



File Code: 5100

Date: JUL 11 2017

Mr. Mark S. Ghilarducci, Director
CAL OES
Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655

Dear Mr. Ghilarducci:

I am in receipt of your letter dated July 3, 2017, where you outlined issues you have with our Agency's responsibilities relative to one of our cooperative agreements, the California Fire Assistance Agreement (CFAA).

First, know that I am fully committed to our cooperative partnerships. I know that the Forest Service in California is inextricably linked with local counties in a variety of ways. In this case, we are committed to the interagency wildland fire response system that includes the valuable work of the local governments' fire departments. We respect the actions of all firefighting personnel who serve side by side on the wildfires in California where we all don't wear blue or green uniforms, but yellow that signifies our shared unity in this important public service.

It seems there is a misunderstanding of what the Forest Service (FS) owes local governments in California given the figure of over \$18 million for 2016 for firefighting costs cited by the Office of Emergency Services (OES) in the July 3 letter. This same issue came up two years ago and is the reason Deputy Director Nancy Ward, CAL FIRE Chief Ken Pimlott, and Deputy Regional Forester Jeanne Wade-Evans committed to meeting with staff regularly to ensure we all understand our responsibilities for timely payments to fire departments.

To respond to your concern about the outstanding payments of \$18 million – as of June 30, 2017, the FS has paid approximately \$14 million to local government fire departments leaving an overall outstanding balance of almost \$4 million. Of the outstanding amount, we are actively processing about \$2 million to ensure they are valid debts. The approximately \$2 million that remains do not have sufficient documentation or invoices from CAL OES to ensure they meet audit and assurance requirements.

Much progress had been made these last few years on clarifying the joint roles and responsibilities that both OES and FS play in ensuring timely payments to local fire departments. We recommend CAL OES develop a seamless system of tracking the reams of invoices that are often delayed in the mail. The State could improve efficiency by developing a collaborative web-based submittal, tracking, monitoring and payment system for better in-process visibility for payments to local government. This will also create efficiencies in personnel hours if we go from a paper system to a web-based tracking system to reduce lost vouchers. This will be the



single best solution to the challenge we face and a way for CAL OES to show support to local departments.

You are correct that the Reciprocal Fire Protection Act only allows for reimbursement of costs and expenses actually incurred. This has been the law for decades. It does not mean that volunteer firefighters cannot be paid. The agreement allows for reimbursement of any party for all or any part of the cost incurred by such party in furnishing fire protection for or on behalf of any other party, in this case OES. Those fire departments that can document a salary paid to their employees as a normal business practice are able to be reimbursed for actual hours worked at a rate established in the agreement and this has been communicated to the OES staff.

I understand the Deputy Regional Forester, Jeanne Wade-Evans, and the newly designated Regional Fire Director, Robert Baird, met with your staff on June 23. At this meeting, we arranged for CAL OES staff to meet with the Forest Service Audit and Assurance Branch in Albuquerque within the next 30 days in order for CAL OES employees to learn more about the process for resolving any outstanding invoices. The invitation remains for your staff to visit with ours in Albuquerque. An acknowledgement and respect for each agency's differences will allow for continued positive movement forward and I know that the regional leadership of the Pacific Southwest Region is dedicated to partnering to find solutions to lessen impacts while staying within law and policy in financial transactions.

In that same spirit, Regional Forester, Randy Moore, and the other CFAA partners signed the 2010 Plan of Action to resolve the issue around administrative reimbursement rates while committing to maintain the positive working relationship throughout the fire service in California. As I acknowledge the importance in continued cooperative relationships, I also acknowledge that no partnership can supplant agency policies or applicable laws. The Forest Service is expected to manage our federal funds with fiscal integrity, discipline, and resolve as authorized by the Congress of the United States.

As a result of the significant rising cost of wildfire, the USDA's Office of Inspector General conducted an audit from January 2012 to April 2013 covering the fire activity from Fiscal Year 2008 to 2012. The USDA's Office of Inspector General's (OIG) report and the Forest Service's Chief Financial Officer's guidance from those findings has led to some changes in how we pay local government cooperators. Three findings that apply to your letter are:

- Finding 1– Fire Protection Agreements in California Were Inequitable.
- Finding 2 – Indirect Cost Rates to Local Fire Cooperators in California Were Not Reviewed.
- Finding 3 – Forest Service Staff Did Not Recover Unallowable Administrative Costs.

The OIG Audit “also found that local cooperators used excessive and unreasonable indirect costs for activities, including specifically questioning \$4.5 million in administrative costs paid to nine local cooperators in California.” It was determined the Forest Service was overpaying local governments during that period and controls needed to be in place to ensure that did not occur again. The terms of the CFAA cannot dictate that the Forest Service reimburses beyond what is

appropriate in law and policy. This change in process has not been a sudden shift but instead an ongoing communication on a consistent path toward federal fiduciary oversight to cease overpayments in excess of legal and policy guidelines. We want to be in partnership with you on a way forward cooperatively and felt we were demonstrating that through our joint meetings.

We cannot agree that the Forest Service has “blatantly ignored” our financial responsibility; in fact, we have spent countless hours working with OES staff and local governments to ensure that the parties are in compliance with the OIG audit standards, that billing requests and supporting documentation meet federal legal requirements, and that every time all parties will be reimbursed properly and promptly. Despite our efforts for the last several years, we have had marginal compliance from OES staff and local governments in providing even the simplest assurances about their billing processes.

We value CFAA as a long-standing cooperative venture. However, our CFAA agreement with CAL OES does not preclude the Forest Service from entering into local agreements as needed and we will continue to do so for the good of the communities we serve. We see OES as having a key role in moving forward in partnership. Mutually respecting agency needs will be critical to making this agreement work. We, too, look forward to reaching resolution on any outstanding issue so we can focus on the communities we all serve.

Randy Moore and his leadership team stand ready to resolve the issues that are outstanding. Please feel free to share this response with your colleagues.

Sincerely,

A handwritten signature in cursive script that reads "Thomas L. Tidwell". The signature is written in dark ink and is positioned below the word "Sincerely,".

THOMAS L. TIDWELL
Chief