



**JOHN CHIANG**  
California State Controller

November 14, 2014

Rita Woodard, Auditor-Controller  
Tulare County  
County Civic Center  
221 South Mooney Boulevard, Room 101-E  
Visalia, CA 93291-4593

Dear Ms. Woodard:

The State Controller's Office performed a desk review of costs claimed by Tulare County 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, 2007, through June 30, 2013. We conducted our review under the authority of Government Code sections 12410, 17558.5, and 17561. Our review was limited to ensuring that the county properly reported the number of full-time sworn peace officers.

The county claimed \$189,986 for the mandated program. Our review found that \$120,498 is allowable and \$69,488 is unallowable. The costs are unallowable because the county overclaimed the number of full-time sworn peace officers, as described in the attached Summary of Program Costs and the Review Results. The State made no payments to the county. The State will pay \$120,498, contingent upon available appropriations.

If you disagree with the review finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (Commission). 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 the Commission's website at [www.csm.ca.gov/docs/IRCForm.pdf](http://www.csm.ca.gov/docs/IRCForm.pdf).

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

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/mh

Attachments

RE: S15-MCC-9002

cc: Oscar Garcia, CPA, Chief of Financial Reporting and Audits  
Auditor-Controller  
Tulare County  
Terrie Saenz, Fiscal Manager  
Sheriff's Department  
Tulare County  
Michael Byrne, Principal Program Budget Analyst  
Mandates Unit, California Department of Finance  
Jay Lal, Manager  
Division of Accounting and Reporting  
State Controller's Office

**Attachment 1—  
Summary of Program Costs  
July 1, 2007, through June 30, 2013**

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment <sup>1</sup>
<u>July 1, 2007, through June 30, 2008</u>			
Unit cost per full-time sworn peace officer	\$ 39.31	\$ 39.31	\$ 39.31
Number of full-time sworn peace officers employed	738	450	(288)
Total program costs	<u>\$ 29,011</u>	17,690	<u>\$ (11,321)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 17,690</u>	
<u>July 1, 2008, through June 30, 2009</u>			
Unit cost per full-time sworn peace officer	\$ 40.50	\$ 40.50	\$ 40.50
Number of full-time sworn peace officers employed	743	499	(244)
Total program costs	<u>\$ 30,091</u>	20,209	<u>\$ (9,882)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 20,209</u>	
<u>July 1, 2009, through June 30, 2010</u>			
Unit cost per full-time sworn peace officer	\$ 40.69	\$ 40.69	\$ 40.69
Number of full-time sworn peace officers employed	716	485	(231)
Total program costs	<u>\$ 29,134</u>	19,735	<u>\$ (9,399)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 19,735</u>	
<u>July 1, 2010, through June 30, 2011</u>			
Unit cost per full-time sworn peace officer	\$ 41.64	\$ 41.64	\$ 41.64
Number of full-time sworn peace officers employed	728	481	(247)
Total program costs	<u>\$ 30,314</u>	20,029	<u>\$ (10,285)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 20,029</u>	
<u>July 1, 2011, through June 30, 2012</u>			
Unit cost per full-time sworn peace officer	\$ 43.04	\$ 43.04	\$ 43.04
Number of full-time sworn peace officers employed	773	484	(289)
Total program costs	<u>\$ 33,270</u>	20,831	<u>\$ (12,439)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 20,831</u>	

## Attachment 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment <sup>1</sup>
<u>July 1, 2012, through June 30, 2013</u>			
Unit cost per full-time sworn peace officer	\$ 43.92	\$ 43.92	\$ 43.92
Number of full-time sworn peace officers employed	869	501	(368)
Total program costs	<u>\$ 38,166</u>	22,004	<u>\$ (16,162)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 22,004</u>	
<u>Summary: July 1, 2007, through June 30, 2013</u>			
Total program costs	<u>\$ 189,986</u>	\$ 120,498	<u>\$ (69,488)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 120,498</u>	

<sup>1</sup> See Attachment 2, Review Results.

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## **Attachment 2— Review Results July 1, 2007, through June 30, 2013**

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### **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. This 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 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 required 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 (Commission) determined that this legislation imposed a state mandate reimbursable under Government Code section 17561 and adopted the Statement of Decision. The Commission determined that the peace officer rights law constitutes a partially reimbursable state mandated program within the meaning of the California Constitution, Article XII B, section 6, and Government Code section 17514. The Commission further defined that activities covered by due process are not reimbursable.

The program’s parameters and guidelines establish the state mandate and define the reimbursement criteria. The Commission adopted the parameters and guidelines on July 27, 2000, and corrected it on August 17, 2000. The parameters and guidelines categorized reimbursable activities into the four following components: Administrative Activities, Administrative Appeal, Interrogations, and Adverse Comment. In compliance with Government Code section 17558, the State Controller’s Office (SCO) issues claiming instructions to assist local agencies in claiming mandated program reimbursable costs.

On March 28, 2008, the parameters and guidelines were amended to provide claimants an opportunity to claim reimbursement for the activities by using either the reasonable reimbursement methodology (RRM) or by filing an actual cost claim. The RRM allows each eligible claimant to be reimbursed at a rate of \$37.25 per full-time sworn peace officer employed by the agency and reported to the Department of Justice for all direct and indirect costs of performing the activities. The rate per full-time sworn peace officer is adjusted each year by the Implicit Price Deflator referenced in Government Code section 17523.

**FINDING—  
Overclaimed number of  
full-time sworn peace  
officers**

The county overclaimed the number of full-time sworn peace officers on its mandated cost claims for fiscal year (FY) 2007-08 through FY 2012-13. For the fiscal years in the review period, the county claimed \$189,986. We found that \$120,498 is allowable and \$69,488 is unallowable.

For FY 2007-08 through FY 2012-13, Tulare County claimed reimbursement using the Commission-adopted reasonable reimbursement methodology (RRM). In reviewing the Peace Officers Procedural Bill of Rights (POBOR) mandated cost claims, we found that the number of full-time sworn peace officers claimed by the county for each fiscal year is overstated.

The parameters and guidelines (section V. Claim Preparation and Submission, subsection A. 2. Formula) state:

Reimbursement is determined by multiplying the rate per full time sworn peace officer for the appropriate fiscal year by the number of full time sworn peace officers employed by the agency and reported to the Department of Justice.

Each October 31, the county reports to the Department of Justice (DOJ) the number of full-time law enforcement employees, both officers and civilians. Law enforcement officers are defined as individuals who ordinarily carry a firearm and a badge, have full arrest powers, and are paid from governmental funds set aside specifically to pay sworn law enforcement officers.

Reimbursement for POBOR activities is limited to sworn peace officers and does not include civilians. Civilian employees are not trained as peace officers. They do not carry guns nor do they have arrest powers. Civilian employees include full-time personnel such as radio dispatchers and meter attendants.

The following table summarizes the adjustment calculation for the review period:

	Fiscal Year						Total
	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	
No. of full-time sworn officers claimed	738	743	716	728	773	869	
No. of full-time sworn officers reported to DOJ	450	499	485	481	484	501	
Difference	(288)	(244)	(231)	(247)	(289)	(368)	
Unit cost per full-time sworn officer employed	\$ 39.31	\$ 40.50	\$ 40.69	\$ 41.64	\$ 43.04	\$ 43.92	
Review adjustment	<u>\$ (11,321)</u>	<u>\$ (9,882)</u>	<u>\$ (9,399)</u>	<u>\$ (10,285)</u>	<u>\$ (12,439)</u>	<u>\$ (16,162)</u>	<u>\$ (69,488)</u>

We informed Terri Saenz, Fiscal Manager, Tulare County Sheriff's Department, of the review finding via email on October 7, 2014, and discussed it with her during a telephone conference call on October 30, 2014. Ms. Saenz stated that the county claimed reimbursement for sworn officers, such as Correctional Deputies, that do not have full arrest powers and that are not reported to the DOJ. Ms. Saenz stated that these employees are sworn peace officers that are subject to the POBOR and, therefore, the county should be reimbursed for these officers through the RRM.

We agree that the costs of sworn peace officers that do not have full arrest powers are reimbursable under the mandate. The mandate allows the county to claim costs using either the actual costs methodology or the Commission-adopted RRM. The county chose to claim costs using the RRM. The rate was based on statewide cost data for FY 2004-05 from actual claims filed by local agencies that factored in a variation of reimbursable costs among local agencies. The RRM was developed in a manner that estimated total allowable costs of all sworn peace officers, inclusive of sworn peace officers not reported to the DOJ, divided by the number of sworn peace officers that are reported to the DOJ. Therefore, the RRM does reimburse counties for the costs of sworn peace officers that are not reported to the DOJ.

#### Recommendation

We recommend that, if the county continues to claim reimbursement using the RRM, it ensure that the same number of full-time sworn peace officers reported to the DOJ is reported on its mandated cost claim.