REPORT

DATE: June 2, 2005

TO: Administrative Committee and Regional Council

FROM: Heather Copp, Chief Financial Officer, (213) 236-1804, copp@scag.ca.gov

SUBJECT: Request for Reimbursement – WRCOG FY 00-01 Indirect Overhead Costs

EXECUTIVE DIRECTOR'S APPROVAL:

RECOMMENDED ACTION:
Deny request for reimbursement.

SUMMARY:
Last month, WRCOG submitted invoices in the amount of $99,947.55 for FY 01 overhead costs. Included in with the invoice information was a Caltrans approved ICAP for FY 01. Caltrans approved the ICAP rate of 58.69% on October 13, 2004. This is nearly four years after the close of FY 01.

OMB A-87 and Generally Accepted Accounting Principles (GAAP) are both applicable on a year to year basis. All direct and indirect overhead costs must be recognized and expensed in the fiscal year the cost benefit is realized. An allowable cost cannot be charged to federal grants in any arbitrary or selectively chosen year, but is only allowable in the year the cost benefit is actually realized.

For these reasons, we are recommending that the request for reimbursement be denied.

BACKGROUND:
In April 2001, the Regional Council (RC) authorized subregions to bill SCAG for their indirect overhead costs under certain conditions. A principal condition was the requirement of an approved cost allocation plan. The RC resolution was consistent with the requirements promulgated by the Office of Management and Budget Circular A-87 (OMB A-87). OMB A-87 requires SCAG and subregions to prepare, submit, and obtain approval of their Indirect Cost Allocation Plan (ICAP). Approval of the ICAP is required before overhead costs can be billed to federal grants in any particular year.

On June 18,2001, SCAG wrote letters to all subregions to submit invoices for FY 01 by August 15, 2001.

On July 12, 2001, in a letter from WRCOG to SCAG, they acknowledged the August 15 deadline. It wasn't until June 6, 2002, SCAG received an overhead billing for FY01 for $144,928.36. The billing was past the August 15, 2001 deadline and their ICAP had not been approved by Caltrans so payment was denied.

The WRCOG indirect overhead costs were incurred in FY01 and were therefore subject to compliance with RC policy, OMB A-87, and GAAP in that year. Since WRCOG did not comply with the ICAP requirements in FY01, their indirect overhead costs are not an allowable cost billable to federal grants in FY01. Further, they would not be allowable or billable in FY05, nor in any subsequent fiscal year.

The WRCOG did not meet the SCAG deadline for submitting their invoices for FY01 and did not provide SCAG an approved cost allocation plan.

On March 15, 2005, SCAG received a letter from WRCOG regarding the submission of outstanding overhead invoices for FY 01 (referenced above). Since FY 01, SCAG staff has met with WRCOG staff, engaged legal counsel, and exchanged letters with them on this matter. SCAG has consistently maintained that their indirect overhead costs are ineligible because WRCOG did not comply with RC Policy, OMB A-87, and did not comply with SCAG deadlines to submit their FY01 invoices.

WRCOG has claimed that SCAG staff gave them oral permission to turn in the required materials after the deadline date; stated that they could 'self-certify' their ICAP; and further that Caltrans approval was not needed. We have been unable to verify any such oral permission. Caltrans staff and KPMG were asked and the regulations were researched about any ICAP 'Self-certification'. Based on our inquiries to the best of our knowledge and belief no such regulatory process exists.

Approval of their ICAP four years later by Caltrans, does not change the continuing ineligible character of these costs, nor does it erase their failure to comply with the SCAG deadline to submit their FY 01invoices. Furthermore, WRCOG did not comply with the requirements of OMB A-87 nor GAAP.

FISCAL IMPACT:

The FY 01 overhead costs WRCOG is seeking reimbursement for are not allowable or billable to federal grants. They were not allowable or billable to federal grants in FY01 and they continue to retain their ineligible status in FY05. They have consistently been considered ineligible because of non compliance by WRCOG with the Regional Council Policy resolution passed in April 2001, and with OMB A-87, and Generally Accepted Accounting Principles.

If considered for approval, an amendment to the General Fund budget approved at the February 2005 meeting will be required. Funding this request would put our line of credit minimum General Fund Balance in a precarious position. If the request is considered for approval, staff would further recommend reducing the General Fund budget in FY 05/06 by an additional $300,000. This set aside of general funds would be for anticipated additional claims by WRCOG and other subregions to reimburse similar claims for other fiscal years.