CITY OF LOS ANGELES

Revised Audit Report

PEACE OFFICERS PROCEDURAL BILL OF RIGHTS PROGRAM

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990

July 1, 1994, through June 30, 2002

JOHN CHIANG
California State Controller

October 2010

JOHN CHIANG
California State Controller

October 20, 2010

The Honorable Antonio Villaraigosa
Mayor of the City of Los Angeles
200 North Main Street, Suite 303
Los Angeles, CA 90012

Dear Mayor Villaraigosa:

The State Controller's Office (SCO) audited the costs claimed by the City of Los Angeles for the legislatively mandated Peace Officers Procedural Bill of Rights Program (Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990) for the period of July 1, 1994, through June 30, 2002.

This revised final report supersedes the previously issued final report dated March 30, 2007, and August 11, 2010. The August 11, 2010 final report revised the SCO's finding and comment in Finding 2 related to unallowable costs based on our re-examination of the time study that the city conducted in fiscal year 2003-04. We performed the re-examination after the city provided additional clarifying information regarding the activities included in its time study. As a result, allowable costs increased by $9,781,542; from $550,345 to $10,331,887. This revised final report corrects the actual state payment to the city.

The city claimed $60,660,765 ($60,661,765 less a $1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that $10,331,887 is allowable and $50,328,878 is unallowable. The unallowable costs occurred primarily because the city claimed costs that were not reimbursable under the mandate. The State paid the city $7,141,241, rather than the $2,531,002 indicated in the August 11, 2010 report. Allowable costs claimed exceed the amount paid by $3,190,646.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at CSM's Web site, at www.csm.ca.gov/docs/IRCForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb:ams

cc: Wendy Greuel, City Controller
City of Los Angeles
Laura Filatoff, Commanding Officer
Fiscal Operations Division
Los Angeles Police Department
Jeff Carosone
Principal Program Budget Analyst
Department of Finance
Paula Higashi, Executive Director
Commission on State Mandates

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Revised Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Los Angeles for the legislatively mandated Peace Officers Procedural Bill of Rights Program (Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990) for the period of July 1, 1994, through June 30, 2002.

The city claimed $60,660,765 ($60,661,765 less a $1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that $10,331,887 is allowable and $50,328,878 is unallowable. The unallowable costs occurred primarily because the city claimed costs that were not reimbursable under the mandate. The State paid the city $7,141,241. Allowable costs claimed exceed the amount paid by $3,190,646.

Background

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990, added and amended Government Code sections 3300 through 3310. The legislation, known as the Peace Officers Procedural Bill of Rights (POBOR), was enacted to ensure stable employer-employee relations and effective law enforcement services.

This legislation provides procedural protections to peace officers employed by local agencies and school districts when a peace officer is subject to an interrogation by the employer, is facing punitive action, or receives an adverse comment in his or her personnel file. The protections apply to peace officers classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause ("at will" employees), and peace officers on probation who have not reached permanent status.

On November 30, 1999, the Commission on State Mandates (CSM) determined that this legislation imposed a state mandate reimbursable under Government Code section 17561, and adopted its statement of decision, stating that the peace officer rights law constitutes a partially reimbursable state mandated program within the meaning of the California Constitution, Article XIII B, Section 6, and Government Code section 17514. The statement of decision states that activities covered by due process are not reimbursable.

The parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on July 27, 2000, and corrected them on August 17, 2000. The parameters and guidelines categorize reimbursable activities into the four following components: Administrative Activities, Administrative Appeal, Interrogation, and Adverse Comment. In compliance with Government Code section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies in claiming reimbursable costs.

On April 26, 2006, the CSM reviewed its original findings and, on reconsideration, adopted a statement of decision, which became final on May 1, 2006. On December 4, 2006, the CSM adopted amended parameters and guidelines that apply to costs incurred and claimed for fiscal year (FY) 2006-07 and subsequent years. The amendments also clarify existing reimbursable activities.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Peace Officers Procedural Bill of Rights Program for the period of July 1, 1994, through June 30, 2002.

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 this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the city's financial statements. We conducted the 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.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Revised Schedule 1) and in the Revised Findings and Recommendations section of this report.

For the audit period, the city claimed $60,660,765 ($60,661,765 less a $1,000 penalty for filing a late claim) for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that $10,331,887 is allowable and $50,328,878 is unallowable.

For the FY 1994-95 claim, the State paid the city $45,426. Our audit disclosed that $523,326 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $477,900, contingent upon available appropriations.

For the FY 1995-96 claim, the State paid the city $58,729. Our audit disclosed that $499,808 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $441,079, contingent upon available appropriations.

For the FY 1996-97 claim, the State paid the city $59,295. Our audit disclosed that $345,947 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $286,652, contingent upon available appropriations.

For the FY 1997-98 claim, the State paid the city $57,812. Our audit disclosed that $747,514 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $689,702, contingent upon available appropriations.

For the FY 1998-99 claim, the State paid the city $68,983. Our audit disclosed that $1,730,818 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $1,661,835, contingent upon available appropriations.

For the FY 1999-2000 claim, the State paid the city $2,240,757. Our audit disclosed that $1,078,785 is allowable. The State will offset $1,161,972 from other mandated program payments due to the city. Alternatively, the city may remit this amount to the State.

For the FY 2000-01 claim, the State paid the city $4,610,239. Our audit disclosed that $1,018,426 is allowable. The State will offset $3,591,813 from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

For the FY 2001-02 claim, the State did not pay the city. Our audit disclosed that $4,387,263 is allowable. The State will pay allowable costs of $4,387,263, contingent upon available appropriations.

Views of Responsible Officials

We issued a draft audit report on June 7, 2006. William T. Fujioka, City Administrative Officer, responded by letter dated June 26, 2006, (Attachment) disagreeing with the audit results. This final audit report includes the city's response.

The August 11, 2010 revised final report revised the SCO's finding and comment in Finding 2 related to unallowable costs. We re-examined the time study which the city conducted in FY 2003-04 and determined that certain allowable activities were deemed unallowable. This was due primarily to a better understanding of what these activities included. As a result, allowable costs increased by $9,781,542; from $550,345 to $10,331,887.

The original report for this audit was issued on March 30, 2007. That report contained a response dated June 26, 2006, from William T. Fujikoa, City Administrative Officer, as well as our comments based on that response. For purposes of this audit report, we requested, and the city concurred, that this dialogue be eliminated from this revised report. The reason for this is in consideration of the degree to which the findings have changed from the original report. As a result, the city's response and our comments contained in the original report have not been included in this report.

We advised Laura Filatoff, Commanding Officer, of the revisions by e-mail on January 13, 2010. Charlie Beck, Chief of Police, responded by letter dated June 24, 2010 (Attachment), agreeing with the revisions to allowable costs but disagreeing with most, if not all, unallowable costs.

This revised final report corrects the actual state payment to the city of $7,141,241, rather than the $2,531,002 indicated in the August 11, 2010 report.

We advised Ms. Filatoff of the change in the total payment amount by e-mail on September 15, 2010. Ms. Filatoff responded by e-mail on September 15, 2010, thanking us for the notification.

Restricted Use

This report is solely for the information and use of the City of Los Angeles, 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

October 20, 2010

Revised Schedule 1—
Summary of Program Costs
July 1, 1994, through June 30, 2002

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 1994, through June 30, 1995				
Salaries	$ 1,582,692	$ 299,929	$ (1,282,763)	Finding 2
Benefits	697,017	129,029	(567,988)	Finding 2
Total direct costs	2,279,709	428,958	(1,850,751)	
Indirect costs	208,599	94,368	(114,231)	Finding 2
Total program costs	$ 2,488,308	523,326	$ (1,964,982)	
Less amount paid by the State		(45,426)		
Allowable costs claimed in excess of (less than) amount paid		$ 477,900		
July 1, 1995, through June 30, 1996				
Salaries	$ 1,491,368	$ 206,895	$ (1,284,473)	Finding 2
Benefits	1,254,415	178,271	(1,076,144)	Finding 2
Total direct costs	2,745,783	385,166	(2,360,617)	
Indirect costs	375,080	114,642	(260,438)	Finding 2
Total program costs	$ 3,120,863	499,808	$ (2,621,055)	
Less amount paid by the State		(58,729)		
Allowable costs claimed in excess of (less than) amount paid		$ 441,079		
July 1, 1996, through June 30, 1997				
Salaries	$ 1,416,853	$ 156,238	$ (1,260,615)	Finding 2
Benefits	1,012,574	115,211	(897,363)	Finding 2
Total direct costs	2,429,427	271,449	(2,157,978)	
Indirect costs	338,628	74,498	(264,130)	Finding 2
Total direct and indirect costs	2,768,055	345,947	(2,422,108)	
Unidentifiable amount claimed	242,005	—	(242,005)	Finding 1
Total program costs	$ 3,010,060	345,947	$ (2,664,113)	
Less amount paid by the State		(59,295)		
Allowable costs claimed in excess of (less than) amount paid		$ 286,652		

Revised Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 1997, through June 30, 1998				
Salaries	$ 3,478,183	$ 411,871	$ (3,066,312)	Finding 2
Benefits	1,526,676	177,228	(1,349,448)	Finding 2
Total direct costs	5,004,859	589,099	(4,415,760)	
Indirect costs	661,202	158,415	(502,787)	Finding 2
Total program costs	$ 5,666,061	747,514	$ (4,918,547)	
Less amount paid by the State		(57,812)		
Allowable costs claimed in excess of (less than) amount paid		$ 689,702		
July 1, 1998, through June 30, 1999				
Salaries	$ 5,725,696	$ 991,596	$ (4,734,100)	Finding 2
Benefits	2,521,597	427,468	(2,094,129)	Finding 2
Total direct costs	8,247,293	1,419,064	(6,828,229)	
Indirect costs	754,647	311,754	(442,893)	Finding 2
Total direct and indirect costs	9,001,940	1,730,818	(7,271,122)	
Unidentifiable amount claimed	332,346	—	(332,346)	Finding 1
Total program costs	$ 9,334,286	1,730,818	$ (7,603,468)	
Less amount paid by the State		(68,983)		
Allowable costs claimed in excess of (less than) amount paid		$ 1,661,835		
July 1, 1999, through June 30, 2000				
Salaries	$ 6,435,776	$ 591,720	$ (5,844,056)	Finding 2
Benefits	2,388,316	216,197	(2,172,119)	Finding 2
Services and supplies	656,922	—	(656,922)	Finding 3
Total direct costs	9,481,014	807,917	(8,673,097)	
Indirect costs	1,281,363	270,868	(1,010,495)	Finding 2
Total program costs	$ 10,762,377	1,078,785	$ (9,683,592)	
Less amount paid by the State		(2,240,757)		
Allowable costs claimed in excess of (less than) amount paid		$ (1,161,972)		
July 1, 2000, through June 30, 2001				
Salaries	$ 5,656,256	$ 575,369	$ (5,080,887)	Finding 2, 3
Benefits	2,070,523	206,679	(1,863,844)	Finding 2, 3
Services and supplies	1,046,931	—	(1,046,931)	Finding 2, 3
Total direct costs	8,773,710	782,048	(7,991,662)	
Indirect costs	6,066,293	236,378	(5,829,915)	Finding 2, 3
Total program costs	$ 14,840,003	1,018,426	$ (13,821,577)	
Less amount paid by the State		(4,610,239)		
Allowable costs claimed in excess of (less than) amount paid		$ (3,591,813)		

Revised Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 2001, through June 30, 2002				
Salaries	$ 6,216,136	$ 2,596,564	$ (3,619,572)	Finding 2, 3
Benefits	1,862,355	773,368	(1,088,987)	Finding 2, 3
Services and supplies	898,483	—	(898,483)	Finding 2, 3
Total direct costs	8,976,974	3,369,932	(5,607,042)	
Indirect costs	2,462,833	1,018,331	(1,444,502)	Finding 2, 3
Total direct and indirect costs	11,439,807	4,388,263	(7,051,544)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	$ 11,438,807	4,387,263	$ (7,051,544)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 4,387,263		
Summary: July 1, 1994, through June 30, 2002				
Salaries	$ 32,002,960	$ 5,830,182	$ (26,172,778)	
Benefits	13,333,473	2,223,451	(11,110,022)	
Services and supplies	2,602,336	—	(2,602,336)	
Total direct costs	47,938,769	8,053,633	(39,885,136)	
Indirect costs	12,148,645	2,279,254	(9,869,391)	
Total direct and indirect costs	60,087,414	10,332,887	(49,754,527)	
Unidentifiable amount claimed	574,351	—	(574,351)	
Subtotal	60,661,765	10,332,887	(50,328,878)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	$ 60,660,765	10,331,887	$ (50,328,878)	
Less amount paid by the State		(7,141,241)		
Allowable costs claimed in excess of (less than) amount paid		$ 3,190,646		
Recap of Costs by Component				
Administrative Activities	$ 13,732,498	$ 93,229	$ (13,639,269)	
Interrogations	26,212,973	885,714	(25,327,259)	
Adverse Comments	20,141,943	9,353,944	(10,787,999)	
Subtotal	60,087,414	10,332,887	(49,754,527)	
Unidentifiable amount claimed	574,351	—	(574,351)	
Subtotal	60,661,765	10,332,887	(50,328,878)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	$ 60,660,765	$ 10,331,887	$ (50,328,878)	

[1] See the Revised Findings and Recommendations section.

Revised Findings and Recommendations

FINDING 1—Unidentifiable amounts claimed

The city overclaimed costs by $574,351 ($242,005 in fiscal year (FY) 1996-97 and $332,346 in FY 1998-99).

The overstatement occurred because, for two years, the amounts reported on the city-filed claims did not agree with supporting schedules. Certified claimed amounts from the Claim for Payment (Form FAM-27) did not agree with the accompanying Claim Summary (Form PPBR-1). The city was unable to explain the discrepancies.

Fiscal Year	Claim Summary	Certified Claimed Amount	Audit Adjustment
1996-97	$ 2,768,055	$ 3,010,060	$ (242,005)
1998-99	9,001,940	9,334,286	(332,346)
Total	$ 11,769,995	$ 12,344,346	$ (574,351)

The parameters and guidelines (section VI., Supporting Data) require that all costs be traceable to source documents showing evidence of the validity of such costs and their relationship to the state-mandated program.

Recommendation

We recommend that the city establish procedures to ensure that all filed claims are reviewed for accuracy before it files the claims with the SCO.

City's Response

> The City does not challenge this finding.
>
> The City found it generally agrees with the State Controller, therefore it is not seeking reinstatement of those costs.

FINDING 2—Unallowable salaries, benefits, and related indirect costs

This finding revises Finding 2 from the previous final audit report dated March 30, 2007. In that report, Finding 2 was for unallowable costs claimed. We determined that the original finding co-mingled costs claimed for salaries and benefits with services and supplies. Accordingly, we have separated these two cost classifications in this revised report. Our analysis of claimed services and supplies costs appears in Finding 3.

The city claimed $45,336,433 in salaries and benefits for the audit period and $12,148,645 in related indirect costs. On March 26, 2004, the SCO issued a draft audit report stating that the entire claim, totaling $60,661,765 for the audit period, was unallowable. This included the $574,351 overstatement identified in Finding 1. The city performed a time study in May 2004 to support allowable costs. Accordingly, in our audit report dated March 30, 2007, we determined that $551,345 was allowable, reducing the unallowable costs to $59,536,069—$56,933,733 in salaries, benefits, and related indirect costs, and $2,602,336 in services and supplies.

We initially found that costs claimed were not supported and also that many activities claimed were not reimbursable under the parameters and guidelines of the mandated program. We recommended that the city conduct a time study to support costs claimed. The city concurred.

The city's time study included a range of activities that took place in the Los Angeles Police Department (LAPD) during the month of May 2004. The city provided us with the time study results in September 2004, in which the city captured the results in a database that contained more than 7,900 line items. We reviewed the database entries in April 2005 and notified the city in June 2005 that the database included activities that were not reimbursable under the mandated program and also that the city's average time calculation was not statistically valid. We recommended that the Police Department furnish additional information to complete the database analysis.

The city provided additional data in September 2005. Based on the additional information, we determined that a number of time-studied activities were ineligible for reimbursement. We allowed three different weighted averages, one for each of the three components claimed (Administrative Activities, Interrogations, and Adverse Comment). We conveyed our analysis to the city in February 2006. The city did not object to our method of arriving at the averages but disagreed with our interpretations of reimbursable activities. We reconsidered the city's activities and made necessary adjustments. In March 26, 2006, we notified the city of our revised analysis. The city chose not to comment on our analysis and agreed to hold an exit conference to conclude the audit. We reissued the draft report on June 7, 2006.

The following table summarizes the initial audit results:

	Administrative Activities	Interrogations	Adverse Comment	Total
Allowable costs	$ 47,516	$ 393,759	$ 110,070	$ 551,345
Claimed costs	(13,732,498)	(26,212,973)	(20,141,943)	(60,087,414)
Audit adjustment	$(13,684,982)	$(25,819,214)	$(20,031,873)	$(59,536,069)

During our audit of the city's Peace Officer Bill of Rights Program (POBOR) claims filed for FY 2003-04 through FY 2006-07, we re-examined the time study the city conducted in FY 2003-04. We performed the re-examination because the city provided additional clarifying information regarding the activities that were included in its time study. As a result of our re-examination, allowable costs for the audit period of FY 1994-95 through FY 2001-02 increased by $9,587,150—from $551,345 to $10,138,495. We determined that costs totaling $37,442,608 are unallowable because the activities claimed are not identified in the parameters and guidelines as reimbursable costs. The related unallowable indirect costs totaled $9,903,975.

The following table summarizes the revised claimed, allowable, and unallowable costs for the audit period by reimbursable component:

	Administrative Activities	Amount Allowed	Audit Adjustment
Direct costs:			
Administrative Activities	$ 9,073,516	$ 48,332	$ (9,025,184)
Interrogations	20,665,740	689,397	(19,976,343)
Adverse Comment	15,597,177	7,156,096	(8,441,081)
Total direct costs	45,336,433	7,893,825	(37,442,608)
Related indirect costs	12,148,645	2,244,670	(9,903,975)
Total	$ 57,485,078	$ 10,138,495	$(47,346,583)

As noted above, the revised amounts for allowable salaries and benefits resulted from the SCO's re-examination of the city's time study conducted in May 2004. The narrative below presents our conclusions concerning all of the activities included in the time study within each individual cost component.

Administrative Activities

For the Administrative Activities cost component, the city claimed $9,073,516 in salaries and benefits for the audit period. We determined that $48,332 is allowable and $9,025,184 is unallowable. The costs are unallowable because the city claimed reimbursement for activities that are not identified in the parameters and guidelines as reimbursable costs. Related unallowable indirect costs totaled $4,645,407.

The parameters and guidelines for the POBOR program allow reimbursement for the following activities under the Administrative Activities cost component:

- Developing or updating internal policies, procedures, manuals and other materials pertaining to the conduct of the mandated activities.
- Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate.
- Updating the status report of the POBOR cases.

In our March 26, 2004 draft report, we stated that all of the Administrative Activities costs claimed were unallowable because we could not trace costs to source documents. We also found that costs claimed were for activities outside the scope of the mandated program. The city subsequently submitted its time study database as support. The city's time study included nine activities under this cost component. Initially, the city claimed 1.47 hours per POBOR case as the average time to perform a status update. The average time claimed is the sum of the averages of nine different tasks that the city recorded for updating case statuses in its time study. The city did not show how the sum of different averages represented the average time required to update a reimbursable case.

During our re-examination of the time study, we determined that the following two activities are reimbursable:

- **Status**—This activity occurs in the Administrative Records Section (ARS) and involves the time needed to update status changes within POBOR case files. Per LAPD staff, the cases are updated for every activity and/or procedural change.

- **Assign**—This activity is solely updating the database and noting the case assignment to an investigator for adjudication.

We also determined that the following seven activities are not reimbursable:

- **Comment**—The ARS section in Internal Affairs performs this task by creating a file and a case number when the Professional Standards Bureau receives a "1.28" complaint form. Per LAPD staff, this activity is an internal procedure created by LAPD to ensure compliance with the investigation time frame of one year.

- **Locate**—This activity denotes the time required for the Classifications Unit to read the "1.28" (complaint form) and determine the best entity to perform the investigation. After determining which entity will investigate, the form is sent to the ARS.

- **Invest**—When the investigation is complete, the case file is sent to the Review and Evaluation Section. This activity consists of updating the database to note this information.

- **IA Review**—This activity consists of the time it takes to update the database for Internal Affairs' (IAG) review. Per LAPD staff, this activity is similar to Invest, but one IAG section or division will review the investigation of another IAG investigation unit for thoroughness, facts, results, and conclusions. It is another type of review and another change in status.

- **Appeal**—This activity takes place when the case is going to the Advocate Section, where another file is created and entered into the Advocate Database. Per LAPD staff, the case is in the appeal phase and is no longer being investigated or reviewed. This activity pertains to the procedural process of transferring a case in the Advocate Unit, tracking the appeal process, and tracking where the case is.

- **Note**—This activity consists of distributing copies of the face sheet (which contains the summary of allegations and the names of the involved parties) to concerned entities. This activity occurs in the ARS and is based on the time it takes to update the database for the activity.

- **Close out**—The ARS closes out the case file and documents this activity. This activity is a database update function.

The CSM staff analysis (dated July 27, 2000) for the proposed parameters and guidelines noted that "before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary hearings, and maintaining files for those cases."

Accordingly, it is our understanding that reimbursement is unallowable for activities related to managing case files. The parameters and guidelines allow reimbursement for those activities that relate to updating the status report of the mandate-related activities.

Interrogations

For the Interrogations cost component, the city claimed $20,665,740 in salaries and benefits for the audit period. We determined that $689,397 is allowable and $19,976,343 is unallowable. The costs were unallowable because the city claimed reimbursement for unallowable activities. The related unallowable indirect costs totaled $5,350,916.

The parameters and guidelines for the POBOR program allow the following activities for reimbursement under the Interrogations cost component:

- When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures.
- Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers.
- Tape recording the interrogation when the peace officer employee records the interrogation.
- Providing the peace officer employee with access to the recording prior to any further investigation at a subsequent time, or if any further proceedings are contemplated.
- Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators or other persons, except those that are deemed confidential, when requested by the officer.

In our March 26, 2004 draft report, we stated that all of the Interrogations costs claimed were unallowable because we could not trace costs to source documents. We also found that costs claimed were for activities outside the scope of the mandated program. The city subsequently submitted its time study database as support. The city claimed 6.42 hours per POBOR case as the average time required to perform interrogations. The average time claimed is the sum of the averages of six different officers who recorded their time spent performing various investigative activities. The city did not support how the sum of different averages represented the average time required to perform reimbursable interrogation activities during a typical POBOR case. We also noted that activities claimed included the following 15 activities that were not included in the city's time study:

1. Admin Task (Administrative Task)
2. Call out
3. CO Contact (Commanding Officer Contact)
4. Evidence Collect
5. Interview in Person
6. Interview Telephone
7. Kickback Editing
8. Meet/Brief/Notify
9. Non-Evidence Task
10. Paraphrasing
11. Prep for Interview
12. Report Formatting
13. Telephone Contact
14. Travel
15. VI Computer Task

The city did not provide a formal description of these activities. LAPD staff stated that these activities involved time for conducting investigations, collecting evidence, writing reports, and editing reports. We determined that these activities are unallowable because they relate to the investigation process.

In reference to compensation and timing of the interrogation pursuant to Government Code section 3303, subdivision (a), the CSM Final Staff Analysis to the adopted parameters and guidelines states:

> It does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review the responses given by the officers and/or witnesses, as implied by the claimant's proposed language. Certainly, local agencies were performing these investigative activities before POBAR was enacted.

While the activities numerated above were not included in the city's time study, we noted that the city's time study did include the five activities described below under the Interrogations cost component that were not included in its claims.

- **Interview**—Conducting the interrogation of the accused officer. The start and end time of the interrogation is noted. Per LAPD staff, interrogations usually take place during normal working hours and rarely happen during overtime (accused officer's off-duty time). The city's time study did not specify if and when the officers were paid overtime for the interviews.

- **ID, ID-A, ID-W**—Providing prior notice to the officer (accused and/or witness) regarding the nature of the interrogation and identification of the investigating officer. This activity occurs in the Administrative or Criminal Investigation Division.

- **Determine**—Determination of the investigating officers. This activity is assigned to the section officer-in-charge (OIC).

- **Tape**—Tape recording the interrogation. Per LAPD staff, this activity rarely happens. In fact, no time increments were claimed for the tape recording activity.

- **Booking Tape**—Booking (storing) the tape at the Scientific Investigation Division.

We were able to calculate the amount of time spent to conduct the five activities that were omitted from the city's claims. We also determined that four of the activities are allowable (ID, Determine, Tape, and Booking Tape) and one activity (Interview) is unallowable. Interview is unallowable because the city indicated that most peace officer interviews occur during normal working hours. In addition, the city did not keep track of the instances when officers were compensated for interviews that took place during their off-duty time.

We also noted that the department believes that all interrogation performed by the department—not just the overtime paid to officers subject to the interrogation—should be reimbursable. The department supported its position with the following excerpt from the statement of decision adopted on November 30, 1999:

> Conducting the investigation when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular department procedures are new requirements not previously imposed on local agencies and school districts.

However, the Final Staff Analysis for the proposed parameters and guidelines (Item #10) adopted by CSM on July 27, 2000, modified Section IV.C. of the parameters and guidelines to state:

> When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures.
>
> Included in the foregoing is the preparation and review of overtime compensation requests.

The city also believes that we have omitted eligible costs under Interrogations. The city believes that the SCO did not allow for reimbursement for costs described as follows:

> Included in the foregoing is the review of agency complaints or other documents to prepare the notice of interrogations; determination of the investigating officers; redaction of the agency complaint for names of the complainant or the accused parties or witness or confidential information; preparation of notice of agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer.

The activities noted by the city pertain to providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers. The CSM has clarified that the activities listed above were limited to review of the investigative file to prepare for the notice. Investigative activities occurring prior to the conduct of the interrogation were outside the scope of the mandate.

Adverse Comment

For the Adverse Comment cost component, the city claimed $15,597,177 in salaries and benefits for the audit period. We determined that $7,156,096 is allowable and $8,441,081 is unallowable. The costs were unallowable because the city claimed reimbursement for unallowable activities. The related unallowable indirect costs totaled $2,451,972.

Depending on the circumstances surrounding an adverse comment, the parameters and guidelines for the POBOR program allow these activities for reimbursement under the Adverse Comment cost component:

- Providing notice of the adverse comment.
- Providing an opportunity to respond to the adverse comment within 30 days.
- Obtaining the signature of the peace officer on the adverse comment or;
- Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

> Included in the foregoing are review of circumstances leading to adverse comment by supervisor, command staff, human resources staff, or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; review of response to adverse comment; attaching same to adverse comment and filing.

In our March 26, 2004 draft report, we stated that all of the adverse comment costs claimed were unallowable because we could not trace costs to source documents. We also found that costs claimed were for activities outside the scope of the mandated program. The department subsequently submitted its time study database as support.

The city claimed 20.88 hours per POBOR case as the average time required to perform the adverse comment activities. The average time claimed is the sum of the averages of 15 different officers who recorded their time spent performing various activities from the beginning of a complaint to the adverse comment phase. These are not all reimbursable activities. The department requested that the SCO consider the last paragraph of the adverse comment section of the parameters and guidelines, which states:

> Included in the foregoing review of circumstances or documentation leading to adverse comments by supervisor, command staff, human resources staff or counsel including determination of whether same constitutes an adverse comment; preparation of comment and review of accuracy; notification concerning rights; review of response to adverse comment attaching same to adverse comment and filing.

We considered the previous paragraph and the first paragraph of the adverse comment section. The first paragraph states, in part, ". . . perform the following activities upon receipt of an adverse comment." The activities noted in the previous paragraph relate to tasks associated with reviewing circumstances or documentation leading to an adverse comment as well as preparing and serving an adverse comment, not those activities performed from the beginning of a complaint that may or may not lead to an adverse comment.

The adverse comments in personnel file section of the statement of decision states that Government Code sections 3305 and 3306 imposed the following requirements on employers:

- To provide notice of the adverse comment;
- To provide an opportunity to review and sign the adverse comment;
- To provide an opportunity to respond to the adverse comment within 30 days; and
- To note on the document that the peace officer refused to sign the adverse comment and to obtain the peace officer's signature or initials under such circumstances.

The adverse comments in personnel file–due process section states that if the adverse comment is considered a written reprimand, then due process rights attach and the activities of providing notice and providing an opportunity to respond as required by Government Code sections 3305 and 3306 are not reimbursable state-mandated activities.

We noted that neither the statement of decision nor the parameters and guidelines identify the investigation of an adverse comment as a reimbursable activity.

The city claimed costs for 16 activities under this component. During our re-examination of the city's time study, we determined that the following 11 activities are reimbursable:

- **Review**—This activity involves the review of the "1.28" (complaint form) and the circumstances leading to the adverse comment. This is the preliminary review of the comment to determine if it's an adverse comment and warrants further investigation. The Complaint Classification Unit performs this activity. This activity also includes the time it takes to prepare a face sheet concerning the complaint.

- **Note—**This activity consists of providing notice to the peace officer of the adverse comment or complaint fact sheet. This activity is associated with the first notice of adverse comment to the officer and that an investigation is taking place.

- **Respond**—This activity is also associated with providing first notice of adverse comment and that an investigation is taking place. The activity provides the officer an opportunity to respond within 30 days.

- **Sign**—This activity occurs when the officer under investigation reviews and signs the adverse comment or complaint fact sheet, which is the first notice of complaint from Internal Affairs.

- **Refuse**—If the accused officer refuses to sign the face sheet or initial the adverse comment, the time involved is noted.

- **Approval**—This activity consists of the review by Internal Affairs Management of a completed case prior to sending the case to an Area or Division for notification to the officer under investigation.

- **Adjudication**—This activity consists of the time spent by the command officer (accused officer's supervisor) of the area to adjudicate the complaint. This activity would include a review of the completed complaint and the formulation of a letter of transmittal (LOT).

- **CO Review**—According to LAPD staff, "CO review" is closely tied with "Adjudication." This activity consists of the time spent by the commanding officer of the area to review the complaint and LOT.

- **Preparation**—This activity consists of the preparation of the "charge sheet" for the Chief of Police to sign.

- **Serve**—This activity entails ensuring that the accused officer is served with the "charge sheet" and obtaining the officer's signature or noting the officer's refusal to sign the charge sheet.

- **Accuracy**—This activity involves reviewing the accused officer's response to the complaint or "1.28" (complaint form).

The city also claimed the following five activities that are not reimbursable:

- **Preliminary**—This activity involves investigating the circumstances surrounding the adverse comment.

- **Collect**—This activity consists of the preliminary investigation conducted by supervisors, detectives, and the command staff in the Area where the complaint was taken. This activity can include report writing, interviews, or any activity where information is gathered for the "1.28" (complaint form).

- **Area Invest**—This activity consists of the time spent by the Areas to investigate the complaint or "1.28" (complaint form). This activity occurs after the preliminary investigation.

- **Inspect**—This activity occurs when the assigned advocate reviews the investigation for status and thoroughness.

- **RE Invest**—This activity involves the time needed to conduct any additional investigations.

These activities were unallowable because they are part of the city's investigative process. We noted above that investigative activities are ineligible for reimbursement.

Averaging Methodology and Calculation of Allowable Hours

The city developed a time study to document activities and tasks that are related to the POBOR program. The time study was conducted for the duration of one month and was completed in May 2004. The city recorded the time study results in an internal database that summarized average time increments spent for each activity by employee classification.

To calculate time increments applicable to each case, the city developed an averaging methodology that combined all task/activity entries per classification and per activity into one average time increment. The average time increments were then used to prepare the city's claims. During the audit, we separated the time that was attributable to each individual task. We did this because not all activities recorded in the time study were allowable for reimbursement. As the database tracked all individual task entries for each classification, we were able to separate minute increments for individual activities in order to exclude time spent on unallowable activities.

We were able to use data from the time study to calculate the allowable time per case. We manually added all of the entries for each individual task and determined how much time was spent to perform each individual activity. We then took a percentage of minutes for allowable tasks and determined the amount of reimbursable time per each POBOR case.

After we determined the allowable time increments per case, the time increments were applied to the number of cases claimed in each fiscal year. We did not make any adjustments to the number of cases that were included in the city's claims.

Case Statistics

We noted that the city was inconsistent in its application of case statistics in its claims. Case counts included in the claims were based on closed cases in some years and based on in progress cases in other years. However, we did not adjust the number of cases that were claimed. The SCO time study guidelines indicate that agencies may employ any methodology as long as the agency consistently applies the chosen methodology. Neither the parameters and guidelines nor the SCO claiming instructions specify whether agencies should use the number of closed cases or the number of cases in progress to calculate their costs for reimbursement. However, we recommend that the city use a more consistent approach in applying its case counts to calculate costs for reimbursement in future years.

Database Rounding Errors

During our review of the time study and the internal database, we noted a few minor rounding errors in the city's database that calculated average minutes per case. In a few instances, the city's calculations of average minutes per case were off by about a minute per case. The discrepancies were due to errors in converting minutes to hours and vice-versa. We manually added up all of the individual time entries and incorporated the rounding errors (in the city's favor) into the calculation of allowable hours.

Summary

The following table summarizes the audit adjustments by fiscal year and cost category:

Fiscal Year	Salaries	Benefits	Indirect costs	Audit Adjustment
1994-95	$ (1,282,763)	$ (567,988)	$ (114,231)	$ (1,964,982)
1995-96	(1,284,473)	(1,076,144)	(260,438)	(2,621,055)
1996-97	(1,260,615)	(897,363)	(264,130)	(2,422,108)
1997-98	(3,066,312)	(1,349,448)	(502,787)	(4,918,547)
1998-99	(4,734,100)	(2,094,129)	(442,893)	(7,271,122)
1999-2000	(5,844,056)	(2,172,119)	(1,010,495)	(9,026,670)
2000-01	(5,105,593)	(1,870,191)	(5,834,299)	(12,810,083)
2001-02	(3,722,116)	(1,115,198)	(1,474,702)	(6,312,016)
Audit adjustment	$ (26,300,028)	$ (11,142,580)	$ (9,903,975)	$ (47,346,583)

The parameters and guidelines for the POBOR Program that were adopted by the CSM on July 27, 2000, and corrected on August 17, 2000, define the criteria for procedural protection for the city and county's peace officers. The parameters and guidelines, amended on December 4, 2006, and again on March 28, 2008, were applicable for claims filed for FY 2006-07 and beyond. A significant amount of clarifying language was included in the amended version. The most recent version of the parameters and guidelines allow claimants the option of claiming costs using a reasonable reimbursement methodology.

The parameters and guidelines (section IV., Reimbursable Activities), outline specific tasks that are deemed to go beyond due process. The statement of decision, on which parameters and guidelines were based, noted that due process activities were not reimbursable.

The parameters and guidelines (section V.A.1., Salaries and Benefits), require that the claimants identify the employees and/or show the classification of the employees involved, describe the reimbursable activities performed, and specify the actual time devoted to each reimbursable activity by each employee.

The parameters and guidelines (section VI., Supporting Data), require that all costs be traceable to source documents showing evidence of the validity of such costs and their relationship to the state mandated program.

Recommendation

We recommend that the city establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

City's Response

The City disagrees with the reductions or disallowances contained in each of the three cost components included in this Finding.

Administrative Activities

The City claimed $9,073,516 for the audit period. The amount allowed by the SCO is $48,332 and the audit adjustment or disallowance is $9,025,184.

The SCO's audit adjustment is based on their contention that the costs are unallowable because the City claimed reimbursement for activities that are not identified in the parameters and guidelines as reimbursable costs. The SCO found that only two (2) of the nine (9) administrative activities included in the City's time study were allowable. The two for which time was allowed are "status" and "assign." The SCO determined that seven (7) administrative activities for which time was claimed by the City are not reimbursable because they include a number of administrative steps not covered by the parameters and guidelines and are not necessary to complete the administrative activities associated with each case. The SCO believes those activities are related to managing those case files.

The City finds the SCO has incorrectly interpreted the parameters and guidelines and statement of decision for the POBOR program. Their extremely narrow and limited interpretation has resulted in the disallowance of nearly 95% of the costs. The City does not agree with the SCO's interpretation of what is necessary to comply with constitutional "due process" activities afforded all government employees and what additional activities are imposed on peace officers by the POBOR mandate. The SCO's interpretation of the eligible activities or requirement of the mandate on peace officers does not include the seven administrative activities included in the City's time study that are necessary for a local agency the size of the Los Angeles Police Department to carry out the administrative activities associated with the mandate.

Interrogations

The City claimed $20,665,740 in salaries and benefits for the audit period for the Interrogation cost component. The SCO allowed $689,397 and its audit adjustment disallowed $19,976,343. The SCO alleges the costs are unallowable because the City claimed reimbursement for unallowable activities.

The $689,397 allowed in the revised audit include the amount of time spent to conduct the four activities related to interrogations that are eligible under the SCO's interpretation of the Commission on State Mandates original statement of decision. The SCO understands the City's position that all interrogations performed by the department are

reimbursable, not just the overtime paid to officers subject to interrogation. The SCO has included the City's written statements verbatim on page 14 of the revised audit; therefore there is no misunderstanding between the two parties over this issue.

The City's position has remained constant from the beginning of the first audit. The City disagrees with the SCO's interpretation of the reimbursable activities related to the Interrogation component of the POBOR program. The City is joined by numerous other local agencies in their belief that the SCO and Commission staff s have adopted a very narrow interpretation of this claim component. The key issue is whether o not the mandated costs associated with all interrogations are eligible for reimbursement or just those that are conducted on overtime. If, in order to obtain reimbursement of the interrogation component activities allowed by the SCO, the City were to conduct all of its interrogations when the subject of the case is on overtime, that would result in increased costs for each face and less efficiency in the Police Department's operation. The City does not plan to make any such changes in carrying out its POBOR interrogation activities to obtain additional state reimbursement by taking advantage of the Controller's position.

Adverse Comment

The City claimed $15,597,177 in salaries and benefits for the audit period. The SCO determined that $7,156,096 is allowable and $8,441,081 is unallowable. The SCO believes the majority of the costs were unallowable because the City claimed reimbursement for unallowable activities. The original audit disallowed almost all of the claimed costs.

In conducting this second audit, the SCO re-examined the cost include dint he City's time study for the sixteen (16) activities under the Adverse Comment component. During its re-examination of the City's time study, it determined that eleven (11) activities are reimbursable. The SCO determined that the time and costs of the five (5) activities were ineligible because they are part of he City's investigative process. The SCO position is based on the fact that neither the statement of decision nor the parameters and guidelines identify the investigation of an adverse comment as a reimbursable activity.

The City disagrees with the SCO's interpretation of the scope of the Adverse Comment of the parameters and guidelines. The parameters and guidelines provided for reimbursement of various activities in cases where the adverse comment is not related to a criminal offense (vast majority of LAPD cases) and included the following statement related to the completion of those activities "*including in the foregoing are a review of circumstances or documentation leading to adverse comments by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comments and review for accuracy; notification and presentation of adverse comment, attaching same to adverse comment and filing*. Many of activities claimed by the City for which the SCO disallowed are activities and related costs for a review of circumstances and documentation leading got an adverse comment.

SCO's Comment

The finding and recommendation remain unchanged.

We will address the rest of our comments for the audit finding in the same order as they appear in the city's response.

Administrative Activities

The city states that it disagrees with our conclusion that seven of the nine activities included in its time study for this cost component are not reimbursable. We do not dispute that the administrative activities included in the city's time study are necessary and reasonable for the conduct of the city's internal affairs investigations of police officer misconduct. However, that is not the issue. The issue is the determination of whether the activities were eligible for reimbursement under the mandated program.

In its response, the city expresses its belief as to the SCO's "extremely narrow and limited interpretation of the parameters and guidelines and statement of decision for the POBOR Program." However, the city overlooks the fact that the reimbursable activities, as outlined in the parameters and guidelines, are narrow and limited by definition. The allowable activity in question is "updating the status report of the POBOR cases." Accordingly, we determined that the seven time-study activities that were deemed unallowable did not involve updating the status report of the POBOR cases.

Interrogations

The city continues to object to our conclusion that costs incurred for interrogating accused and witnessing officers during regular working hours and preparation for those interrogations are unallowable. We concur with the city's statement that there is no misunderstanding between the two parties over this issue. We understand that the city continues to believe that all costs associated with interrogations and the underlying investigations of peace officers accused of misconduct are reimbursable. The city also expresses its belief that CSM has adopted a narrow interpretation of this program. Whether that statement is true or not is irrelevant for the purposes of our audit. Our audit finding is based on the language contained in the parameters and guidelines that CSM ultimately adopted for this mandated program. Since the parameters and guidelines carry the force of regulations within California, this is the criteria which we must use when considering whether or not the activities included in the city's claims are eligible for reimbursement.

Adverse Comment

The city believes that the five time study activities that we found to be unallowable were for allowable activities. Similar to the discussion of unallowable costs for the administrative activities cost component, we do not dispute that these five activities are necessary and reasonable for the

preparation of an adverse comment within LAPD. The issue is the determination of whether the activities were eligible for reimbursement under the mandated program.

In its response, the city attempts to reclassify the nature of the unallowable claimed activities as investigating an adverse comment and then cites the language contained in the parameters and guidelines as support. However, the language cited from the parameters and guidelines does not contain the words "investigate" or "investigation." Instead, CSM used the term "review." From our perspective, investigate and review are different types of activities. It has been our observation that CSM is very deliberate in its usage of words within adopted parameters and guidelines. We looked up the word "review" within Webster's New World Dictionary (Third College Edition) and found the following definitions:

> (1) A looking at or looking over again, (2) a general survey, report, or account, (3) a looking back on or retrospective view or survey, as of past events or experiences.

By contrast, the word "investigation" within the same dictionary leads to the following definition:

> (1) An investigating or being investigated, (2) a careful search or examination; systematic inquiry.

We believe that there is a definite distinction between the words "review" and "investigate." That is why we stated the following in the revised audit report:

The city also claimed the following five activities that are not reimbursable:

- **Preliminary—**This activity involves the *investigation* (emphasis added) of the adverse comment circumstances.

- **Collect—**This is the *preliminary investigation* (emphasis added) conducted by supervisors, detectives, and the command staff in the areas where the complaint was taken. This can include report writing, interviews, or any activity where information is gathered for the 1.28.

- **Area Invest—**This is for the time spent by the Areas to *investigate* (emphasis added) the complaint or 1.28. This activity occurs after the preliminary investigation.

- **Inspect—**The assigned Advocate *reviews the investigation* (emphasis added) for status and thoroughness.

- **Re-Invest—**This activity involves the time needed to *conduct any additional investigations* (emphasis added).

In the audit report, we determined that the activity "review" was reimbursable. This activity involves the review of the complaint form and the circumstances leading to the adverse comment. By contrast, the activity "preliminary" cited above, involves the actual investigation of the adverse comment circumstances. Similarly, the activities "collect," "area invest," and "re-invest" involve investigation of the complaint. We also determined that the activities of "adjudication" and "CO review" were reimbursable. These activities involve review of the completed complaint and the letter of transmittal by the accused officer's supervisor and the Commanding Officer. By contrast, the activity "inspect" involves review of the investigation.

The city has not presented any convincing evidence to us that there is a relationship between the five activities cited above and the language in the parameters and guidelines allowing reimbursement for a "review of circumstances or documentation leading to adverse comment."

FINDING 3—Overstated services and supplies

This was not a finding included in the original final audit report. The previous report stated in Finding 2 (Unallowable Costs Claimed) that all costs claimed for services and supplies were unallowable because they were for activities that were not reimbursable under the mandated program. However, during our re-examination of the city's time study, we determined that the city claimed costs totaling $1,945,414 under the cost category of services and supplies that were actually for salaries, benefits, and related indirect costs incurred for non-sworn LAPD employees.

The city claimed services and supplies costs totaling $2,602,336 ($656,922 in FY 1999-2000, $1,046,931 in FY 2000-01, and $898,483 in FY 2001-02). We determined that $194,392 was allowable and $2,407,944 was unallowable. The costs were unallowable because the city claimed reimbursement for costs that were unsupported ($656,922) and were for unallowable activities ($1,751,022).

For FY 1999-2000, the entire $656,922 amount claimed was for costs incurred by the Office of the Inspector General. As noted in Finding 2, all of the costs initially claimed by the city were unsupported. Since the city's time study conducted in FY 2003-04 did not include the Office of the Inspector General; all costs claimed for this department remain unsupported and unallowable. For FY 2000-01 and FY 2001-02, the costs claimed were incurred by LAPD staff to perform the same activities already discussed and analyzed in Finding 2. Therefore, the adjustments are attributed to the same analysis that is presented in Finding 2. For FY 2000-01 through FY 2001-02, we determined that $194,392 is allowable and $1,751,023 is unallowable. The unallowable costs occurred because the city claimed reimbursement for unallowable activities.

We reclassified the allowable costs in FY 2001-02 and FY 2002-03 from services and supplies to salaries, benefits, and related indirect costs in the Revised Schedule 1—Summary of Program Costs.

The following table summarizes the adjustments to claimed services and supplies by individual cost component:

Cost Component	Costs Claimed	Costs Allowed	Audit Adjustment
Administrative Activities:			
Salaries	$ 1,593,806	$ 20,500	$ (1,573,306)
Benefits	341,530	5,246	(336,284)
Related indirect costs	512,314	5,576	(506,738)
Subtotal	2,447,650	31,322	(2,416,328)
Adverse Comment Activities:			
Salaries	109,372	106,750	(2,622)
Benefits	29,322	27,312	(2,010)
Related indirect costs	15,992	29,008	13,016
Subtotal	154,686	163,070	8,384
Total	$ 2,602,336	$ 194,392	$ (2,407,944)

The following table summarizes the audit adjustments by fiscal year:

	Fiscal Year			
Cost Category	1999-2000	2000-01	2001-02	Total
Salaries	$ (538,787)	$ (556,026)	$ (481,116)	$ (1,575,929)
Benefits	(72,242)	(142,846)	(123,206)	(338,294)
Total direct costs	(611,029)	(698,872)	(604,322)	(1,914,223)
Indirect costs	(45,893)	(312,622)	(135,206)	(493,721)
Audit adjustment	$ (656,922)	$ (1,011,494)	$ (739,528)	$ (2,407,944)

The parameters and guidelines (section V.A.1., Salaries and Benefits), require that the claimants identify the employees and/or show the classification of the employees involved, describe the reimbursable activities performed, and specify the actual time devoted to each reimbursable activity by each employee, the productive hourly rate, and related employee benefits. Reimbursement includes compensation paid for salaries, wages, and employee benefits.

Recommendation

We recommend that the city establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

City's Response

> The City agrees the costs totaling $1,945,414 as described above were inadvertently included the services and supplies activity. However, the City disagrees with the $2,407,944 disallowed by the SCO.
>
> For FY 1999-2000, the SCO disallowed the entire $656,922 claim because it could not support any of the costs, all of which were incurred by the Office of the Inspector General. The Controller did not necessarily find the costs were not incurred. The disallowance was due to the City not being able to provide the level or type of documentation for those costs. The parameters and guidelines for the POBOR program were first approved in July 2000, or after the cost was incurred by the City. The City believes the SCO should allow for declarations or other information to reinstate and allow these costs.

> The SCO determined that since the City's time study did not include the Office of Inspector General that all cost claimed for that department remain unsupported and unallowable. For fiscal year 2000-01 and 2001-02 the costs were disallowed based on the findings contained in Finding 2. The SCO determined that $194,392 is allowable and $1,751,022 is unallowable. The SCO disallowed costs because the City claimed reimbursement for unallowable activities.
>
> The City's response to its disagreement with the SCO's interpretation of the eligible activities covered in Finding 2 is well documented, and therefore, it has not duplicated those arguments in responding to this finding.

SCO's Comment

The finding and recommendation remain unchanged.

We concur with the city's statement that we did not conclude that costs claimed for activities performed by the Office of the Inspector General were not incurred. In its response, the city expresses its belief that the costs claimed should be allowable based on declarations, specifically because the parameters and guidelines were adopted after the costs were incurred by the city. However, Section VI of the parameters and guidelines (Supporting Data) requires that for audit purposes, all costs claimed shall be traceable to source documents that show evidence of the validity of such costs and their relationship to the state mandated program.

We re-examined the documentation provided by the city for the costs claimed for services provided by the Office of Inspector General during FY 1999-2000. First, we noted that 89% of the claimed amount ($585,793) was for the cost component of Administrative Activities and 11% of the claimed amount ($71,128) was for the cost component of Adverse Comment. The city provided Attachment A with its claim for FY 1999-2000 to explain the activities performed by the Office of Inspector General. For the Administrative Activities cost component, this document states the following:

> The Office of the Inspector General is responsible for reviewing and assisting the Internal Affairs Division and each of the 18 individual stations in the processing of all POBAR [*sic*] complaints. The purpose of the review is to determine that the department's policies, procedures, and records are properly maintained. The individuals listed on Attachment B were responsible for completing those tasks.

The reimbursable activity is "updating the status of the POBAR cases." The activities performed by the Office of Inspector General were "assist in the processing of all POBAR complaints" and "to determine that the department's policies, procedures, and records are properly maintained." Therefore, even if the costs had been adequately documented, we do not believe that these costs are reimbursable based on the description provided by the city. We also reviewed Attachment B and noted that costs were claimed for 12 employees within eight employee

classifications in percentages of effort varying from 40% to 100%. No explanation has yet been provided as to how the percentages were determined or what specific activities were performed by each of the employee classifications involved.

For the cost component of Adverse Comments, Attachment A provides the following description:

> The Office of the Inspector General is also responsible for receiving adverse comments directly from the parties making the allegations. They complete the same initial activities and follow the same process that the Internal Affairs Division and the individual police stations perform in this area. They turn all founded adverse comments over to the Internal Affairs Division for completion.

Based on the description provided, it appears that reimbursable activities were performed. However, we are unable to determine what specific activities were performed and to what extent they were performed. We reviewed Attachment B and noted that costs were claimed for eight employees within three employee classifications in percentages of effort varying from 5% to 20%. No explanation has yet been provided as to how the percentages were determined or what specific activities were performed by each of the employee classifications involved.

If the city is subsequently able to provide adequate documentation supporting to what extent reimbursable activities were performed and who performed them, we will modify the audit finding as appropriate.

OTHER ISSUES

In its response to the revised final report, the city commented on the SCO's position regarding the parameters and guidelines and statement of decision, SCO's methodology to determine allowable costs, and the city's conduct of future time studies. We will address the city's comments in the order that they appear in its response.

ISSUE 1—SCO's position on parameters and guidelines and statement of decision

City's Response

> While the City agrees with the approved increased amounts for the specific activities, the City continues to disagree with the SCO's interpretation of the CSM's original statement of decision and parameters and guidelines for the POBOR mandate. Because of the numerous opportunities the SCO has afforded the City to discuss these differences, we see little need to discuss those items in greater detail than provided in this response. The City understands the SCO's position; however, it believes that SCO position is legally incorrect. If, however, the SCO would like to re-examine or discuss the differences outlined in this response, the City is more than willing to make its staff available.

SCO's Comment

The city makes the statement that our position regarding what is allowable based on the language in the adopted parameters and guidelines and statement of decision is legally incorrect. While we concur that there is a difference of opinion between the city and the SCO

as to what is and what is not reimbursable under the mandated program, we believe that it is ill-advised and inappropriate to suggest that SCO is "legally incorrect." Our audit findings are based on the language contained in the parameters and guidelines as adopted by CSM pursuant to Government Code section 17557 and Title 2, *California Code of Regulations*, section 1183.12. This is CSM's standard legal process as required by applicable State statutes that was used in all proceedings for this mandated program.

Our audit was based on reimbursable activities included in the parameters and guidelines, adopted by the CSM on July 27, 2000. However, this mandate has already been pled three times before the CSM. This first resulted in the adoption of the original statement of decision, dated November 30, 1999, and the original parameters and guidelines, dated July 27, 2000, and corrected on August 17, 2000.

Chapter 72, Statutes of 2005, section 6 (AB 138), added section 3313 to the Government Code and directed the CSM to review the statement of decision to clarify whether the subject legislation imposed a mandate consistent with the California Supreme Court Decision in *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859 and other applicable court decisions. The CSM reviewed its original findings and adopted a statement of decision upon reconsideration on May 1, 2006. The amended parameters and guidelines were adopted on December 4, 2006, for costs incurred subsequent to July 1, 2006.

Except for changes to allowable activities for the cost components of Administrative Appeal for probationary and at-will peace officers (pursuant to amended Government Code section 3304) and Adverse Comment (for punitive actions protected by the due process clause), reimbursable activities did not change from the original parameters and guidelines, although much greater clarity was provided as to what activities are and are not allowable under the mandated program.

CSM adopted amended parameters and guidelines again on March 28, 2008, based on requests from the State Department of Finance and Los Angeles County to adopt a reasonable reimbursement methodology for this mandated program. Except for changes to section V of the parameters and guidelines (Claim Preparation and Submission), the language detailing the reimbursable activities did not change from the parameters and guidelines adopted on December 4, 2006.

There is certainly an extensive administrative record that exists for this mandated program that consists of the original test claim, CSM hearing minutes, amendment requests, testimony, local agency responses, CSM staff analysis, statements of decision, and adopted parameters and guidelines. While the criteria used for this audit of the city's claims for the period of July 1, 1994 through June 30, 2002 were based on the original parameters and guidelines that were adopted on July 27, 2000, and corrected on August 17, 2000, there has been nothing in the subsequent administrative record suggesting the SCO is legally incorrect in its position. In fact, we believe that quite the opposite is true, in that our position as to what is and what is not allowable under this mandated program has been re-affirmed multiple times by CSM in all subsequent

adoptions of amended parameters and guidelines. Therefore, we question the city's belief that they have it right while CSM and SCO both have it wrong concerning this mandated program. The city will need to take its claim through the appropriate legal channels in order to have its position affirmed.

ISSUE 2—Controller methodology

City's Response

> To calculate time increments applicable to each POBOR case, the SCO manually added all of the entries for each individual task and determined how much time was spent to perform each individual activity. The SCO then took a percentage of minutes for allowable tasks and determined the amount of reimbursable time per each case. After it determined the allowable time increments per case, the time increments were applied to the number of cases claimed that were included in the City's claims.
>
> The City is appreciative of the tie and effort expended by the SCO to complete the calculations. The City agrees with the methodology and the results assigned to the completion of each activity. The issue that remains is the SCO's contention that many of the activities are not reimbursable.

SCO's Comment

We appreciate the city's comments. The amount of data contained within the city's time study was extensive. We worked closely with representatives of the city's police department (LAPD) to determine the amount of time that was spent within each activity and which employees were involved in each activity. We believe and the city concurs that the final results accurately portray the amount of time spent and the costs incurred to perform each activity.

ISSUE 3—Future time studies

City's Response

> The City is in the process of developing a revised time study and will share its plan and approach before it undertakes that study. In completing the plan, the City will take the recommendations provided by the SCO in its revised audit report.

SCO's Comment

We look forward to working with representatives of LAPD in the development of a new time study to support actual costs incurred under this mandated program. We also concur with the city's suggestion to share its plan and approach with us before incurring the time and expense required to conduct a time study of this magnitude. When the city completes its time study plan, we suggest that the city provide a detailed explanation of how each activity fits within the reimbursable activities contained in the applicable version of the adopted parameters and guidelines. That being said, we understand that the city may still decide to include activities in its new time study that we consider to be unallowable.

Attachment—
City's Response to
Draft Audit Report

LOS ANGELES POLICE DEPARTMENT

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Chief of Police

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June 24, 2010

Jeffrey V. Brownfield, Chief
Division of Audits
California State Controller
300 Capitol Mall
Sacramento, CA 95814

RE: Response to Revised Audit Report for the Peace Officers Procedural Bill of Rights Program for the period July 1, 1994, through June 30, 2002

This is the City of Los Angeles' response to your revised audit report of the City's POBOR or Peace Officers Procedural Bill of Rights Program (POBOR) (Chapter 465, Statues of 1976; Chapters 775, 1173, 1174 and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989, and Chapter 675, Statutes of 1990) for the period of July 1, 1994, through June 30, 2002. The revised draft audit report, issued on January 5, 2010, supersedes the previously issued final report dated March 30, 2007. The final report revises the State Controller's (SCO's) finding and comment in Finding 2 related to unallowable costs based on the SCO's re-examination of the time study that the City conducted in fiscal year 2003-2004. The re-examination was performed after the City provided additional clarifying information regarding the activities included in the time study. The revised audit report covers the eight fiscal years from July 1, 1994 through June 30, 2002. The eligible costs are authorized and described in the original Commission on State Mandates (CSM) statement of decision adopted on September 1, 1999 and subsequent claiming instructions adopted on July 1, 2000. Subsequently, the parameters and guidelines were amended with a technical correction and adopted on August 17, 2000.

The City is very appreciative of the SCO's willingness to re-open its original audit and to conduct a second audit of the initial eight fiscal year period. The City is also indebted to the Controller for its work to carefully re-examine the City's original POBOR time study and recalculate the allowable costs. That recalculation resulted in an increase of allowable costs by $9,781,542; or from $551,345 to $10,332,887. The City, however, still disagrees with most, if not all, of the $47,346,583 in disallowances or audit adjustments contained in its revised audit. While the City agrees with the approved increased amounts for the specific activities, the City continues to disagree with the SCO's interpretation of the CSM's original statement of decision and parameters and guidelines for the POBOR mandate. Because of the numerous opportunities the SCO has

afforded the City to discuss these differences, we see little need to discuss those items in greater detail than provided in this response. The City understands the SCO's position; however, it believes that SCO position is legally incorrect. If, however, the SCO would like to re-examine or discuss the differences outlined in this response, the City is more than willing to make its staff available.

The remainder of this letter responds specifically to the SCO's audit findings contained in the revised report.

City Response

The revised report contains three (3) separate findings. However, the SCO stated that "this revised final report revised the SCO's finding and comment in Finding 2 related to unallowable costs." This is because the original Finding 1 relating to unidentifiable amounts claimed was not changed and Finding 3 relating to overstated services and supplies was not included in the original final audit report, but the costs covered in Finding 3 were originally included in the SCO's Finding 2.

The City's response is presented below.

FINDING 1: ***Unidentifiable amounts claimed***

The SCO audit alleges the City over claimed costs by $574,351 ($242,005 in FY 1997-98 and $332,346 in FY 1998-99). This finding and recommendation remained unchanged. The finding resulted from a mathematical error made by the City when tallying up supporting schedule amounts in the claims.

City Response: ***The City does not challenge this finding.***

The City found that it generally agrees with the State Controller, therefore it is not seeking reinstatement of those costs.

FINDING 2: ***Unallowable salaries, benefits, and related indirect costs***

This finding is issued to revise Finding 2 from the previous final audit report dated March 30, 2007. In that report, the SCO found that the City comingled costs claimed for salaries and benefits with services and supplies. Based on that finding, the SCO has separated those costs in two cost classifications. The SCO's analysis of claimed services and supplies costs are included in Finding 3 of the revised audit report.

The City claimed $45,336,433 in salaries and benefits for the audit period and $12,148,645 in related indirect costs. As a result of the SCO re-examination of the City's time study conducted in 2004, which it applied to allowable costs for the audit period of FY 1994-95 through FY 2001-02,

the SCO has increased the allowable costs in this Finding by $9,587,150 or an increase from $551,345 in the original audit to $10,138,495.

The SCO revised Finding 3 is presented in the following three cost components: Administrative Activities, Interrogations and Adverse Comment. The City's response to this finding is presented accordingly.

City Response: ***The City disagrees with the reductions or disallowances contained in each of the three cost components included in this Finding.***

Administrative Activities

The City claimed $9,073,516 for the audit period. The amount allowed by the SCO is $48,332 and the audit adjustment or disallowance is $9,025,184.

The SCO's audit adjustment is based on their contention that the costs are unallowable because the City claimed reimbursement for activities that are not identified in the parameters and guidelines as reimbursable costs. The SCO found that only two (2) of the nine (9) administrative activities included in the City's time study were allowable. The two for which time was allowed are "status" and "assign." The SCO determined that seven (7) administrative activities for which time was claimed by the City are not reimbursable because they include a number of administrative steps not covered by the parameters and guidelines and are not necessary to complete the administrative activities associated with each case. The SCO believes those activities are related to managing those case files.

The City finds the SCO has incorrectly interpreted the parameters and guidelines and statement of decision for the POBOR program. Their extremely narrow and limited interpretation has resulted in the disallowance of nearly 95% of the costs. The City does not agree with the SCO's interpretation of what is necessary to comply with constitutional "due process" activities afforded all government employees and what additional activities are imposed on peace officers by the POBOR mandate. The SCO's interpretation of the eligible activities or requirement of the mandate on peace officers does not include the seven administrative activities included in the City's time study that are necessary for a local agency the size of the Los Angeles Police Department to carry out the administrative activities associated with the mandate.

Interrogations

The City claimed $20,665,740 in salaries and benefits for the audit period for the Interrogation cost component. The SCO allowed $689,397 and its audit adjustment disallowed $19,976,343. The SCO alleges the costs are unallowable because the City claimed reimbursement for unallowable activities.

The $689,397 allowed in the revised audit include the amount of time spent to conduct the four

activities related to interrogations that are eligible under the SCO's interpretation of the Commission on State Mandates original statement of decision. The SCO understands the City's position that all interrogations performed by the department are reimbursable, not just the overtime paid to officers subject to interrogation. The SCO has included the City's written statements verbatim on page 14 of the revised audit; therefore there is no misunderstanding between the two parties over this issue.

The City's position has remained constant from the beginning of the first audit. The City disagrees with the SCO's interpretation of the reimbursable activities related to the Interrogation component of the POBOR program. The City is joined by numerous other local agencies in their belief that the SCO and Commission staff s have adopted a very narrow interpretation of this claim component. The key issue is whether or not the mandated costs associated with all interrogations are eligible for reimbursement or just those that are conducted on overtime. If, in order to obtain reimbursement of the interrogation component activities allowed by the SCO, the City were to conduct all of its interrogations when the subject of the case is on overtime, that would result in increased costs for each case and less efficiency in the Police Department's operation. The City does not plan to make any such changes in carrying out its POBOR interrogation activities to obtain additional state reimbursement by taking advantage of the Controller's position.

Adverse Comment

The City claimed $15,597,177 in salaries and benefits for the audit period. The SCO determined that $7,156,096 is allowable and $8,441,081 is unallowable. The SCO believes the majority of the costs were unallowable because the City claimed reimbursement for unallowable activities. The original audit disallowed almost all of the claimed costs.

In conducting this second audit, the SCO re-examined the costs included in the City's time study for the sixteen (16) activities under the Adverse Comment component. During its re-examination of the City's time study, it determined that eleven (11) activities are reimbursable. The SCO determined that the time and costs of the five (5) activities were ineligible because they are part of he City's investigative process. The SCO position is based on the fact that neither the statement of decision nor the parameters and guidelines identify the investigation of an adverse comment as a reimbursable activity.

The City disagrees with the SCO's interpretation of the scope of the Adverse Comment component of the parameters and guidelines. The parameters and guidelines provided for reimbursement of various activities in cases where the adverse comment is not related to a criminal offense (vast majority of LAPD cases) and included the following statement related to the completion of those activities *"including in the foregoing are a review of circumstances or documentation leading to adverse comments by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comments and review for accuracy; notification and presentation of adverse comment, attaching same to adverse comment and filing.* Many of activities claimed by the City for which the SCO disallowed are

activities and related costs for a review of circumstances and documentation leading to an adverse comment.

FINDING 3: Overstated services and supplies

This was not a finding in the original final audit report. The previous report stated in Finding 2 (Unallowable Costs Claimed) that all costs claimed for services and supplies were unallowable because they were for activities that were not reimbursable under the mandated program. The City claimed services and supplies costs totaling $2,602,336 ($656,922 in FY 1999-2000, $1,046,931 in FY 2000-01, and $898,483 in FY 2001-02). However, during the Controller's re-examination of the City's time study, the Controller determined that the City claimed costs totaling $1,945,414 under the cost category of services and supplies that were actually salaries, benefits, and related indirect costs incurred for non-sworn LAPD employees. The Controller disallowed $2,407,944 of those costs and allowed $194,392. The Controller disallowed the costs because it alleged the City claimed reimbursement for $656,922 in unsupported costs and $1,751,022 in costs for unallowable activities.

City Response: ***The City agrees the costs totaling $1,945,414 as described above were inadvertently included the services and supplies activity. However, the City disagrees with the $2,407,944 disallowed by the SCO.***

For FY 1999-2000, the SCO disallowed the entire $656,922 claim because it could not support any of the costs, all of which were incurred by the Office of the Inspector General. The Controller did not necessarily find the costs were not incurred. The disallowance was due to the City not being able to provide the level or type of documentation for those costs. The parameters and guidelines for the POBOR program were first approved in July 2000, or after the cost was incurred by the City. The City believes the SCO should allow for declarations or other information to reinstate and allow these costs.

The SCO determined that since the City's time study did not include the Office of Inspector General that all cost claimed for that department remain unsupported and unallowable. For fiscal years 2000-01 and 2001-02 the costs were disallowed based on the findings contained in Finding 2. The SCO determined that $194,392 is allowable and $1,751,022 is unallowable. The SCO disallowed costs because the City claimed reimbursement for unallowable activities.

The City's response to its disagreement with the SCO's interpretation of the eligible activities covered in Finding 2 is well documented, and therefore, it has not duplicated those arguments in responding to this finding.

City Responses to Other Provisions in the Revised Audit

The following are some brief comments on other provision of the revised audit report.

Controller Methodology
To calculate time increments applicable to each POBOR case, the SCO manually added all of the entries for each individual task and determined how much time was spent to perform each individual activity. The SCO then took a percentage of minutes for allowable tasks and determined the amount of reimbursable time per each case. After it determined the allowable time increments per case, the time increments were applied to the number of cases claimed that were included in the City's claims.

The City is appreciative of the time and effort expended by the SCO to complete the calculations. The City agrees with the methodology and the results assigned to the completion of each activity. The issue that remains is the SCO's contention that many of the activities are not reimbursable.

Future Time Studies
The City is in the process of developing a revised time study and will share its plan and approach before it undertakes that study. In completing the plan, the City will take the recommendations provided by the SCO in its revised audit report.

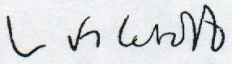
Conclusion

The City, once again expresses it appreciation to the SCO for re-opening its original audit of the POBOR program and the re-examination of the time study and costs included in the first eight years of that state mandated local program. On the other hand, the City believes the audit failed to recognize numerous eligible costs attributed to various activities necessary to carry out the POBOR state mandated cost program.

If there are any questions regarding this letter, please contact Management Analyst II Erica M. Swift at (213) 486-8550.

Very truly yours,

CHARLIE BECK
Chief of Police



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