

Victim Compensation and Government Claims Board (VCGCB)

Advance Notice of Intent to File Emergency Rulemaking

To Amend a Regulation Regarding Penalty of Perjury Statement for Invoice Claims Submitted to the State through FI\$Cal

Amendment to Title 2, Division 2, Section 679 of the California Code of Regulations

Required Advance Notice of Intent to File Proposed Emergency Action

This notice is sent in accordance with Government Code section 11346.1, subdivision (a)(2), which requires that, at least five working days prior to submission of a proposed emergency action to the Office of Administrative Law (OAL.), the adopting agency must provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. The Victim Compensation and Government Claims Board (VCGCB) intends to file an Emergency Rulemaking package with the Office of Administrative Law that establishes to amend regulations regarding the penalty of perjury statement for invoice claims submitted to the State through FI\$Cal.

The VCGCB plans to file the Emergency Rulemaking package with OAL at least five (5) working days from the date of this notice. If you would like to make comments on the proposed regulation, they must be received by both the VCGCB and the OAL within five (5) calendar days of the VCGCB's filing at OAL. Responding to these comments is strictly at the VCGCB's discretion.

Comments should be sent simultaneously to:

Office of Administrative Law (OAL)

Reference Attorney

Email: staff@oal.ca.gov

300 Capitol Mall, Suite 1250

Sacramento, CA 95814

Victim Compensation and Government Claims Board

Regulations Analyst

Email: regulations@vcgcb.ca.gov

400 R Street, Suite 500

Sacramento, CA 95812

Upon filing, OAL will have ten (10) calendar days to review and make a decision on the proposed emergency rule. If approved, OAL will file the regulation with the Secretary of State, and the emergency regulation becomes effective for one hundred eighty (180) days. Please note that this advance notice and comment period is not intended to replace the public's ability to comment once the emergency regulation is approved. There will be a 45-day comment period within the 180-day certification period following the effective date of the emergency regulation.

Informative Digest/Policy Statement Overview

The California Victim Compensation and Government Claim Board (VCGCB) may adopt regulations pursuant to section 13920 of the California Government Code. Under the purview of

the VCGCB are statutes related to the presentation and consideration of claims (Government Code section 925.4).

The Financial Information System for California (FI\$Cal) is a business transformation project for state government in the areas of budgeting, accounting, procurement, and cash management. The project will prepare the state systems and workforce to function in an integrated financial management system environment. FI\$Cal is an historic partnership of the Department of Finance, the State Controller's Office, the State Treasurer's Office, and the Department of General Services.

The FI\$Cal Project is implementing a commercial-off-the-shelf software solution, PeopleSoft. PeopleSoft solutions have been widely and successfully deployed for years in both the private and public sectors. Benefits include greater operational efficiency due to the establishment of more effective business practices and elimination of unnecessary steps. The vision and objectives for FI\$Cal have been codified in Government Code Section 15849.22.

Twenty-five State Agencies are expected to implement the FI\$Cal software on July 15, 2014 (see attached listing of the twenty-five State Agencies). Beginning July 15, 2014, the twenty-five State Agencies will be submitting claims to the paid by the State through the FI\$Cal system. Title 2, of the California Code of Regulations, Section 624, provides that "every claim shall be accompanied by an affidavit or certificate under penalty of perjury of the officer, agent or employee directly responsible for the claim." Further, California Code of Regulations, Title 2, Section 679(a) provides the required wording of the certificate required by 2 CCR § 624; the wording is as follows:

"I hereby certify under penalty of perjury as follows:

"That I am a duly appointed, qualified and acting officer of the herein named state agency, department, board, commission, office, or institution; that the within claim is in all respects true, correct, and in accordance with law; that the services mentioned herein were actually rendered and supplies delivered to the state agency in accordance with the contract and law; that authorizations for purchases have been duly obtained wherever required and that amounts claimed and articles delivered comply therewith; that the amounts of any refunds to claimants indicated herein were received from such claimants by the herein named agency in excess of that legally due it under the law, or are otherwise lawfully due such claimants; that all of the expenditures herein set forth are in accordance with the current budget allotments and provisions as approved by the Budget Division of the State Department of Finance, and that none of the expenditures are in excess thereof; that there has been full compliance with all provisions or restrictions in the budget act or any other appropriation relating to expenditures herein; that the claimants named herein are each entitled to the amount specified opposite their respective names and actually have been paid or will be paid as allowed when warrant is received from the State Controller; that I have not violated any of the provisions of Sections 1090 to 1096, inclusive, of the Government Code, in incurring the items of expense mentioned in the attached claim, or in any other way; that any disaster service worker for whom compensation or reimbursement for expenses incurred is claimed herein has, if required by law, taken, subscribed, and filed the oath set forth in Section 3103 of the Government Code."

It was planned that beginning July 15, 2014, the certification and the prescribed language provided by 2 CCR § 679(a) would be included for each claim submitted through the FI\$Cal software. The planned method to include the certification with every claim was to display on the computer screen the entire certification language provided in 2 CCR § 679(a) and require the

officer, agent, or employee responsible for the claim to click a button on the screen to electronically add the certification to the claim. This method was not approved by FI\$Cal project management until May 19, 2014; and software consultants informed FI\$Cal on May 21, 2014 that this method would not be available until early 2015. The delay for this method occurred because of a software limitation that limits the amount of the text that can be included on the computer screen. Since the entire certification language prescribed by 2 CCR § 679(a) cannot be displayed until early 2015, this emergency regulation is being proposed to shorten the certification language for claims submitted through FI\$Cal to language that is short enough to meet software limitation of 256 character lengths. This emergency regulation will allow the twenty-five agencies to submit claims through FI\$Cal that meet the requirements of 2 CCR § 624. Claims not in compliance with 2 CCR § 624 will not be approved by the State Controller's Office for payment under their claim audit authority provided by Government Code Section 925.6 and will consequently not be paid. This emergency regulation will amend 2 CCR § 679(a) to allow the claims to be paid. The twenty-five state agencies must use the FI\$Cal system in order to comply with Government Code Section 15849.22.

The proposed emergency regulation does not differ substantially from an existing comparable federal regulation or statute.

The proposed emergency regulation is not inconsistent or incompatible with any existing state regulation.

Finding of Emergency

If this emergency regulation is not passed, claims of the twenty-five Agencies that will implement the FI\$Cal solution beginning on July 15, 2014 will not be paid timely through FI\$Cal. This regulation must be submitted as an emergency regulation because the regular rulemaking process will not allow the regulation to be changed in time for the FI\$Cal implementation date of July 15, 2014. The claims from the twenty-five agencies will include mission critical payments for the state of California; for example, contractor payments, vendor payments, and payments to employees for state approved travel. The purchases for these agencies include goods that are needed to protect the citizens, safeguard the state's finances, and ensure the secure operation of state business. The health and safety of California's citizens are compromised if these payments were not made timely. For example, Department of Justice (DOJ) is just one of the twenty-five Agencies that will be processing claims beginning July 15, 2015. The DOJ provides critical public safety and law enforcement support services statewide.

On June 19, 2014, the California Victims Compensation and Governmental Claim Board made a finding of emergency and provided authorization to initiate the emergency regulation process to the Office of Administrative Law.

Local Mandate (Gov. Code, § 11.346.5, subd. (a)(5))

The proposed emergency regulation does not impose a mandate on local agencies or school districts because they do not mandate a new program or a higher level of service of an existing program. The regulation is generally applicable to state agencies, and is not unique to local government. No state reimbursement is required by Part 7 (commencing with section 17500 of Division 4 of the Government Code.)

Estimate of Costs or Savings to any State Agency

The proposed emergency regulation will not impose any additional costs or savings to any state agency.

Non-Discretionary Cost or Savings Imposed upon Local Agencies

There are also no other nondiscretionary cost or savings imposed on local agencies as a result of this proposed emergency regulation.

Cost or Savings in Federal Funding to the State

Although the delay of payment of claims to vendors and contractors can result in the loss of federal funding, it is not anticipated that federal funding will be lost if this regulation is not passed. There are no other anticipated costs or savings in Federal Funding to the State.

Significant adverse economic impacts on business including the ability of California businesses to compete with business in other states

The proposed emergency regulation will not have a significant adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Listing of 25 Agencies that will be implementing FI\$Cal on July 15, 2015

1. CA Educational Facilities Authority
2. CA School Finance Authority
3. CA Urban Waterfront Area Restoration Financing Authority
4. CA Health Facilities Financing Authority
5. CA Pollution Control Financing Authority
6. CA Alternative Energy & Advanced Transportation Financing Authority
7. CA Tax Credit Allocation Committee
8. CA Industrial Development Financing Advisory Commission
9. CA Debt Limit Allocation Committee
10. CA Debt and Investment Advisory Commission
11. Scholarshare Investment Board
12. State Treasurer's Office
13. State Board of Equalization
14. State Controller's Office
15. Department of Justice
16. Department of Finance
17. CA Arts Council
18. CA State Summer School for the Arts
19. Agricultural Labor Relations Board
20. Commission on Aging
21. Department of Aging
22. Office of Environmental Health Hazard Assessment
23. San Francisco Bay Conservation and Development Commission
24. Alcoholic Beverage Control Appeals Board
25. Department of Fair Employment and Housing