

SANTA CLARA COUNTY

Audit Report

CHILD ABDUCTION AND RECOVERY PROGRAM

Chapter 1399, Statutes of 1976; Chapter 162,
Statutes of 1992; and Chapter 988, Statutes of 1996

July 1, 1999, through June 30, 2002



STEVE WESTLY
California State Controller

March 2006



STEVE WESTLY
California State Controller

March 17, 2006

John V. Guthrie
Director of Finance
Santa Clara County
County Government Center, East Wing
70 West Hedding Street, 2nd Floor
San Jose, CA 95110

Dear Mr. Guthrie:

The State Controller's Office audited the costs claimed by Santa Clara County for the legislatively mandated Child Abduction and Recovery Program (Chapter 1399, Statutes of 1976; Chapter 162, Statutes of 1992; and Chapter 988, Statutes of 1996) for the period of July 1, 1999, through June 30, 2002.

The county claimed \$2,946,189 for the mandated program. Our audit disclosed that \$1,667,721 is allowable and \$1,278,468 is unallowable. The unallowable costs occurred because the county claimed unsupported costs and overstated its indirect cost rates. The State paid the county \$2,298,477. The county should return \$630,756 to the State.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). 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 COSM's Web site, at www.csm.ca.gov (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at csminfo@csm.ca.gov.

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

Sincerely,

Original Signed By

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/ams:wq:vb

cc: Dave Elledge, Controller-Treasurer
Santa Clara County
James Tilton, Program Budget Manager
Corrections and General Government
Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Santa Clara County for the legislatively mandated Child Abduction and Recovery Program (Chapter 1399, Statutes of 1976; Chapter 162, Statutes of 1992; and Chapter 988, Statutes of 1996) for the period of July 1, 1999, through June 30, 2002. The last day of fieldwork was October 4, 2005.

The county claimed \$2,946,189 for the mandated program. Our audit disclosed that \$1,667,721 is allowable and \$1,278,468 is unallowable. The unallowable costs occurred because the county claimed unsupported costs and overstated its indirect cost rates. The State paid the county \$2,298,477. The county should return \$630,756 to the State.

Background

Chapter 1399, Statutes of 1976 established the mandated Child Abduction and Recovery Program based on the following laws:

- *Civil Code* Section 4600.1 (repealed and added as *Family Code* Section 3060–3064 by Chapter 162, Statutes of 1992);
- *Penal Code* Sections 278 and 278.5 (repealed and added as *Penal Code* Sections 277, 278, and 278.5 by Chapter 988, Statutes of 1996); and
- *Welfare and Institutions Code* Section 11478.5 (repealed and added as *Family Code* Section 17506 by Chapter 478, Statutes of 1999, last amended by Chapter 759, Statutes of 2002).

These laws require the District Attorney's Office to assist persons having legal custody of a child in:

- Locating their children when they are unlawfully taken away;
- Gaining enforcement of custody and visitation decrees and orders to appear;
- Defraying expenses related to the return of an illegally detained, abducted, or concealed child;
- Civil court action proceedings; and
- Guaranteeing the appearance of offenders and minors in court actions.

On September 19, 1979, the State Board of Control (now the Commission on State Mandates [COSM]) determined that this legislation imposed a state mandate reimbursable under *Government Code* Section 17561.

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. COSM adopted *Parameters and Guidelines* on January 21, 1981 (last amended on August 26, 1999). In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Child Abduction and Recovery Program for the period of July 1, 1999, 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 the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Section 17558.5. We did not audit the county's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the county's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

We asked the county's representative to submit a written representation letter regarding the county's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Governmental Auditing Standards*. However, the county did not submit a representation letter.

Conclusion

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

For the audit period, Santa Clara County claimed \$2,946,189 for costs of the Child Abduction and Recovery Program. Our audit disclosed that \$1,667,721 is allowable and \$1,278,468 is unallowable.

For fiscal year (FY) 1999-2000, the State paid the county \$696,353. Our audit disclosed that \$398,906 is allowable. The county should return \$297,447 to the State.

For FY 2000-01, the State paid the county \$602,124. Our audit disclosed that \$538,918 is allowable. The county should return \$63,206 to the State.

For FY 2001-02, the State paid the county \$1,000,000. Our audit disclosed that \$729,897 is allowable. The county should return \$270,103 to the State.

**Views of
Responsible
Official**

We conducted an exit conference on October 4, 2005, and issued a draft audit report on November 9, 2005. The county's response to the draft audit report was due by December 5, 2005. In response to the county's request, we extended the due date to December 20, 2005.

On December 21, 2005, the county requested, and we agreed, to further extend the due date to January 10, 2006. David G. Elledge, Controller-Treasurer, responded to the draft audit report by letter dated January 11, 2006, disagreeing with the audit results in Findings 1 and 2. This final audit report includes the county's response (Attachment).

Restricted Use

This report is solely for the information and use of Santa Clara County, the 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

Schedule 1— Summary of Program Costs July 1, 1999, through June 30, 2002

| Cost Elements | Actual Costs Claimed | Allowable per Audit | Audit Adjustment | Reference ¹ |
|--|-------------------------|------------------------|-----------------------|------------------------|
| <u>July 1, 1999, through June 30, 2000</u> | | | | |
| Salaries | \$ 426,165 | \$ 237,819 | \$ (188,346) | Findings 1, 2 |
| Benefits | 82,314 | 47,076 | (35,238) | Findings 1, 2 |
| Services and supplies | — | — | — | |
| Travel and training | 26,178 | 26,178 | — | |
| Total direct costs | 534,657 | 311,073 | (223,584) | |
| Indirect costs | 161,696 | 87,833 | (73,863) | Findings 1, 2, 3 |
| Total program costs | <u>\$ 696,353</u> | 398,906 | <u>\$ (297,447)</u> | |
| Less amount paid by the State | | (696,353) | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ (297,447)</u> | | |
| <u>July 1, 2000, through June 30, 2001</u> | | | | |
| Salaries | \$ 632,171 | \$ 327,260 | \$ (304,911) | Findings 1, 2 |
| Benefits | 139,636 | 64,766 | (74,870) | Findings 1, 2 |
| Services and supplies | 21,081 | 21,081 | — | |
| Travel and training | 2,362 | 2,362 | — | |
| Total direct costs | 795,250 | 415,469 | (379,781) | |
| Indirect costs | 257,784 | 123,449 | (134,335) | Findings 1, 2, 3 |
| Total program costs | <u>\$ 1,053,034</u> | 538,918 | <u>\$ (514,116)</u> | |
| Less amount paid by the State | | (602,124) | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ (63,206)</u> | | |
| <u>July 1, 2001, through June 30, 2002</u> | | | | |
| Salaries | \$ 694,854 | \$ 428,052 | \$ (266,802) | Findings 1, 2 |
| Benefits | 172,305 | 100,279 | (72,026) | Findings 1, 2 |
| Services and supplies | — | — | — | |
| Travel and training | 1,856 | 1,856 | — | |
| Total direct costs | 869,015 | 530,187 | (338,828) | |
| Indirect costs | 327,787 | 199,710 | (128,077) | Findings 1, 2 |
| Total program costs | <u>\$ 1,196,802</u> | 729,897 | <u>\$ (466,905)</u> | |
| Less amount paid by the State | | (1,000,000) | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ (270,103)</u> | | |
| <u>Summary: July 1, 1999, through June 30, 2002</u> | | | | |
| Salaries | \$ 1,753,190 | \$ 993,131 | \$ (760,059) | Findings 1, 2 |
| Benefits | 394,255 | 212,121 | (182,134) | Findings 1, 2 |
| Services and supplies | 21,081 | 21,081 | — | |
| Travel and training | 30,396 | 30,396 | — | |
| Total direct costs | 2,198,922 | 1,256,729 | (942,193) | |
| Indirect costs | 747,267 | 410,992 | (336,275) | Findings 1, 2, 3 |
| Total program costs | <u>\$ 2,946,189</u> | 1,667,721 | <u>\$ (1,278,468)</u> | |
| Less amount paid by the State | | (2,298,477) | | |
| Allowable costs claimed in excess of (less than) amount paid | | <u>\$ (630,756)</u> | | |

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Overstated salary, benefit, and related indirect costs

The county overstated employee salary and benefit costs by \$188,549 for the audit period. The related indirect costs total \$65,897. The county overstated its costs because claimed productive hourly rates were overstated.

The productive hourly rate consisted of two factors: salary costs and annual average countywide productive hours. In calculating the countywide productive hours, the county included unallowable deductions for training and authorized break time. The county deducted estimated training time based on hours required by employees' bargaining unit agreements and/or continuing education requirements for licensure/certification rather than actual training hours attended. In addition, the deducted training hours benefit specific departments' employee classifications rather than the employee classifications of all departments.

For the entire audit period, the county also deducted authorized break time rather than actual break time taken. The county's accounting system did not separately account for actual break time taken. The SCO's claiming instructions, which include guidelines for preparing mandated costs claims, do not identify time spent on authorized breaks as deductions (excludable components) from total hours when computing productive hours. Furthermore, the county did not adjust for training time and break time directly charged to program activities during the audit period. Therefore, the county cannot deduct training time and authorized break time to calculate productive hours.

Consequently, the productive hourly rates claimed did not reflect actual costs. We recalculated the productive hourly rates to compute the audit adjustment.

The following table summarizes the audit adjustment.

| | Fiscal Year | | | Total |
|------------------------|--------------------|--------------------|---------------------|---------------------|
| | 1999-2000 | 2000-01 | 2001-02 | |
| Salaries | \$ (33,659) | \$ (55,190) | \$ (64,910) | \$ (153,759) |
| Benefits | (6,501) | (12,193) | (16,096) | (34,790) |
| Total direct costs | (40,160) | (67,383) | (81,006) | (188,549) |
| Related indirect costs | (12,771) | (22,506) | (30,620) | (65,897) |
| Audit adjustment | <u>\$ (52,931)</u> | <u>\$ (89,889)</u> | <u>\$ (111,626)</u> | <u>\$ (254,446)</u> |

Parameters and Guidelines requires the county to claim actual costs and states that all costs claimed must be traceable and supported by source documents that show the validity of such costs.

Recommendation

We recommend that the county develop and implement an adequate recording and reporting system to ensure that all claimed costs are properly supported and reimbursable under the mandated program in question.

County's Response

The county does not agree with the finding. Please refer to the Attachment for a complete text of the county's response.

The county believes the finding contains an anomaly regarding whether training and break time deductions are allowable for productive hourly rate calculations.

The county states that it first implemented the countywide productive hours in FY 2000-01, which included deductions for training time and break time. The county deducted training time based on collective bargaining agreements or rosters related to actual training sessions that were conducted. The training time excluded training time charged to programs to avoid double recovery of costs. The county calculated the break times based on requirements of collective bargaining agreements and state law. The county states that all employees were directed to limit the daily reporting of hours worked to 7.5 hours when preparing mandated program claims.

The county states that its automated payroll system can accommodate actual break time; however, the additional time and costs incurred would not be cost effective. The county states that reporting authorized break time in lieu of actual break time is in accordance with the cost allocation principles of Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*. Furthermore, the county states that recording actual break time would not result in a materially different amount of break time that could be readily calculated pursuant to the 30-minute daily standard specified by the collective bargaining agreements.

The county states that its interpretation of the SCO's claiming instructions is that training and authorized break time should be excluded to calculate accurate countywide productive hours. Furthermore, the county states that before it implemented the countywide productive hour policy, the county notified the SCO of its procedures for calculating countywide productive hours. The county states that several claims were submitted and accepted using the countywide methodology.

The county states that it has filed an Incorrect Reduction Claim on this issue with the Commission on State Mandates (COSM).

SCO's Comment

Our finding and recommendation remain unchanged. The county states:

. . . We would like to point out an anomaly in the above argument. The [finding] mentions that the training and authorized break time are both unallowable whereas the [finding further] states that the County deducted training time pertaining to required licensure/certification rather than actual training hours. Therefore, the State has determined that the exclusion of training time from productive hours is appropriate and allowable, as long as the exclusion is documented based on actual training hours received. The comments proceed further to state that the County deducted authorized break time rather than actual break time

taken. Therefore, as with training time, the State has agreed that the exclusion of actual break-time from the calculation of productive hours is allowable.

There is no anomaly in the audit finding. The report correctly states that the county included unallowable deductions for training and authorized break time. The training hour deduction is unallowable because the county deducted estimated rather than actual training time. It is also unallowable because the deducted training hours benefit specific departments' employee classifications rather than employee classifications common to all departments. The break time deduction is unallowable because the county deducted authorized break time rather than actual break time taken. Furthermore, both deductions are unallowable because the county did not adjust for training time and break time directly charged to program activities during the audit period.

Training Time

The county's response acknowledges that training time deducted for FY 2000-01 productive hourly rate calculations was estimated, based on collective bargaining agreements or rosters related to actual training sessions that were conducted. The county states that, beginning in FY 2001-02, the county modified the payroll system to capture actual training hours and that the county recorded only non-program training. However, documentation obtained indicates that FY 2001-02 training time was also estimated from the same sources.

Our finding also states that the training hour deduction is unallowable because the deducted training hours benefit specific departments' employee classifications rather than the employee classifications of all departments. In response, the county states that the countywide productive hour policy "is not *department specific* but *County specific* and as such the calculation will have to be based on employee specifications of all departments only and not based on the specific department." The county's response indicates the county does not understand the issue. OMB Circular A-87 states, "A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with the relative benefits received." Many employee classifications exist only in certain county departments, and therefore benefit only those departments. However, the county deducted training hours applicable to these employee classifications and applied the resulting productive hours countywide, contrary to OMB Circular A-87 requirements. If the county wishes to deduct actual training hours applicable to these employee classifications, it must compute separate adjustments for the departments benefited by these employee classifications.

Break Time

Developing productive hours based on estimated costs is not consistent with OMB Circular A-87. If the county chooses to deduct actual break time taken in calculating productive hours, its accounting system must separately identify the actual break time taken.

The SCO's claiming instructions do not identify time spent on authorized breaks as a deduction (excludable component) from total hours when computing productive hours. In addition, limiting daily reporting of hours worked to 7.5 hours does not address instances in which employees work less than 8 hours a day or are assigned alternate work schedules. The county also states that it has "directed all employees to limit the daily reporting of hours worked to 7.5 hours when preparing SB 90 claims. . . ." [Emphasis added.] Thus, the county is not applying this policy consistently in all programs (mandated and non-mandated). Furthermore, actual mandated-program employee timesheets show that employees did not exclude "authorized" break time when reporting hours worked.

The county erroneously states, "several claims have been submitted and accepted during the past years using the countywide methodology." We audited other county mandated programs and reported this issue. The additional programs audited are: Domestic Violence Treatment Services, July 1, 1998, through June 30, 2001; Sexually Violent Predator, July 1, 1998, through June 30, 2001; Open Meetings Act, July 1, 1998, through June 30, 2001; and Absentee Ballot, July 1, 2000, through June 30, 2003.

The county states that it filed an Incorrect Reduction Claim with the COSM on this issue, which is yet to be heard. The SCO responded to the county's Incorrect Reduction Claim and refuted the county's position. The SCO will revise this final audit report, if necessary, based on the COSM's final determination of the county's Incorrect Reduction Claim related to this issue.

**FINDING 2—
Unallowable salary,
benefit, and related
indirect costs**

The county claimed unallowable salary and benefit costs totaling \$753,644 for the audit period. The related indirect costs total \$260,127.

The county did not provide time logs to support hours claimed for certain employees. The salary and benefit costs for one of these employees, a legal clerk, were also included in the county's indirect cost pool. For the remaining employees, the time logs provided did not support mandate-related hours claimed. The county was unable or unwilling to reconcile claimed hours to employee time logs.

Time logs included time reported for vacation, scheduled time off, and sick leave usage. These hours are excluded from the county's calculation of countywide average productive hours; therefore, the county may not claim these hours as direct mandate-related costs. Time logs also included non-mandate-related time for activities such as duty officer/security, non-child abduction cases, child abduction cases that had progressed to trial, and cases under *Penal Code* Section 278.7 (commonly referred to as "good cause" cases).

We calculated allowable employee hours based on mandate-related hours supported by employee time logs. Subsequently, the county submitted a time study and requested that we instead rely on the time study as supporting documentation for all salary and benefit costs claimed. We concluded that the time study is not competent evidence to replace contemporaneous time logs. However, we reviewed the time study to

determine whether the time study supports salary and benefit costs claimed for employees who did not have contemporaneous time logs.

We concluded that the county's time study does not adequately support salary and benefit costs claimed for the following reasons.

- The county did not identify how the time period studied was representative of the fiscal year.
- The county did not summarize the time study results and show how the county could project the results to approximate actual costs for the audit period.
- The Child Abduction and Recovery Program mandated activities require a varying level of effort; therefore, a time study is not appropriate to document mandate-related time.

The following table summarizes the audit adjustment.

| | Fiscal Year | | | Total |
|--------------------|---------------------|---------------------|---------------------|-----------------------|
| | 1999-2000 | 2000-01 | 2001-02 | |
| Salaries | \$ (154,687) | \$ (249,721) | \$ (201,892) | \$ (606,300) |
| Benefits | (28,737) | (62,677) | (55,930) | (147,344) |
| Total direct costs | (183,424) | (312,398) | (257,822) | (753,644) |
| Indirect costs | (58,329) | (104,341) | (97,457) | (260,127) |
| Audit adjustment | <u>\$ (241,753)</u> | <u>\$ (416,739)</u> | <u>\$ (355,279)</u> | <u>\$ (1,013,771)</u> |

Parameters and Guidelines states, "For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of and the validity of such costs."

In addition, *Parameters and Guidelines* states that costs associated with criminal prosecution, commencing with the defendant's first appearance in court, are not reimbursable. Furthermore, *Parameters and Guidelines* does not identify good cause cases (*Penal Code* Section 278.7) as reimbursable costs.

Recommendation

We recommend that the county develop and implement an adequate recording and reporting system which will identify mandate-related and non-mandate-related activities. We also recommend that the county ensure that it claims only mandate-related costs.

County's Response

The county does not agree with the finding. Please refer to the Attachment for a complete text of the county's response.

The county states that employees without time logs worked full-time on the mandated program and the SCO should use payroll documentation to substantiate the hours claimed. Regarding the Legal Clerk specifically, the county believes the direct time should be allowed and the indirect cost pool adjusted accordingly.

Regarding the remaining employees whose time logs did not support mandate-related hours claimed, the county believes the SCO should instead rely on a current time study to support hours claimed. The county states that the time study period is representative of a full fiscal year and that no substantial staffing or workload changes occurred since the audit period. The county states that it summarized the time study results and could extrapolate the results to the audit years.

SCO's Comment

Our finding and recommendation remain unchanged. The county states "Employees without time logs worked full-time on mandated programs, and payroll documentation should be used to substantiate the hours claimed." We disagree. *Parameters and Guidelines* states that the county must specify the actual number of hours devoted to each mandated activity, and that "all costs claimed must be traceable to source documents and/or worksheets that show evidence of and the validity of such costs." In addition, OMB Circular A-87 states the following regarding support of salaries and wages: "These standards regarding time distribution are in addition to the standards for payroll documentation." [emphasis added] The circular also states:

Where employees are expected to work solely on a single [program], charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

The county did not provide any contemporaneous certifications for these employees. In addition, one employee testified that she did not work full-time on mandate-related activities.

Regarding the remaining employees, the county erroneously states that "time log material was not considered adequate," and that "documentation was incomplete and did not help corroboration." This misstates our audit finding. The county did submit appropriate contemporaneous employee time logs to support mandate-related hours claimed. However, the employee time logs indicated that the county claimed hours that exceeded actual hours.

The county's response is also contradictory. The county first states that the SCO did not respond to time study documents that the county presented. However, the county then quotes our comments regarding the county's time study and our reasons for rejecting the time study.

The county conducted a four-week time study during FY 2004-05. A current-period time study is not competent evidence to replace contemporaneous time records. However, we reviewed the time study to determine whether it would support salary and benefit costs claimed for employees who did not have contemporaneous time logs. Contrary to the county's response, the county did not submit documentation that shows how the time period studied was representative of the fiscal year, nor did the county summarize the time study results. Although the county did not

summarize the results, the time study documentation submitted appears to indicate that employees reported 606.5 mandate-related hours during a 4-week period. This extrapolates to approximately 7,885 mandate-related hours annually. However, the county’s FY 2004-05 claim shows only 3,334 actual mandate-related hours for the year. Therefore, it appears the time study results are not representative of the fiscal year.

In addition, the county states that no substantial staffing or workload changes occurred since the audited years. The county states, “Its workload and staffing have remained essentially constant throughout.” However, the Child Recovery Unit Lieutenant Investigator testified that the unit routinely loaned investigators to other units because of shortages or not enough work in the Child Recovery Unit. Furthermore, the county’s claims show significant workload variances from year to year, based on total mandate-related hours that the county reported. The following table shows total mandate-related hours reported for the audit period and three subsequent fiscal years.

| <u>Fiscal Year</u> | <u>Total Mandated-Related Hours Reported</u> |
|--------------------|--|
| 1999-2000 | 10,694 |
| 2000-01 | 14,150 |
| 2001-02 | 13,531 |
| 2002-03 | 12,814 |
| 2003-04 | 7,783 |
| 2004-05 | 3,334 |

Therefore, neither the time study nor the county’s annual claims support the county’s contention that the Child Recovery Unit workload is constant.

**FINDING 3—
Overstated indirect costs**

For FY 1999-2000 and FY 2000-01, the county claimed unallowable indirect costs totaling \$10,251. The county claimed indirect costs using overstated indirect cost rates. For both fiscal years, the county computed indirect salary and benefit costs based on estimated costs. The actual costs were lower. Therefore, the county overstated indirect salary and benefit costs. As a result, the county overstated the indirect cost rates.

The following table summarizes the audit adjustment.

| | <u>Fiscal Year</u> | | <u>Total</u> |
|------------------------------------|--------------------|-------------------|--------------------|
| | <u>1999-2000</u> | <u>2000-01</u> | |
| Audited indirect cost rate | (30.83)% | (31.49)% | |
| Claimed indirect cost rate | 31.80% | 33.40% | |
| Variance | (0.97)% | (1.91)% | |
| Allowable salary and benefit costs | × \$284,895 | × \$392,026 | |
| Audit adjustment | <u>\$ (2,763)</u> | <u>\$ (7,488)</u> | <u>\$ (10,251)</u> |

Parameters and Guidelines states, “For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of and the validity of such costs.”

Recommendation

We recommend that the county calculate its indirect cost rates based on actual costs incurred rather than estimated costs.

County's Response

The county concurred with this finding.

**Attachment—
County’s Response to
Draft Audit Report**

County of Santa Clara

Finance Agency
Controller-Treasurer Department
County Government Center
70 West Hedding Street, East Wing, 2nd Floor
San Jose, California 95110-1705
(408) 299-5200 FAX (408) 289-8629



DATE: January 11, 2006

TO: Jim L. Spano
Chief, Compliance Audits Bureau,
State Controller's Office, Division of audits,
Post Office Box 942850,
Sacramento, CA 94250-5874

FROM: David G. Elledge
Controller-Treasurer 

RE: SB90 Mandate – Child Abduction and Recovery Program –
Draft audit report

Summary

Thank you for the audit report on the SB90 State Mandated Costs claim of the Child Abduction and Recovery Program. We agree to all the findings mentioned in the report except as annotated below. We request your reconsideration of the disputed audit findings in light of our reply and request the State Controller's Office to rework the numbers in the report, accordingly.

FINDING 1- Overstated salary, benefit, and related indirect cost

Response to calculation of Countywide Productive hour rates

The State Controller's draft audit report pertaining to the County's SB 90 Child Abduction and Recovery Program states: -

Audit: In calculating the countywide productive hours, the county included unallowable deductions for training and authorized break time. The county deducted estimated training time based on hours required by employee's bargaining unit agreements and/or continuing education requirements for licensure/certification rather than actual training hours attended.

Response: We would like to point out an anomaly in the above argument. The first part of the paragraph mentions that the training and authorized break time are both unallowable whereas the second part of the paragraph states that the County deducted training time pertaining to required licensure/certification rather than actual training hours. Therefore, the State has determined that the exclusion of training time from

productive hours is appropriate and allowable, as long as the exclusion is documented based on actual training hours received. The comments proceed further to state that the County deducted authorized break time rather than actual break time taken. Therefore, as with training time, the State has agreed that the exclusion of actual break-time from the calculation of productive hours is allowable.

The issue therefore boils down to the State audit acceptance of the Countywide productive hours as a valid policy so long as both the training hours and break time are based on actual. We proceed to answer these two specific points as below:

Training Time

The County first implemented the countywide calculation of productive hours in FY 2000-01. Claims filed for this fiscal year were based on calculations that included training time received by employees as reported by County departments, based on collective bargaining agreements or rosters related to actual training sessions that were conducted. For all subsequent fiscal years, the County has modified the automated payroll system to capture actual hours of training by individual employee for all County departments. Subsequent actual training time hours recorded in the later years do clearly indicate and substantiate that there is not much of a variation between the data based on collective bargaining agreements and actual recorded by a new system. We brought this to the notice of the State auditors during discussion. We therefore suggest that the training hours excluded in the calculation of Countywide Productive hour policy be accepted by the audit and this audit point dropped.

Regarding the second issue on training time of the audit points above-

“the deducted training hours benefit specific departments’ employee classifications rather than the employee classifications of all departments,

We would like to point out that the Countywide Productive hour policy as allowed by the claiming instructions is not *department specific* but *County specific* and as such the calculation will have to be based on employee specifications of all departments only and not based on the specific department. Therefore we reiterate that our countywide productive hour policy satisfies the State Controller claiming instructions and we request the audit to drop this point.

Break Time

Break time was similarly calculated, based on requirements of collective bargaining agreements and State law. The issue now raised by the audit is recording of actual break time and this issue was amply dealt by us in our earlier responses to State Audit reports on other SB90 programs. We briefly summarize our position as below:

While our automated payroll system can accommodate a change, we believe the additional time and cost of recording such information would exceed the value of the information obtained, since it can readily be determined by simple calculation. This conclusion is consistent with OMB A-87 cost allocation principles, which limit the effort

expected of state and local governments to calculate indirect costs when such costs are "... not readily assignable...without effort disproportionate to the results achieved." In the case of daily break-time required by both State law and collective bargaining agreements, the recording of actual break-time taken twice daily by more than 15,000 employees during 250 workdays per year would not result in the determination of a materially different amount of actual time taken than could be readily calculated pursuant to the 30 minute daily standard specified by the collective bargaining agreements. Further, because the County has directed all employees to limit the daily reporting of hours worked to 7.5 hours when preparing SB 90 claims, the effect of not allowing the County to exclude one-half hour per day break-time from the productive hour calculation would be to increase the hours charged to SB 90 claims by the same one-half hour per day for all claims involving full-day charges. This may result in extra work without any commensurate advantages or savings in costs claimed.

According to our study and examination of the State Controller claiming instructions, the time spent on training, authorized breaks, etc., all of which are paid and form part of the total available hours, should be excluded for the calculation of productive hours to get an accurate countywide productive hours as explained to the State Controller audit staff in several meetings. We produced the necessary documents in support of our calculation of the countywide productive hourly rate to the State audit staff. We believe that the State Controller's SB 90 claiming instructions explicitly approve the usage of the same by showing examples of excludable times one of which is informal time off.

Further, before the introduction of countywide productive hour policy in the County of Santa Clara in our letter of December 27, 2001, we informed the State Controller that the County was electing to change its SB 90 claiming procedures related to the calculation of productive hourly rates. The County reported that the switch to a countywide methodology for the calculation of average countywide productive hours per position would improve SB 90 claiming accuracy, consistency, and documentation and facilitates the State audit function. Consequently, several claims have been submitted and accepted during the past years using the countywide methodology. We advised state audit staff and provided a copy of the County's letter dated December 27, 2001 and explained our understanding of the SB 90 instructions pertaining to the calculation of productive hours.

During the audit of this claim, State auditors were unable to provide any written State procedures, regulations or other legal authority to refute our interpretation of Section 7 of the State Controller's SB 90 Claiming Instructions for Cities, Counties and Special Districts.

Lastly, all claiming departments stand advised of these procedures and the County Controller's Office is responsible for the annual calculation of County-wide productive hours and has done so for the past four fiscal years. These procedures are already a part of the County Controller's accounting policies and have been used on all SB 90 claims since FY 2000-01.

We reiterate that the State guidelines do permit the deduction of training and authorized breaks for calculation of productive hours. The State Manual states that ‘Informal time off’ as one item to be considered for calculation of local agency’s average annual productive hours. We state that this item includes the authorized break time also.

Regarding actual training hours as against the “certification required training time”, our payroll accounting system identifies all the actual training time spent by all staff members of the county in the biweekly payroll procedure by separate cost codes. We do not include any training time directly charged to programs again in calculating the productive hours to ensure avoiding double recovery of costs.

Further, we have filed an Incorrect Reduction Claim with the Commission on State Mandates on this issue and the claim is yet to be heard.

We therefore request you to reconsider your views on the usage of countywide productive hourly rate policy and rework the numbers in the report to reflect the correct costs allowed.

FINDING 2 - Unallowable salary, benefit, and related indirect cost

Response to the disallowance of certain employees

The State Controller’s draft audit report pertaining to the County’s SB 90 Child Abduction and Recovery Program stated the following with the county response following each paragraph:

Audit: The county did not provide time logs to support hours claimed for certain employees. The salary and benefit costs for one of these employees, a legal clerk, were also included in the county’s indirect cost pool. For the remaining employees, the time logs provided did not support mandate-related hours claimed. The county was unable or unwilling to reconcile claimed hours to employee time logs.

Response: Employees without time logs worked full-time on mandated programs, and payroll documentation should be used to substantiate the hours claimed. The Legal Clerk referenced worked full-time on mandated programs and was correctly counted as direct, but inadvertently also included in the indirect pool. Her time should be included as direct and the indirect pool adjusted accordingly. We agree to this adjustment.

For some employees where time log material was not considered adequate to support the claimed hours, we assert that the claimed hours are substantially correct. But the documentation was incomplete and did not help corroboration. In order to substantiate the claimed costs and support our assertion we conducted and presented a current time-study. The results support the claimed hours. We have furnished the time study documents to the audit staff. We did not receive a response.

Audit: We calculated allowable employee hours based on mandate-related hours supported by employee time logs. Subsequently, the county submitted a time study and requested that we instead rely on the time study as supporting documentation for all

salary and benefit costs claimed. We concluded that the time study is not competent evidence to replace contemporaneous time logs. However, we reviewed the time study to determine whether the time study supports salary and benefit costs claimed for employees who did not have contemporaneous time logs.

We concluded that the county's time study does not adequately support salary and benefit cost claims for the following reasons.

- *The county did not identify how the time period studies was representative of the fiscal year.*
- *The county did not summarize the time study results and show how the county could project the results to the approximate actual costs for the audit period.*
- *The Child Abduction and Recovery Program mandated activities require a varying level of effort; therefore, a time study is not appropriate to document mandate-related time.*

Response:

We do not concur with any of the reasons for disallowance and we explain our response as below:

- The time-study plan and proposal submitted annotated that the time period studied was a representative subset of a full fiscal year and that no substantial staffing or workload changes occurred since the audited years.
- The results were summarized for the period of the time-study, and could be extrapolated for the audit years without difficulty.
- The Child Abduction and Recovery Program does not require a varying level of effort as was stated by the audit. Its workload and staffing have remained essentially constant throughout.

We therefore request you to reconsider your views on the usage of the time-study and accept the same and rework the numbers in the report to reflect the correct costs allowed.

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, California 94250-5874**

<http://www.sco.ca.gov>