

KERN COUNTY

Audit Report

OPEN MEETINGS ACT/ BROWN ACT REFORM PROGRAM

Chapter 641, Statutes of 1986,
and Chapter 1136, 1137, and 1138, Statutes of 1993

July 1, 2002, through June 30, 2005



JOHN CHIANG
California State Controller

June 2008



JOHN CHIANG
California State Controller

June 30, 2008

The Honorable Michael J. Rubio, Chairman
Board of Supervisors
Kern County
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

Dear Mr. Rubio:

The State Controller's Office audited the costs claimed by Kern County for the legislatively mandated Open Meetings Act/Brown Act Reform Program (Chapter 641, Statutes of 1986, and Chapters 1136, 1137, and 1138, Statutes of 1993) for the period of July 1, 2002, through June 30, 2005.

The county claimed \$386,303 for the mandated program. Our audit disclosed that \$364,731 is allowable and \$21,572 is unallowable. The unallowable costs resulted because the county overstated the number of agenda items and overstated the blended productive hourly rate. The State paid the county \$133,904. Allowable costs claimed exceed the amount paid by \$230,827.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

cc: Mary Bedard, Chief, General Accounting Division
Auditor-Controller's Office
Kern County
The Honorable Ann K. Barnett
Auditor-Controller-County Clerk
Kern County
Todd Jerue, Program Budget Manager
Corrections and General Government
Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Kern County for the legislatively mandated Open Meetings Act/Brown Act Reform Program (Chapter 641, Statutes of 1986, and Chapter 1136, 1137, and 1138, Statutes of 1993) for the period of July 1, 2002, through June 30, 2005.

The county claimed \$386,303 for the mandated program. Our audit disclosed that \$364,731 is allowable and \$21,572 is unallowable. The unallowable costs resulted because the county overstated the number of agenda items and overstated the blended productive hourly rate. The State paid the county \$133,904. Allowable costs claimed exceed the amount paid by \$230,827.

Background

Open Meetings Act Program

Chapter 641, Statutes of 1986, added Government Code sections 54954.2 and 54954.3. Section 54954.2 requires the legislative body of a local agency, or its designee, to post an agenda containing a brief general description of each item or business to be transacted or discussed at the regular meeting, subject to exceptions stated therein, specifying the time and location of the regular meeting. It also requires the agenda to be posted at least 72 hours before the meeting in a location freely accessible to the public. Section 54954.3 requires members of the public to be provided an opportunity to address the legislative body on specific agenda items or an item of interest that is within the subject matter jurisdiction of the legislative body. The legislation requires that this opportunity be stated on the posted agenda.

Open Meetings Act/Brown Act Reform Program

Chapters 1136 through 1138, Statutes of 1993, amended Government Code sections 54952, 54954.2, 54957.1, and 54957.7, expanding the types of legislative bodies that are required to comply with the notice and agenda requirements of sections 54954.2 and 54954.3. The statute also required all legislative bodies to perform a number of additional activities in relation to the closed session requirements of the Brown Act.

The Commission on State Mandates (CSM) determined that the Open Meetings Act Program (October 22, 1987), and the Open Meetings Act/Brown Act Reform Program (June 28, 2001), resulted in state mandated costs that are reimbursable under Government Code section 17561.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. CSM adopted the parameters and guidelines on September 22, 1988 (last amended on November 30, 2000), for the Open Meetings Act Program and on April 25, 2002, for the Open Meetings Act/Brown Act Reform Program. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming reimbursable costs.

The Open Meeting Act Program was effective August 29, 1986. Commencing in fiscal year (FY) 1997-98, a local agency may claim costs using the actual time reimbursement option, the standard-time reimbursement option, or the flat rate reimbursement option as specified in the parameters and guidelines. The Open Meetings Act/Brown Act Reform Program was effective for FY 2001-02.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Open Meetings Act/Brown Act Reform Program for the period of July 1, 2002, through June 30, 2005.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the county's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the county's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit disclosed an instance of noncompliance with the requirements outlined above. This instance is described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, Kern County claimed \$386,303 for costs of the Open Meetings Act/Brown Act Reform Program. Our audit disclosed that \$364,731 is allowable and \$21,572 is unallowable.

For the fiscal year (FY) 2002-03 claim, the State made no payment to the county. Our audit disclosed that \$128,730 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$128,730, contingent upon available appropriations.

For the FY 2003-04 claim, the State made no payment to the county. Our audit disclosed that \$111,702 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$111,702, contingent upon available appropriations.

For the FY 2004-05 claim, the State paid the county \$133,904. Our audit disclosed that \$124,299 is allowable. The State will offset \$9,605 from other mandated program payments due to the county. Alternatively, the county may remit this amount to the State.

**Views of
Responsible
Official**

We issued a draft audit report on May 14, 2008. Kathleen Krause, Clerk of the Board, Kern County, responded by letter dated June 18, 2008, (Attachment) agreeing with the audit results. This final report includes the county's response.

Restricted Use

This report is solely for the information and use of Kern County, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

June 30, 2008

**Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2005**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2002, through June 30, 2003</u>			
Direct costs:			
Standard time	\$ 122,811	\$ 117,231	\$ (5,580)
Flat rate	11,499	11,499	—
Total program costs	<u>\$ 134,310</u>	128,730	<u>\$ (5,580)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 128,730</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Direct costs:			
Standard time	\$ 115,584	\$ 109,197	\$ (6,387)
Flat rate	2,505	2,505	—
Total program costs	<u>\$ 118,089</u>	111,702	<u>\$ (6,387)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 111,702</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Direct costs:			
Standard time	\$ 117,327	\$ 107,722	\$ (9,605)
Flat rate	16,577	16,577	—
Total program costs	<u>\$ 133,904</u>	124,299	<u>\$ (9,605)</u>
Less amount paid by the State		(133,904)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (9,605)</u>	
<u>Summary: July 1, 2002, through June 30, 2005</u>			
Direct costs:			
Standard time	\$ 355,722	\$ 334,150	\$ (21,572)
Flat rate	30,581	30,581	—
Total program costs	<u>\$ 386,303</u>	364,731	<u>\$ (21,572)</u>
Less amount paid by the State		(133,904)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 230,827</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

FINDING— Overstated standard- time costs

The county claimed \$21,572 in unallowable costs under the standard-time reimbursement option for the audit period.

Based on the number of agenda items supported by documentation during the audit, the county overstated agenda items by 211 items for fiscal year (FY) 2002-03 and 389 items for FY 2004-05, and understated agenda items by 1 item for FY 2003-04.

For FY 2003-04, the county also overstated the blended productive hourly rate by \$3.19 because it used an incorrect county-wide cost allocation plan amount in the calculation of the hourly rate. The county used a rate of 94.23% rather than the actual rate of 81.01%.

The following table summarizes the audit adjustment under the standard-time reimbursement option:

	Fiscal Year			Total
	2002-03	2003-04	2004-05	
Number of allowable agenda items	4,433	4,022	4,363	
Standard time (hour) per agenda	× 0.5	× 0.5	× 0.5	
Subtotal	2,216.5	2,011.0	2,181.5	
Allowable blended productive hourly rate	× \$52.89	× \$54.30	× \$49.38	
Total allowable costs	<u>\$ 117,231</u>	<u>\$ 109,197</u>	<u>\$ 107,722</u>	\$ 334,150
Number of claimed agenda items	4,644	4,021	4,752	
Standard time (hour) per agenda	× 0.5	× 0.5	× 0.5	
Subtotal	2,322.0	2,010.5	2,376.0	
Claimed blended productive hourly rate	× \$52.89	× \$57.49	× \$49.38	
Total claimed costs	<u>\$ 122,811</u>	<u>\$ 115,584</u>	<u>\$ 117,327</u>	355,722
Audit adjustment	<u>\$ (5,580)</u>	<u>\$ (6,387)</u>	<u>\$ (9,605)</u>	<u>\$ (21,572)</u>

The program's parameters and guidelines for the mandated programs specify that costs claimed must be traceable to source documents and/or worksheets that show evidence of, and the validity of, such costs.

Recommendation

We recommend that the county ensure that all costs claimed are allowable and properly supported.

County's Response

The county agreed with the audit finding.

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

**BOARD OF SUPERVISORS
COUNTY OF KERN**

SUPERVISORS

JON McQUISTON	District 1
DON MABEN	District 2
MIKE MAGGARD	District 3
RAYMOND A. WATSON	District 4
MICHAEL J. RUBIO	District 5



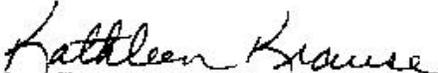
KATHLEEN KRAUSE
CLERK OF THE BOARD OF SUPERVISORS
 Kern County Administrative Center
 1115 Truxtun Avenue, 5th Floor
 Bakersfield, CA 93301
 Telephone (861) 868-3585
 TTY (800) 735-2979
www.co.kern.ca.us

JUNE 18, 2008

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

Dear Mr. Spano:

The Kern County Clerk of the Board concurs with the finding as stated in the Audit Report, Open Meetings Act/Brown Act Reform Program.


 Kathleen Krause
 Kern County Clerk of the Board

cc: Kern County Auditor-Controller's Office
 John Cobbinah, Audit Manager

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

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