

CITY OF SANTA MONICA

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

November 2016



BETTY T. YEE
California State Controller

November 16, 2016

The Honorable Tony Vazquez, Mayor
City of Santa Monica
1685 Main Street
Santa Monica, CA 90401

Dear Mayor Vazquez:

The State Controller's Office audited the costs claimed by the City of Santa Monica 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 \$2,320,127 for the mandated program. Our audit found that \$2,217,989 is allowable and \$102,138 is unallowable. The costs are unallowable because the city claimed reimbursement for costs incurred after the reimbursement period expired on December 27, 2012. The State made no payments to the city. The State will pay \$2,217,989, 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than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended.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.

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: Gigi Decavalles-Hughes, Finance Director
Finance Department, City of Santa Monica
David Carr, Assistant City Treasurer
Finance Department, City of Santa Monica
Annette Morales, Principal Public Works Analyst
Public Works Department, City of Santa Monica
Yolanda Nunez, Senior Administrative Analyst
Finance Department, City of Santa Monica
Mary Halterman, Principal Program Budget Analyst
Local Government Unit, California Department of Finance
Danielle Brandon, Staff Finance Budget Analyst
Local Government Unit, California Department of Finance
Jay Lal, Manager
Division of Accounting and Reporting
State Controller's Office

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
Finding and Recommendation	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 Santa Monica 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 \$2,320,127 for the mandated program. Our audit found that \$2,217,989 is allowable and \$102,138 is unallowable. The costs are unallowable because the city claimed reimbursement for costs incurred after the reimbursement period expired on December 27, 2012. The State made no payments to the city. The State will pay \$2,217,989, 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 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 Ballona Creek Watershed and gained an understanding of the trash 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 Santa Monica claimed \$2,320,127 for costs of the Municipal Storm Water and Urban Runoff Discharges Program. Our audit found that \$2,217,989 is allowable and \$102,138 is unallowable. The State made no payments to the city. The State will pay \$2,217,989, contingent upon available appropriations.

Views of Responsible Officials

We issued a draft audit report on September 8, 2016. Gigi Decavalles-Hughes, Finance Director, responded by letter dated September 19, 2016 (Attachment), disagreeing with the Other Issue (originally Finding 2). Ms. Decavalles-Hughes 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 Santa Monica, 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 16, 2016

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

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2002, through June 30, 2003</u>			
One-time activities:			
Salaries	\$ 5,849	\$ 5,849	
Benefits	+ 1,078	+ 1,078	
Materials and supplies	+ 120,193	+ 120,193	
Indirect costs	+ 2,690	+ 2,690	
Total one-time costs	<u>129,810</u>	<u>129,810</u>	\$ -
Ongoing activities:			
Reasonable reimbursement methodology factor	6.74	6.74	
Annual number of trash collections	× 24,024	× 24,024	
Total ongoing costs	<u>161,922</u>	<u>161,922</u>	-
Total one-time costs and ongoing costs	291,732	291,732	-
Less offsetting revenues and reimbursements	<u>-</u>	<u>-</u>	<u>-</u>
Total program costs	<u>\$ 291,732</u>	291,732	<u>\$ -</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 291,732</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	
Annual number of trash collections	× 29,744	× 29,744	
Total ongoing costs	200,475	200,475	\$ -
Less offsetting revenues and reimbursements	<u>-</u>	<u>-</u>	<u>-</u>
Total program costs	<u>\$ 200,475</u>	200,475	<u>\$ -</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 200,475</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	
Annual number of trash collections	× 29,744	× 29,744	
Total ongoing costs	200,475	200,475	\$ -
Less offsetting revenues and reimbursements	<u>-</u>	<u>-</u>	<u>-</u>
Total program costs	<u>\$ 200,475</u>	200,475	<u>\$ -</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 200,475</u>	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2005, through June 30, 2006</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	
Annual number of trash collections	× 29,744	× 29,744	
Total ongoing costs	200,475	200,475	\$ -
Less offsetting revenues and reimbursements	-	-	-
Total program costs	<u>\$ 200,475</u>	200,475	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 200,475</u>	
<u>July 1, 2006, through June 30, 2007</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	
Annual number of trash collections	× 29,744	× 29,744	
Total ongoing costs	200,475	200,475	\$ -
Less offsetting revenues and reimbursements	-	-	-
Total program costs	<u>\$ 200,475</u>	200,475	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 200,475</u>	
<u>July 1, 2007, through June 30, 2008</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	
Annual number of trash collections	× 29,744	× 29,744	
Total ongoing costs	200,475	200,475	\$ -
Less offsetting revenues and reimbursements	-	-	-
Total program costs	<u>\$ 200,475</u>	200,475	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 200,475</u>	
<u>July 1, 2008, through June 30, 2009</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.74	\$ 6.74	
Annual number of trash collections	× 29,744	× 29,744	
Total ongoing costs	200,475	200,475	\$ -
Less offsetting revenues and reimbursements	-	-	-
Total program costs	<u>\$ 200,475</u>	200,475	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 200,475</u>	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2009, through June 30, 2010</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.78	\$ 6.78	
Annual number of trash collections	× 29,744	× 29,744	
Total ongoing costs	201,664	201,664	\$ -
Less offsetting revenues and reimbursements	-	-	-
Total program costs	<u>\$ 201,664</u>	201,664	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 201,664</u>	
<u>July 1, 2010, through June 30, 2011</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 6.80	\$ 6.80	
Annual number of trash collections	× 29,744	× 29,744	
Total ongoing costs	202,259	202,259	\$ -
Less offsetting revenues and reimbursements	-	-	-
Total program costs	<u>\$ 202,259</u>	202,259	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 202,259</u>	
<u>July 1, 2011, through June 30, 2012</u>			
Ongoing activities:			
Reasonable reimbursement methodology factor	\$ 7.15	\$ 7.15	
Annual number of trash collections	× 29,744	× 29,744	
Total ongoing costs	212,670	212,670	\$ -
Less offsetting revenues and reimbursements	-	-	-
Total program costs	<u>\$ 212,670</u>	212,670	<u>\$ -</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 212,670</u>	
<u>July 1, 2012, through June 30, 2013</u>			
Ongoing activities:			
July 1, 2012, through December 27, 2012:			
Reasonable reimbursement methodology factor	\$ 7.15	\$ 7.31	
Annual number of trash collections	× 29,224	× 14,612	
Total ongoing costs	208,952	106,814	\$ (102,138)
Less offsetting revenues and reimbursements	-	-	-
Total program costs	<u>\$ 208,952</u>	106,814	<u>\$ (102,138)</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 106,814</u>	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>Summary: July 1, 2002, through June 30, 2013</u>			
Total one-time costs	\$ 129,810	\$ 129,810	\$ -
Total ongoing costs	<u>2,190,317</u>	<u>2,088,179</u>	<u>(102,138)</u>
Total one-time costs and ongoing costs	2,320,127	2,217,989	(102,138)
Less offsetting revenues and reimbursements	<u>-</u>	<u>-</u>	<u>-</u>
Total program costs	<u>\$ 2,320,127</u>	2,217,989	<u>\$ (102,138)</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 2,217,989</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

FINDING— Expired period of reimbursement

For fiscal year (FY) 2012-13, the city claimed reimbursement of \$208,952 for costs of the Municipal Storm Water and Urban Runoff Discharges Program. We found that \$106,814 is allowable and \$102,138 is unallowable. The costs are unallowable because the city is not eligible to claim reimbursement after December 27, 2012.

The City of Santa Monica is a permittee identified in the Board Order No. 01-182, Permit CAS004001; as such, the city is eligible to claim reimbursement for mandated activities. However, the Board adopted a new NPDES permit, Order No. R4-2012-0175, regulating discharges from storm sewer systems operated by a number of municipalities in Los Angeles County. The new NPDES permit was adopted by the Board on November 8, 2012, and became effective on December 28, 2012. Therefore, the period of reimbursement for this mandated program ended on December 27, 2012.

The parameters and guidelines, Section III. Period of Reimbursement, state:

...The filing dates of these test claims establish eligibility for reimbursement beginning July 1, 2002, pursuant to Government Code section 17557, subdivision (e), and continues until a new NPDES permit issued by the Regional Water Quality Control Board for Los Angeles is adopted.

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 revenue

In our draft audit report, dated September 8, 2016, we identified a finding for unreported offsetting revenues, totaling \$1,907,399, because the city did not offset the service charges used to fund the mandated activities.

During our audit, we found that the costs to purchase trash receptacles and the ongoing maintenance costs for city employees to collect and dispose of the trash from the transit stops was recorded in the Solid Waste Management Fund (Fund 27), 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 27 to offset related costs. As the city used \$1,907,399 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 September 19, 2016 (Attachment), the city stated that Proposition 218 does not authorize the city to charge property owners for installation and maintenance of public trash receptacles along transit stops. The city then states it used Fund 27 reserve funds to pay for the mandated activities pending reimbursement from the State. We agree with the city that it does not have authority to use the service charges paid for by the property owners to pay for trash collection activities at transit stops. However, we disagree with the city's contention that it does have authority to use Fund 27 reserve funds, as the reserve fund balance is comprised of service charges.

We discussed the issue with the Assistant City Treasurer, and the city agreed to transfer \$1,907,399 from the General Fund to Fund 27 (now renamed to the Resource, Recovery, and Recycling Fund) to reimburse Fund 27 for costs inappropriately funded with service charges. The city provided the SCO with an email on October 3, 2016, supporting that the General Fund transfer was made on September 28, 2016, via journal entry number 216829. 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**



Finance Department
1717 4th Street, Suite 250
Santa Monica, CA 90401
www.smgov.net

September 19, 2016

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

Dear Mr. Spano:

This letter is in response to the draft audit of costs ("Draft Audit") claimed by the City of Santa Monica 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 Draft Audit found that of the City's claimed amount of \$2,320,127 for this mandated program, only \$310,590 was allowable as a reimbursed claim. According to page 8 of the Draft Audit, "the charges for services collected from the fee-payers are deposited into Fund 27 to offset related costs. As the City used \$1,907,399 in service charges to pay for mandated activities, it did not have to rely solely on the use of discretionary general funds to pay for mandated activities." The report did not make any findings, however, with regard to the City's authority to levy fees for the state mandated service, which is unrelated to the services charged to property owners and collected in Fund 27.

After consulting with legal staff, it is the City's position that the reserve funds in Fund 27 are clearly property based trash collection fees. The City is authorized to collect these fees under Proposition 218 based solely on the cost to provide property based trash collection service. Conversely, the City is not authorized by Proposition 218 or any other law to charge property owners for installation and maintenance of public trash receptacles along transit stops in order to reduce the level of trash that goes out into the Santa Monica Bay. Furthermore, the fact that the City used its enterprise fund reserves to pay for the state mandated level of service pending reimbursement is irrelevant to the legal requirement that the State is required to reimburse the City for state mandated reimbursement unless the City has authority to levy fees to pay for the higher level of service, in accordance with Government Code section 17556. *See also Connell v. Superior Court of Sacramento County*, 59 Cal.App.4th 382 (1997).

Therefore, the City respectfully disagrees with the Draft Audit and requests that either (i) the State Controller inserts the factual findings to support its conclusion that the City is authorized to levy

property owners for the maintenance of public trash receptacles at public transit stops under Proposition 218 or any other law or (ii) revise its findings to authorize full reimbursement of \$1,907,399 because the City is not authorized to charge property owners for the public trash collection service.

Sincerely



Gigi Decavalles-Hughes, Director of Finance

CC: David Carr, Assistant City Treasurer
Annette Morales, Principal Public Works Analyst

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

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