. July 1, 2002, through January 31, 2003

Per the agreement, Conservation Corps serviced 80 transit stops; however the transit stop listing in the agreement identified only 79 transit stops. Additionally we found that the Metropolitan Transit Authority (MTA) maintained 16 trash receptacles, and four transit stops had no trash receptacles, leaving 59 trash receptacles identified in the agreement as allowable. As such, we computed 1,829 total collections (59 transit receptacles \times 31 weeks).

2. February 1, 2003, through March 31, 2003

Per the agreement, Conservation Corps serviced 152 transit stops. After reviewing the transit stop listing in the agreement, we confirmed that MTA maintained 36 trash receptacles, and four transit stops had no trash receptacles, leaving 112 trash receptacles (or 73.68%) identified in the agreement as allowable. As such, we computed 896 total collections (112 transit receptacles \times 8 weeks).

3. April 1, 2003, through June 30, 2003

Per the agreement, Conservation Corps serviced 242 transit stops; however, the agreement did not include a transit stop listing as did the previous ones. In the absence of this information, we applied the allowable percentage computed during the prior agreement period of February 1, 2003, through March, 31, 2003, and determined that 178 trash receptacles are allowable (242 transit receptacles \times 73.68%). As such, we computed 2,314 total collections (178 transit receptacles \times 13 weeks).

FY 2003-04 and FY 2004-05

Per the agreement, Conservation Corps serviced 242 transit stops for FY 2003-04 and 2004-05; however, the agreement did not include a transit stop listing. In the absence of this information, we applied the allowable percentage computed during the agreement period of February 1, 2003, through March 31, 2003, which is when the list of transit stops was last included, and determined that 178 trash receptacles are allowable (242 transit receptacles \times 73.68%). As such, we computed 9,256 annual collections (178 transit receptacles \times 52 weeks) for FY 2003-04 and FY 2004-05.

FY 2005-06 and FY 2006-07

During FY 2005-06, the agreement with Conservation Corps was amended (Amendment No. 2) to increase the number of transit stops serviced from 242 to 280. Again, this agreement did not include a listing of the transit stop locations. In the absence of this information, we applied the allowable percentage computed during the agreement period of February 1, 2003, through March 31, 2003, which is when the list of transit stops was last included, and determined that 206 trash receptacles are allowable (280 transit receptacles per agreement \times 73.68%). As such, we computed 10,712 annual collections (206 transit receptacles \times 52 weeks) for FY 2005-06 and FY 2006-07.

FY 2007-08 through FY 2011-12

On July 1, 2007, the city entered into agreement with Nationwide for ongoing transit stop maintenance; specifically, to service 217 transit stops, with weekly trash collections varying depending on the transit stop type, as follows:

Transit Stop Type	No. of Trash Receptacles	No. of Trash Collections Each Week
A	19	8.76%
B	25	11.52%
C	173	79.72%
	<u>217</u>	<u>100.00%</u>

Based on a GIS transit map provided during audit fieldwork, we found that only 194 of the transit stops included a trash receptacle. The other 23 transit stops were either abandoned or did not include a trash receptacle. Therefore, we applied the allocation percentage noted above to the allowable 194 transit stops identified on the GIS transit map, and found that 13,000 annual collections is allowable for each fiscal year, as follows:

Type	Allowable No. of Trash Receptacles	Maximum Allowable No. of Trash Collections Each Week	Number of Weeks per Year	Total Annual Collections
A	$194 \times 8.76\% = 17$	3	52	2,652
B	$194 \times 11.52\% = 22$	2	52	2,288
C	$194 \times 79.72\% = 155$	1	52	8,060
	<u>194</u>			<u>13,000</u>

FY 2012-13

For FY 2012-13, the city overstated its total number of weekly collections because the city is not eligible to claim reimbursement after December 27, 2012.

Per the parameters and guidelines, the city is a permittee identified under Permit CAS004001, thus eligible to claim reimbursement for mandate activities. However, the reimbursement period for this mandate ended on December 27, 2012, which is the effective date of the new permit (R4-2012-0175). As a result, reimbursement is allowable for only 26 weeks in FY 2012-13 (from July 1, 2012, through December 27, 2012), which results in 6,500 allowable annual trash collections (13,000 annual trash collections \div 2).

Recommendation

No recommendation is applicable for this finding, as the period of reimbursement expired on December 27, 2012, with the adoption of a new permit.

City's Response**FINDING 2 – Overstated ongoing maintenance costs**

Based on the City's response to the FINDING 1 the City cannot agree with FINDING 2.

The City of Norwalk provided copies of contracts for the maintenance and trash pick-ups at City's bus stops. SCO is disallowing the cost mainly due to the missing listing of serviced bus stops, claiming that certain number of stops were maintained by Metropolitan Transit Authority (MTA). However, the maintenance contracts stated number of receptacles to be maintained, and the City paid for these services accordingly. It is unclear and questionable how the SCO determined that during fiscal years (FY) 2002-03 through 2006-07 certain bus stops were maintained by MTA and if MTA provided the list of maintained bus stops during these fiscal years to support SCO finding.

The City does not agree with disallowing and reducing the number of bus stops from FY 2007-08 through FY 2011-12 to 194 trash receptacles. The signed agreement with Nationwide Environmental Services (Nationwide), states that the company maintained 217 trash receptacles at bus stops. According to the claiming instructions and State statute, the city is entitled to reimbursement of actual costs incurred, and our documentation supports the maintenance of 217 trash receptacles pursuant to written agreement (attached).

The SCO reduction from 217 to 194 receptacles is based on a 2016 GIS map that was not an actual source document from the eligible time period of FY 2007-08 through FY 2011-12. The bus routes and subsequently locations of bus stops could have changed over the years. State Mandate law and claiming instructions require the reimbursement of actual costs incurred, and based on our actual source documents from the eligible time period (Contract with Nationwide), the number of eligible receptacles for this time period should reflect 217 as specified in the contract (Please see City's comments under Finding 1).

SCO's Comments

The finding and recommendation remain unchanged.

FY 2002-03 through FY 2006-07

For FY 2002-03 through FY 2006-07, we excluded bus stops that were maintained by MTA and the city questions how the number of MTA maintained bus stops was determined. During our entrance conference, the Manager of Strategic Planning and Administrative Services informed us that any MTA stops that are solely designated as MTA, and do not include an NTS stop, are maintained by MTA with no assistance from the city. This information is supported by the transit listing identified in Exhibits B-1 and B-2 in the city's agreement with Conservation Corps. Also, to corroborate the number of solely designated MTA stops, we used Google images and mapped each intersection to view the MTA transit stops. Many of the Google images viewed provided historical photos back to the summer of 2007. We corroborated the Google images with physical observations of a few sampled locations during audit fieldwork. In addition, the city has not provided us with any documentation to show that it maintains the bus stops that are designated solely as an MTA stop.

FY 2007-08 through FY 2011-12

For FY 2007-08 through FY 2011-102, we allowed reimbursement for the ongoing maintenance of 194 trash receptacles at transit stops. The city believes it should be reimbursed for the ongoing maintenance of 217 trash receptacles due to the fact that its contract with Nationwide specifies maintenance of 217 bus stops. We disagree.

As stated in our response to Finding 1, we recognize that the city's maintenance agreement with Nationwide states that Nationwide maintains 217 bus stops, however, this statement is unsupported. The agreement with Nationwide does not include a transit stop listing with street locations for us to corroborate, as prior agreements did. In addition, based on a city-generated spreadsheet titled "Project 7709 – Bus Stop Work," dated September 16, 2007, which identifies the 217 transit locations by street and cross-street, we confirmed that 23 transit stops are either abandoned or do not contain a trash receptacle. To corroborate the information identified in this spreadsheet, the city provided us with a 2016 GIS transit map, which identified only 194 bus stop locations. Our review of the city's FY 2012-13 budget also found that the city acknowledges that only 194 transit stops exist when it states "NTS is continuing its bus stop improvement program since the completion of 194 bus stops in July 2007." As such, the city has not demonstrated that it performs ongoing maintenance of 217 transit stop trash receptacles.

**FINDING 3—
Unreported offsetting
revenues**

The city did not offset any revenues on its claim forms for the audit period. We found that the city should have offset \$627,412 for the audit period. Specifically, the city used restricted funds from the Proposition A and C Local Return Fund, the Transit System Fund, the Equipment Maintenance Fund, the Community Development Block Grant Fund, and the Water Utility Fund to pay \$176,943 in one-time costs and \$450,469 in ongoing maintenance costs.

	Offsetting Revenue Reported	Unreported Offsetting Revenue	Audit Adjustment
One-time costs:			
Salaries, benefits, and related indirect costs	\$ -	\$ (20,468)	\$ (20,468)
Materials and supplies	-	(134,626)	(134,626)
Contract services	-	(21,849)	(21,849)
Total one-time costs	-	(176,943)	(176,943)
Ongoing maintenance costs	-	(450,469)	(450,469)
Amount offset	\$ -	\$ (627,412)	\$ (627,412)

Proposition A is a half-cent sales tax measure approved by Los Angeles County voters in 1980 to finance transit programs. Twenty-five percent of the sales tax revenue is dedicated to the Local Return Program to be used by cities for developing and/or improving public transit and related transportation infrastructure. Proposition C is a half-cent sales tax approved by Los Angeles County voters in November 1990 to finance transit programs. Twenty percent of the sales tax revenue is dedicated to the Local Return Program.

The Proposition A and Proposition C Local Return Guidelines, section II. Project Eligibility, identify reimbursement for ongoing trash receptacle maintenance as follows:

BUS STOP IMPROVEMENTS AND MAINTENANCE (Codes 150, 160, & 170)

Examples of eligible Bus Stop Improvement and Maintenance projects include installation/replacement and/or maintenance of:

- Concrete landings – in street for buses and at sidewalk for passengers
- Bus turn-outs
- Benches
- Shelters
- Trash Receptacles
- Curb cuts
- Concrete or electrical work directly associated with the above items

In addition, the city operates the Transit System Fund (Fund No. 710), the Water Utility Fund (Fund No. 702), the Equipment Maintenance Fund (Fund No. 736), and the Community Development Block Grant (Fund No. 207). All four of these funds utilize restricted revenues dedicated for specific purposes that fund mandated activities.

The parameters and guidelines, section VIII. Offsetting Revenues and Reimbursements, state:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim.

One-time activities

As noted in Finding 1, we found that \$193,544 in one-time costs is allowable. However, we found that the city used \$176,943 in restricted revenues to pay for the one-time activities, which must be offset against claimed costs.

Salaries, benefits, and related indirect costs

We found that the city used \$20,468 in restricted funds to pay the salaries, benefits, and related indirect costs of the employees who worked on the BSIP, as follows:

Employee Position	Amount Allowable from Finding 1	Percentage of Restricted Funding Used	Amount Offset
<u>FY 2002-03:</u>			
Senior Transit Operations Supervisor	\$ 1,427	100% ¹	\$ (1,427)
Director of Transportation	1,462	100% ^{1,2}	(1,462)
Associate Engineer	1,515	15% ^{3,4}	(227)
Transit Administration Coordinator	754	50% ¹	(377)
Procurement Analyst	598	0%	-
Related indirect costs (10% of salaries)	399	---	(241)
	6,155		(3,734)
<u>FY 2003-04:</u>			
Senior Transit Operations Supervisor	710	100% ¹	(710)
Director of Transportation	2,195	100% ^{1,2}	(2,195)
Associate Engineer	1,542	15% ^{3,4}	(231)
Manager of Transit Operations	1,356	100% ¹	(1,356)
Transit Administration Coordinator	810	50% ¹	(405)
Procurement Analyst	646	0%	-
Related indirect costs (10% of salaries)	502	---	(338)
	7,761		(5,235)
<u>FY 2005-06:</u>			
Senior Transit Operations Supervisor	1,476	100% ¹	(1,476)
Director of Transportation	4,653	100% ^{1,2}	(4,653)
Associate Engineer	3,213	15% ^{3,4}	(482)
Manager of Transit Operations	3,102	100% ¹	(3,102)
Transit Administration Coordinator	1,854	50% ¹	(927)
City Engineer	382	30% ^{3,4}	(115)
Procurement Analyst	1,106	0%	-
Related indirect costs (10% of salaries)	1,093	---	(744)
	16,879		(11,499)
	\$ 30,795		\$ (20,468)

¹ Transit System Fund (Fund No. 710)

² Equipment Maintenance Fund (Fund No. 736)

³ Community Development Block Grant (Fund No. 207)

⁴ Water Utility Fund (Fund No. 702)

Materials and supplies

We found that the city used a total of \$134,626 in restricted funds to purchase materials and supplies for the BSIP, as follows:

Fiscal Year	Vendor	Amount Allowable from Finding 1	Amount Offset	Funding Source
2002-03	Quick Crete Products	\$ 67,814	\$ (63,943)	Proposition C
2003-04	Quick Crete Products	2,403	-	
2006-07	Olivas Valdez, Inc.	62,449	(62,449)	Proposition C
2006-07	Onward Engineering	8,234	(8,234)	Proposition A and C
		<u>\$ 140,900</u>	<u>\$ (134,626)</u>	

Contract services

We found that the city used a total of \$21,849 in restricted funds to pay the contract service fees for the BSIP, as follows:

Fiscal Year	Vendor	Amount Allowable from Finding 1	Amount Offset	Funding Source
2002-03	Nelson Nygaard	\$ 4,155	\$ (4,155)	Transit System Fund
2005-06	La Canada Design Group, Inc.	9,314	(9,314)	Transit System Fund
2005-06	Gwendolyn W. Williams	726	(726)	Transit System Fund
2006-07	La Canada Design Group, Inc.	5,945	(5,945)	Transit System Fund
2007-08	Susan Chow	446	(446)	Transit System Fund
2007-08	Onward Engineering	1,263	(1,263)	Proposition A and C
		<u>\$ 21,849</u>	<u>\$ (21,849)</u>	

Ongoing activities

As noted in Finding 2, we found that \$795,376 in ongoing maintenance costs is allowable. However, we found the city used \$450,469 in Proposition C funds to pay for the ongoing maintenance costs of transit stop trash receptacles, which must be offset against claimed costs, as follows:

Fiscal Year	Amount Allowable from Finding 2	Amount Paid for Ongoing Activities by Funding Source			Reference to Following Paragraph
		Discretionary General Fund (Fund 101)	Restricted Proposition C Fund (Fund 227)	Amount Offset	
2002-03	\$ 33,963	\$ 32,185	\$ -	\$ -	A
2003-04	62,385	32,185	-	-	A
2004-05	62,385	35,430	-	-	A
2005-06	72,199	17,715	17,715	(17,715)	B
2006-07	72,199	6,736	36,549	(36,549)	B
2007-08	87,620	25,263	30,000	(30,000)	B
2008-09	87,620	29,884	89,652	(57,736)	C
2009-10	88,140	8,536	111,000	(79,604)	C
2010-11	88,400	-	110,986	(88,400)	D
2011-12	92,950	-	110,986	(92,950)	D
2012-13	47,515	-	110,986	(47,515)	D
Total	<u>\$ 795,376</u>			<u>\$ (450,469)</u>	

As the allowable ongoing maintenance costs identified in Finding 2 are calculated using the Commission-adopted reasonable reimbursement methodology, and are not based on actual costs, we calculated the offsetting revenue amount using the following methodology:

- A. For FY 2002-03 through FY 2004-05, we did not apply any offsets, as the city did not use any restricted funds to pay for the ongoing maintenance costs of the transit stops.
- B. For FY 2005-06 through FY 2007-08, we offset the exact amount of Proposition C funds used to pay for the ongoing maintenance costs of the transit stops.
- C. For FY 2008-09 and FY 2009-10, we allowed the ongoing maintenance costs paid for from the General Fund and offset the Proposition C amount used in excess of the General Fund, but not for an amount in excess of allowable costs.
- D. For FY 2010-11 through FY 2012-13, as the city did not use any General Funds to pay for the ongoing maintenance costs of the transit stops, we offset all of the Proposition C funds used, but not for an amount in excess of allowable costs.

Recommendation

No recommendation is applicable for this finding, as the period of reimbursement expired on December 27, 2012, with the adoption of a new permit.

City's Response

FINDING 3 – Unreported offsetting revenues:

The City of Norwalk disagree with FINDING 3 for the following reason:

First, there were no revenues generated or experienced by the City from the State Mandate Stormwater Program requiring the installation and maintenance of trash receptacles.

Second, the City did not receive any reimbursement for THIS MANDATE that required offset from the costs incurred and claimed. Claiming instructions state “reimbursement **for this mandate** received from any federal, State, or non-local sources shall be identified and deducted from this claim.” The City did not receive any monies for this specific program. The funding sources cited by the SCO were general in nature and the City did not have to use them for this specific purpose.

The costs are among a long list of item that the City could have paid for. However, because of the State's mandated requirements and the lack of City funding in General Fund, the City was forced to look to any other sources of revenue available to fund the State mandated activities.

Each of these funding sources could have been used by the City (and still can be used, if the State pays the City for the mandated costs incurred) to fund CITY priorities and not STATE Mandated projects.

Prop A and Prop C transportation funds are essentially local funds generated from County sales tax which could have been used for various transportation City priorities we had such as filling pot holes, fixing curbs, and supplementing our transit program. Trash receptacle purchase would not have been required had the State not mandated it.

We believe that prior Commission decision regarding the use of specific versus general funding from other sources was addressed in prior State Mandated program, Two-Way Traffic Control Signal Communications. (CSM-4504). Similarly, the State mandated purchase of new signal controllers that had specific software capabilities allowing for inter jurisdictional communication capacity.

Those units could have also been purchased from a variety of sources, such as gas tax, federal grants, etc.

The Commission found in its March 27, 1998 Statement of Decision (pages 15-17) however made a distinction between dedicated versus discretionary funds received. If the local agency had the *discretion* of choosing between a multiple types of projects, those funds received did not have to be used solely to pay the costs of mandated program activities. "The local has the *discretion* to prioritize the projects to be funded within the above categories."

On page 17 of the Statement of Decision, it states, "there is no mandate requiring local agencies to use the gas tax funds specifically for the two-way communications program. Rather, local agencies have the discretion to prioritize the projects to be funded."

"The Commission disagreed with the Caltrans assertion that the funds received by local agencies from the gas tax increase fully fund and must be used toward the..." State Mandated program (Footnote 17) on page 17.

The City would not have used the funds in question for this State Mandated program had they known at the time the decisions were being made (mandate began in FY 2002-03, but mandate program/instructions were not approved until the end of FY 2010-11) that they would be ONLY be reimbursed for expenditures paid by General Fund. Until the rules are fully disclosed, saying an agency "chose" and has the discretion to "prioritize" is really not a choice. If local agencies had known, why would they have chosen not to obtain reimbursement?

Agencies that did not have General Funds available to pay for State Mandated program should not be punished for scraping together any funding sources they could to pay for the later determined reimbursable State Mandated program.

In addition, the City has the legal authority to repay and transfer monies received from State Mandate payments back to those original funding sources. Then those funds can be used to pay for true local agency (not State Mandated) priorities such as repairing deteriorating streets and sidewalks.

The California Constitution and Government Codes require that the State pay local agencies for costs mandated by the State. The costs and claimed by the City were directly related to the City's efforts to comply with the State Mandates.

Punishing the most vulnerable cities who had scarce General Funds to pay for these multi-million dollar State Mandated expenditures violates the intent of the law. We request restoration of costs cut related to the “Offsetting Reimbursements” reductions.

SCO’s Comments

The finding and recommendation remain unchanged.

The city states that “the funding sources cited by the SCO were general in nature and the City did not have to use them for this specific purpose.” As specified in the finding, the largest funding source used to pay for the mandated program was Proposition A and C Local Return funds. We agree that the city did not have to use the Proposition A and C Local Return funds for ongoing transit stop maintenance, but disagree that the funding sources are “general in nature.” Proposition A and C Local Return funds can be used for improving public transit and related transportation infrastructure only. As an example, Proposition A and C Local Return funds cannot be used to pay for new patrol cars or for park landscaping.

In its disagreement with this finding, the city argues that in another mandate program (Two-Way Traffic Control Signal Communications) there is a distinction between dedicated and discretionary funds. The city quotes the Commission statement that “local agencies have the discretion to prioritize the projects to be funded” and that “there is no mandate requiring local agencies to use the gas tax funds specifically for the two-way communications program.” We agree with this quote; however, the city fails to cite the following paragraph when the Commission concludes that “the funds received by local agencies from the gas tax *may* be used to fund the costs of obtaining the standard two-way traffic signal communications software. Accordingly, reimbursement is not required to the extent that local agencies use their gas tax proceeds to fund the test claim legislation.”

The same principle applies to the Municipal Storm Water and Urban Runoff Discharges Program. The city chose, at its discretion, to use the Proposition A and C Local Return funds for the ongoing maintenance of transit stop trash receptacles. As such, reimbursement for mandated costs is not required to the extent that the city used its Proposition A and C Local Return funds to fund the mandated activities.

In the Statement of Decision for the Behavioral Intervention Plans Program (CSM-4464, page 54), the Commission states that “in turn, by applying the identified potentially offsetting revenues to the mandate, an eligible claimant shows the actual expenditure of funds other than its local tax revenues on the program, thus demonstrating that it is not in need of the protection offered by Article XIII B, section 6, to the extent of the revenues thus applied. When funds other than local proceeds of taxes are thus applied, the Controller may reduce reimbursement accordingly.”

The city goes on to state that “agencies that did not have General Funds available to pay for State Mandated program should not be punished for scraping together any funding sources they could to pay for the later determined reimbursable State Mandated Program.” To the contrary, the city had Proposition A and C Local Return funds available to fund the mandated program and did not have to rely on the use of its “scarce” General Funds.

The city indicated that it was not aware of the requirements of the mandated program as the “mandate began in FY 2002-03, but the mandate program/instructions were not approved until the end of FY 2010-11.” The city was the test claimant for the Municipal Storm Water and Urban Runoff Discharges Program, which was filed with the Commission on September 30, 2003 (03-TC-20 and 03-TC-21). The city was included on the mailing list and privy to all correspondence regarding the requirements of this mandated program since the fall of 2003 and had opportunities to provide written rebuttals to the Commission and clarify outstanding questions regarding the Statement of Decision and the Adopted Parameters and Guidelines.

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



April 20, 2017

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

Dear Mr. Spano,

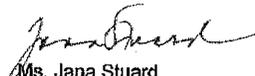
Please accept the City of Norwalk's response to the State Controller's Office (SCO) April 11, 2017 Draft Audit Report of the Municipal Stormwater & Urban Discharges Program for the period of July 1, 2002 through June 30, 2013.

Please see the attached document for our detailed responses to your findings.

We believe the responses submitted were prepared in accordance with the claiming instruction, Statement of Decision, and the Parameters and Guidelines adopted by the Commission. We are willing to provide additional documentation upon request.

Please contact me at (562) 929-5748 or our consultant Annette Chinn at (916) 939-7901 with any questions.

Sincerely,



Ms. Jana Stuard
Finance Director

cc: Devon Jimenez, Controller, City of Norwalk
Theresa Clark, Manager of Strategic Planning and Administrative Services, City of Norwalk
Annette Chin, President, Cost Recovery Services

City of Norwalk – Response to the SCO Audit
Municipal Storm Water and Urban Runoff Discharges Program

April 20, 2017

FINDING 1 - Ineligible one-time costs:

The State Controller's Office (SCO) disallowed total of \$310,933 from the one-time installation cost: \$5,683 under Salaries and Benefits, and \$305,258 under Material and Supplies.

The City of Norwalk disagree with FINDING 1 for the following reason:

Salaries & Benefits

City does not dispute the disallowance of \$5,683.

Materials & Supplies

The City of Norwalk claimed the installation of 359 trash receptacles, 165 in fiscal year 2002-03 and 194 trash receptacles in fiscal year 2006-07. SCO is allowing only the installation of 194 receptacles.

Scope of the 2006-07 project included installation of 194 receptacles, this doesn't mean that the City didn't maintain 217 receptacles, as indicated in the maintenance agreement, dated April 3, 2008, between Natlonwide and the City of Norwalk. This was the number of receptacles the City of Norwalk maintained after the completion of the 2006-07 Bus Stop Improvement Project. All the 217 receptacles are located in the Los Angeles River TMDL area. Therefore we believe that SCO needs to consider the installation cost of additional 23 trash receptacles, or \$42,550 (cost of 2007 installation at \$1,850 x 23 receptacles) be added to the allowable one-time claim amount, and revised from \$193,544 to \$236,094

FINDING 2 - Overstated ongoing maintenance costs:

Out of the \$936,653 ongoing maintenance cost of transit bus stop receptacles claimed by the City, the SCO found \$795,376 to be allowable and \$141,277 to be disallowable cost. According to SCO the disallowable cost resulted from the misreported number of serviced trash receptacles and related annual trash collections during the audit period.

The City of Norwalk disagree with FINDING 2 for the following reason:

Based on the City's response to the FINDING 1 the City cannot agree with FINDING 2.

The City of Norwalk provided copies of contracts for the maintenance and trash pick-ups at City's bus stops. SCO is disallowing the cost mainly due to the missing listing of serviced bus stops, claiming that certain number of stops were maintained by the Metropolitan Transit Authority (MTA). However the maintenance contracts stated number of receptacles to be

**City of Norwalk – Response to the SCO Audit
Municipal Storm Water and Urban Runoff Discharges Program**

April 20, 2017

maintained, and the City paid for these services accordingly. It is unclear and questionable how the SCO determined that during fiscal years (FY) 2002-03 through 2006-07 certain bus stops were maintained by MTA and if MTA provided the list of maintained bus stops during these fiscal years to support SCO finding.

The City does not agree with disallowing and reducing the number of bus stops from FY 2007-08 through FY 2011-12 to 194 trash receptacles. The signed agreement with Nationwide Environmental Services (Nationwide), states that the company maintained 217 trash receptacles at bus stops. According to claiming instructions and State statute, the City is entitled to reimbursement of actual costs incurred, and our documentation supports the maintenance of 217 trash receptacles pursuant to written agreement (attached).

The SCO reduction from 217 to 194 receptacles is based on a 2016 GIS map that was not an actual source document from the eligible time period of FY 2007-08 through FY 2011-12. The bus routes and subsequently locations of bus stops could have changed over the years. State Mandate law and claiming instructions require the reimbursement of actual costs incurred, and based on our actual source documents from the eligible time period (Contract with Nationwide), the number of eligible receptacles for this time period should reflect 217 as specified in the contract (Please see City's comments under Finding 1.)

FINDING 3 – Unreported offsetting revenues:

SCO states that the City did not offset any revenues on its claim forms for the audit period, finding that the City should have report \$627,412 for the audit period as offsetting revenues or reimbursements and is therefore not entitled to the to the State mandate reimbursement for the costs that are otherwise compliant with the State Mandated Program. SCO is specifically referring to the use of restricted funds from Proposition A and C Local Return Funds, the Transit System Fund, the Equipment Maintenance Fund, the Community Development Block Grant Fund, ant the Water Utility Fund to pay \$176,943 of one-time costs and \$450,469 in ongoing maintenance costs.

The City of Norwalk disagree with FINDING 3 for the following reason:

First, there were no revenues generated or experienced by the City from the State Mandate Stormwater Program requiring the installation and maintenance of trash receptacles.

Second, the City did not receive any reimbursement for THIS MANDATE that required offset from the costs incurred and claimed. Claiming instructions state "reimbursement for this mandate received from any federal, State, or non-local sources shall be identified and deducted from this claim." The City did not receive any monies for this specific program. The funding sources cited by the SCO were general in nature and the City did not have to use them for this specific purpose.

**City of Norwalk – Response to the SCO Audit
Municipal Storm Water and Urban Runoff Discharges Program**

April 20, 2017

The costs were among a long list of items that the City could have paid for. However, because of the State's mandated requirements and the lack of City funding in General Fund, the City was forced to look to any other sources of revenue available to fund the State mandated activities.

Each of these funding sources could have been used by the City (and still can be used, if the State pays the City for the mandated costs incurred) to fund CITY priorities and not STATE Mandated projects.

Prop A and Prop C transportation funds are essentially local funds generated from County sales tax which could have been used for various transportation City priorities we had such as filling pot holes, fixing curbs, and supplementing our transit program. Trash receptacle purchase would not have been required had the State not mandated it.

We believe that prior Commission decision regarding the use of specific versus general funding from other sources was addressed in a prior State Mandated program, Two-Way Traffic Control Signal Communications. (CSM-4504). Similarly, the State mandated the purchase of new signal controllers that had specific software capabilities allowing for inter jurisdictional communication capacity.

Those units could have also been purchased from a variety of sources, such as gas tax, federal grants, etc.

The Commission found in its March 27, 1998 Statement of Decision (pages 15-17) however made a distinction between dedicated versus discretionary funds received. If the local agency had the *discretion* of choosing between a multiple types of projects, those funds received did not have to have been used solely to pay the cost of mandated program activities. "The local agency has the *discretion* to prioritize the projects to be funded within the above categories."

On page 17 of the Statement of Decision, it states, "there is no mandate requiring local agencies to use the gas tax funds specifically for the two-way communications program. Rather, local agencies have the discretion to prioritize the projects to be funded."

"The Commission disagreed with Caltrans' assertion that the funds received by local agencies from the gas tax increase fully fund and must be used toward the..." State Mandated program (Footnote 17) on page 17.

The City would not have used the funds in question for this State Mandated program had they known at the time the decisions were being made (mandate began in FY 2002-03, but

**City of Norwalk – Response to the SCO Audit
Municipal Storm Water and Urban Runoff Discharges Program**

April 20, 2017

mandate program/instructions were not approved until the end of FY 2010-11) that they would be ONLY be reimbursed for expenditures paid by General Fund. Until the rules are fully disclosed, saying an agency "chose" and has the discretion to "prioritize" is really not a choice. If local agencies had known, why would they have chosen not to obtain reimbursement?

Agencies that did not have General Funds available to pay for State Mandated program should not be punished for scraping together any funding sources they could to pay for the later determined reimbursable State Mandated program.

In addition, the City has the legal authority to repay and transfer monies received from State Mandate payments back to those original funding sources. Then those funds can be used to pay for true local agency (not State Mandated) priorities such as repairing deteriorating streets and sidewalks.

The California Constitution and Government Codes require that the State pay local agencies for costs mandated by the State. The costs and claimed by the City were directly related to the City's efforts to comply with the State Mandates.

Punishing the most vulnerable cities who had scarce General Funds to pay for these required multi-million dollar State Mandated expenditures violates the intent the law. We request restoration of costs cut relating to the "Offsetting Reimbursements" reductions.

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