

# **CITY OF PASADENA**

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, 2009;  
and July 1, 2012, through June 30, 2014*



**BETTY T. YEE**  
California State Controller

November 2016



**BETTY T. YEE**  
California State Controller

November 21, 2016

The Honorable Terry Tornek, Mayor  
City of Pasadena  
100 North Garfield Avenue, Room S228  
Pasadena, CA 91109

Dear Mayor Tornek:

The State Controller's Office audited the costs claimed by the City of Pasadena 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, 2009; and July 1, 2012, through June 30, 2014. The city did not claim reimbursement for any program costs for the period of July 1, 2009, through June 30, 2012.

The city claimed \$1,276,615 for the mandated program. Our audit found that \$900,039 is allowable and \$376,576 is unallowable. The costs are unallowable because the city is not eligible to claim reimbursement after the Los Angeles River Watershed became a trash total maximum daily load on September 23, 2008. The State made no payment to the city. The State will pay \$900,039, contingent upon available appropriations

This final audit report contains an adjustment to costs claimed by the city. If you disagree with the audit finding, 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than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended.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](http://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/rg

cc: Matthew Hawkesworth, Director of Finance  
Department of Finance, City of Pasadena  
Robert Ridley, CPA, Controller  
Department of Finance, City of Pasadena  
Brenda Harvey-Williams, Finance Administrator  
Department of Finance, City of Pasadena  
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State Controller's Office

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Pasadena 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, 2009; and July 1, 2012, through June 30, 2014. The city did not claim reimbursement for any program costs for the period of July 1, 2009, through June 30, 2012.

The city claimed \$1,276,615 for the mandated program. Our audit found that \$900,039 is allowable and \$376,576 is unallowable. The costs are unallowable because the city is not eligible to claim reimbursement after the Los Angeles River Watershed became a trash total maximum daily load (TMDL) on September 23, 2008. The State made no payment to the city. The State will pay \$900,039, 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 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, 2009; and July 1, 2012, through June 30, 2014.

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 performed the following procedures:

- 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 the 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 TMDL effective date
- Determined whether the city claimed reimbursement using the correct reasonable reimbursement methodology factor
- Reviewed the documentation provided to support the number of transit stops containing trash receptacles. Corroborated the supporting documentation with physical inspections of a number of current transit stops
- Reviewed the documentation provided to support the city's process in performing weekly transit stop trash collections
- 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 an instance of noncompliance with the program requirements. This instance is described in the accompanying Schedule (Summary of Program Costs) and in the Finding and Recommendation section of this report.

For the audit period, the City of Pasadena claimed \$1,276,615 for costs of the Municipal Storm Water and Urban Runoff Discharges Program. Our audit found that \$900,039 is allowable and \$376,576 is unallowable. The State made no payment to the city. The State will pay \$900,039, contingent upon available appropriations.

**Views of Responsible Officials**

We issued a draft audit report on September 26, 2016. Matthew Hawkesworth, Director of Finance, responded by letter dated October 6, 2016 (Attachment), disagreeing with the Other Issue (originally Finding 2). Mr. Hawkesworth did not provide a response to the Finding (originally Finding 1). This final audit report includes the city's response.

**Restricted Use**

This report is solely for the information and use of the City of Pasadena, 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

November 21, 2016

**Schedule—**  
**Summary of Program Costs**  
**July 1, 2002, through June 30, 2009;**  
**and July 1, 2012, through June 30, 2014**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>
<u>July 1, 2002, through June 30, 2003</u>			
Ongoing activities:			
August 28, 2002, through June 30, 2003:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	\$ -
Number of transit receptacles	× 119	× 119	× -
Annual number of trash collections	× 131	× 131	× -
Total program costs	<u>\$ 105,070</u>	105,070	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 105,070</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	\$ -
Number of transit receptacles	× 119	× 119	× -
Annual number of trash collections	× 156	× 156	× -
Total program costs	<u>\$ 125,121</u>	125,121	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 125,121</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	\$ -
Number of transit receptacles	× 119	× 119	× -
Annual number of trash collections	× 156	× 156	× -
Total program costs	<u>\$ 125,121</u>	125,121	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 125,121</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	\$ -
Number of transit receptacles	× 155	× 155	× -
Annual number of trash collections	× 156	× 156	× -
Total program costs	<u>\$ 162,973</u>	162,973	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 162,973</u>	

## Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>
<u>July 1, 2006, through June 30, 2007</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	\$ -
Number of transit receptacles	× 162	× 162	× -
Annual number of trash collections	× 156	× 156	× -
Total program costs	<u>\$ 170,333</u>	170,333	<u>\$ -</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 170,333</u>	
<u>July 1, 2007, through June 30, 2008</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	\$ -
Number of transit receptacles	× 163	× 163	× -
Annual number of trash collections	× 156	× 156	× -
Total program costs	<u>\$ 171,385</u>	171,385	<u>\$ -</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 171,385</u>	
<u>July 1, 2008, through June 30, 2009</u>			
Ongoing activities:			
July 1, 2008, through September 22, 2008:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	\$ -
Number of transit receptacles	× 165	× 165	× -
Annual number of trash collections	× 36	× 36	× -
Total program costs	<u>\$ 40,036</u>	40,036	<u>\$ -</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 40,036</u>	
<u>July 1, 2012, through June 30, 2013</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 7.31	\$ -	\$ 7.31
Number of transit receptacles	× 165	× -	× 165
Annual number of trash collections	× 156	× -	× (156)
Total program costs	<u>\$ 188,159</u>	-	<u>\$ (188,159)</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 <sup>1</sup>
<u>July 1, 2013, through June 30, 2014</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 7.32	\$ -	\$ 7.32
Number of transit receptacles	× 165	× -	× 165
Annual number of trash collections	× 156	× -	× (156)
Total program costs	<u>\$ 188,417</u>	-	<u>\$ (188,417)</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, 2009; and July 1, 2012, through June 30, 2014</u>			
Total program costs	<u>\$ 1,276,615</u>	\$ 900,039	<u>\$ (376,576)</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 900,039</u>	

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

# Finding and Recommendation

## **FINDING— Expired period of reimbursement**

For fiscal year (FY) 2012-13 and FY 2013-14, the city claimed reimbursement of \$376,576 for costs of the Municipal Storm Water and Urban Runoff Discharges Program. We found that none of the costs claimed are allowable. The costs are unallowable because the city is not eligible to claim reimbursement after September 22, 2008.

The City of Pasadena is located entirely within the Los Angeles River Watershed and is subject to the trash TMDL requirements, which became effective on September 23, 2008. As such, the city does not maintain transit stops located in areas not covered by the Los Angeles River trash TMDL requirements.

The parameters and guidelines (section II. Eligible Claimants) state:

Beginning September 23, 2008, the following local agency permittees that are subject to the Los Angeles River trash TMDL are eligible to claim reimbursement for the mandated activities only to the extent they have transit stops located in areas not covered by the Los Angeles River trash TMDL requirements:

Alhambra, Arcadia, Bell, Bell Gardens, Bradbury, Burbank, Calabasas, Carson, Commerce, Compton, Cudahy, Downey, Duarte, El Monte, Glendale, Hidden Hills, Huntington Park, Irwindale, La Canada Flintridge, Los Angeles (City), Los Angeles County, Lynwood, Maywood, Monrovia, Montebello, Monterey Park, Paramount, Pasadena, Pico Rivera, Rosemead, San Fernando, San Gabriel, San Marino, Santa Clarita, Sierra Madre, Signal Hill, Simi Valley, South El Monte, South Gate, South Pasadena, Temple City, and Vernon.

### 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.

### SCO's Comment

The city did not provide a response to this finding.

## **OTHER ISSUE— Unreported offsetting revenues**

In our draft audit report dated September 26, 2016, we identified a finding for unreported offsetting revenues, totaling \$900,039, because the city did not offset the service charges used to fund the mandated activities.

During our audit, we found that the ongoing maintenance costs for city employees to collect and dispose of the trash from the transit stops is recorded in the Refuse Collection Fund (Fund 406), an Enterprise Fund Type. An Enterprise Fund Type is used to account for activities for which a fee is charged to external users for goods or services. The charges for services collected from the rate-payers are deposited into Fund 406 to offset related costs. As the city used \$900,039 in service charges to pay

for mandated activities, we found that it did not have to rely on the use of discretionary general funds to pay for mandated activities.

In the city's response letter to the draft audit report, dated October 6, 2016 (Attachment), the city states that it "cannot impose a tax or fee to the users of public transit to cover the bus stop receptacle collection costs." The city goes on to state that it used advanced funds from Fund 406 to pay for the mandated activities, and that the solvency of Fund 406 or the fact that Fund 406 had net revenue and did not require General Fund support should not be considered. We agree with the city that it cannot impose a tax or fee on the users of the public transit to cover the mandated costs. However, we disagree with the city's contention that it has the authority to use advanced funds from Fund 406, as the advanced funds are still comprised of service charges paid for by residential and commercial customers who are not benefiting from transit stop trash receptacle maintenance.

We discussed the issue with the Director of Finance, and the city agreed to transfer \$900,039 from the General Fund to Fund 406 to reimburse Fund 406 for costs inappropriately advanced. The city provided the SCO with an email dated October 31, 2016, showing that the General Fund transfer was made retroactively to June 30, 2016, via journal entry 2016-12-3582. Therefore, the costs are now funded with discretionary general funds and subject to reimbursement under the legislatively-mandated program. Accordingly, we eliminated the finding reported in the draft audit report.

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

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DEPARTMENT OF FINANCE

October 6, 2016

Jeffrey V. Brownfield, CPA  
Chief, Division of Audits  
State Controller's Office  
PO Box 942850  
Sacramento, CA 94250

SUBJECT: City of Pasadena, Legislatively Mandated Municipal Storm Water and Urban Runoff Discharge Program (Draft Final Report)

Dear Mr. Brownfield:

The Municipal Storm Water and Urban Runoff Program was a legislatively mandated program that the City of Pasadena (City) undertook in 2002 to meet county-wide compliance. The City respectfully disagrees with Finding 2 – Unreported Offsetting Revenues. Per the Government Code cited for this finding, if a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program, the City should offset the revenues and the related expenses. The City did not levy a service charge, fee, or assessment for the collection of trash at public bus stops, as it would be impossible to do so to users of these trash receptacles. The City cannot impose a tax or fee to the users of public transit to cover the bus stop receptacle collection costs.

While the costs of the trash collection related to this State Mandated Claim was advanced by the City's Sanitation Fund, these funds should be repaid by the state as the general benefit of trash collection at bus stops and should not be paid by individual residential and commercial customers of the City who receive sanitation services.

Additionally, the solvency of the fund or the fact that the fund had net revenue and did not require General Fund support should not be considered. As an enterprise fund, the fund itself will regularly realize net revenue to ensure sufficient funds are set aside for future capital replacement needs such as sanitation trucks and dumpsters. The City firmly believes that it should be reimbursed for the mandated cost to compensate the City's Sanitation Fund that paid these costs.

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew E. Hawkesworth".

Matthew E. Hawkesworth  
Director of Finance

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

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