

CITY OF SAN JOSE

Audit Report

DOMESTIC VIOLENCE ARREST POLICIES AND STANDARDS PROGRAM

Chapter 246, Statutes of 1995

July 1, 1999, through June 30, 2002



STEVE WESTLY
California State Controller

January 2005



STEVE WESTLY
California State Controller

January 5, 2005

Mr. Mark Burton
Deputy Director of Finance
City of San Jose
City Hall, Room 140
801 North First Street
San Jose, CA 95110

Dear Mr. Burton:

The State Controller's Office audited the claims filed by the City of San Jose for costs of the legislatively mandated Domestic Violence Arrest Policies and Standards Program (Chapter 246, Statutes of 1995) for the period of July 1, 1999, through June 30, 2002.

The city claimed and was paid \$586,669 for the mandated program. Our audit disclosed that \$473,785 is allowable and \$112,884 is unallowable. The unallowable costs occurred because the city was unable to support salary and benefit costs claimed. The city should return \$112,884 to the State.

If you disagree with the audit finding, 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), and 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:

VINCENT P. BROWN
Chief Operating Officer

VPB:JVB/jj

cc: (See page 2)

cc: Patrick Sawicki
Principal Accountant
Finance Department
City of San Jose
Inder Dhillon
Senior Accountant
Finance Department
City of San Jose
Marianne Bourgeois
Administrative Officer
San Jose Police Department
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 claims filed by the City of San Jose for costs of the legislatively mandated Domestic Violence Arrest Policies and Standards Program (Chapter 246, Statutes of 1995) for the period of July 1, 1999, through June 30, 2002. The last day of fieldwork was December 6, 2004.

The city claimed and was paid \$586,669 for the mandated program. The audit disclosed that \$473,785 is allowable and \$112,884 is unallowable. The unallowable costs occurred because the city was unable to support salary and benefit costs claimed. The city should return \$112,884 to the State.

Background

Penal Code Section 13701 (added by Chapter 246, Statutes of 1995) requires local law enforcement agencies to develop, adopt, and implement written arrest policies for domestic violence offenders by July 1, 1996. The legislation also requires local law enforcement agencies to obtain input from local domestic violence agencies in developing the arrest policies. Under previous law, local law enforcement agencies were required to develop, adopt, and implement written policies for response to domestic violence calls and were encouraged, but not obligated, to consult with domestic violence experts.

On September 25, 1997, the Commission on State Mandates (COSM) determined that Chapter 246, Statutes of 1995, imposed a state mandate reimbursable under *Government Code* Section 17561.

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. COSM adopted the *Parameters and Guidelines* on August 20, 1998. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs to assist local agencies and school districts in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Domestic Violence Arrest Policies and Standards 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, not funded by another source, and 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 city's financial statements. Our scope was limited 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 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 an instance of noncompliance with the requirements outlined above. This instance is described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, the City of San Jose claimed and was paid \$586,669 for Domestic Violence Arrest Policies and Standards Program costs. Our audit disclosed that \$473,785 is allowable and \$112,884 is unallowable.

For fiscal year (FY) 1999-2000, the State paid the city \$220,792. Our audit disclosed that \$162,492 is allowable. The city should return \$58,300 to the State.

For FY 2000-01, the State paid the city \$206,985. Our audit disclosed that \$176,262 is allowable. The city should return \$30,723 to the State.

For FY 2001-02, the State paid the city \$158,892. Our audit disclosed that \$135,031 is allowable. The city should return \$23,861 to the State.

Views of Responsible Official

We issued a draft audit report on October 20, 2004. Mark Burton, Deputy Director, Finance Department, responded by letter dated November 30, 2004 (Attachment), disagreeing with the audit results. The final audit report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of San Jose, 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

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

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u> ¹
<u>July 1, 1999, through June 30, 2000</u>			
Salaries and benefits	\$ 169,840	\$ 124,994	\$ (44,846)
Indirect costs	<u>50,952</u>	<u>37,498</u>	<u>(13,454)</u>
Total program costs	<u>\$ 220,792</u>	162,492	<u>\$ (58,300)</u>
Less amount paid by the State		<u>(220,792)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (58,300)</u>	
<u>July 1, 2000, through June 30, 2001</u>			
Salaries and benefits	\$ 168,418	\$ 143,420	\$ (24,998)
Indirect costs	<u>38,567</u>	<u>32,842</u>	<u>(5,725)</u>
Total program costs	<u>\$ 206,985</u>	176,262	<u>\$ (30,723)</u>
Less amount paid by the State		<u>(206,985)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (30,723)</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Salaries and benefits	\$ 120,373	\$ 102,296	\$ (18,077)
Indirect costs	<u>38,519</u>	<u>32,735</u>	<u>(5,784)</u>
Total program costs	<u>\$ 158,892</u>	135,031	<u>\$ (23,861)</u>
Less amount paid by the State		<u>(158,892)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (23,861)</u>	
<u>Summary: July 1, 1999, through June 30, 2002</u>			
Salaries and benefits	\$ 458,631	\$ 370,710	\$ (87,921)
Indirect costs	<u>128,038</u>	<u>103,075</u>	<u>(24,963)</u>
Total program costs	<u>\$ 586,669</u>	473,785	<u>\$ (112,884)</u>
Less amount paid by the State		<u>(586,669)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (112,884)</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

**FINDING—
Unallowable salary
and benefit costs and
related indirect costs
claimed**

The city claimed unallowable salary and benefit costs totaling \$87,921 for the audit period. The related indirect costs total \$24,963.

The city claimed \$430,969 to implement domestic violence arrest policies. However, the city’s documentation did not support the number of domestic violence incident responses that the city reported. The following table summarizes the number of domestic violence incident responses reported and supported:

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Incident responses supported	6,687	6,232	4,999	
Less incident responses reported	<u>(8,822)</u>	<u>(7,491)</u>	<u>(5,883)</u>	
Unsupported incident responses	<u><u>(2,135)</u></u>	<u><u>(1,259)</u></u>	<u><u>(884)</u></u>	<u><u>(4,278)</u></u>

We calculated unallowable salary and benefit costs based on the number of unsupported incident responses reported, the 29-minute uniform time allowance for incident responses, and the average productive hourly rate reported for each fiscal year.

The city also claimed \$4,933 in FY 1999-2000 for one-time costs to train officers about domestic violence arrest policies. The city did not provide documentation to support training costs claimed.

In addition, the city claimed \$510 in FY 2000-01 to develop and adopt written arrest policies. However, these activities are allowable only as one-time costs before the city implements the mandated domestic violence arrest policies. The city implemented the domestic violence arrest policies in prior fiscal years.

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Salaries and benefits:				
Implementation costs	\$ (39,913)	\$ (24,488)	\$ (18,077)	\$ (82,478)
Training costs	(4,933)	—	—	(4,933)
Development and adoption costs	—	(510)	—	(510)
Subtotals	(44,846)	(24,998)	(18,077)	(87,921)
Related indirect costs	<u>(13,454)</u>	<u>(5,725)</u>	<u>(5,785)</u>	<u>(24,963)</u>
Audit adjustment	<u><u>\$ (58,300)</u></u>	<u><u>\$ (30,723)</u></u>	<u><u>\$ (23,862)</u></u>	<u><u>\$ (112,884)</u></u>

To claim implementation costs, *Parameters and Guidelines* allows the city to use an average productive hourly rate, the number of domestic violence incident responses, and a uniform time allowance per response.

For training costs, *Parameters and Guidelines* requires the city to identify employees by name and provide the title of the training session, the dates when employees attended training, and the location. Training costs must be supported by source documentation, which may include employee time sheets and other documents evidencing the training expenses.

Parameters and Guidelines allows the city to claim costs to develop and adopt written arrest policies as one-time costs only rather than as ongoing costs.

Recommendation

We recommend that the city claim mandated costs according to the *Parameters and Guidelines*. We recommend that the city maintain adequate documentation to support mandated costs claimed.

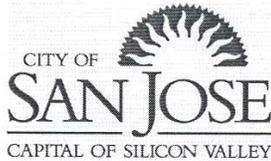
City's Response

The City acknowledges that it does not have support to document all previous claims to the State including a total of 22,196 domestic violence incident responses; nonetheless, the City is providing documentation to fully support 17,918 incidents as part of this response, as well as documentation to support the disallowed training costs. We believe the information provided is sufficient for the State Controller's Office to reconsider the decision to disallow all costs.

SCO's Comment

We revised our finding to allow salary, benefit, and related indirect costs for the 17,918 incident responses documented by the city. We also allowed FY 2000-01 training costs based on additional documentation provided by the city. Our finding remains unchanged for FY 1999-2000 training costs; the city did not provide any documentation for these costs. In addition, our finding remains unchanged for development and adoption costs claimed; the city did not respond to this portion of the finding.

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



November 30, 2004

State Controller's Office
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814
Attn: Jim L. Spano, Chief
Compliance Audits Bureau

Re: City of San Jose
Domestic Violence Arrest Policies and Standards Program

Dear Jim,

Please accept this letter as the City of San Jose's response to the State Controller's Office Draft Audit Report dated October 2004 relative to Domestic Violence Arrest Policies and Standards Program. The format of the response lists each audit finding, followed directly by the City's response to each finding.

The City acknowledges that adequate documentation had not been provided to the auditor during the fieldwork to complete the audit of claimed costs, which resulted in the State Controller's Office disallowing all claimed costs during the audit period. However, City staff has thoroughly researched the claims and is providing the necessary documentation with this response for the State Controller's Office to reconsider the decision to disallow all claimed costs.

Finding: The City claimed \$430,969 to implement domestic violence arrest policies. However, the City did not provide adequate documentation that supports the number of domestic violence incident responses that the City reported.

Response: The finding has been reviewed and researched thoroughly by the City of San Jose Police Department's Family Violence Unit with assistance from the Crime Analysis Unit. The results of the review identified discrepancies between the number of incidents reported to the State and the number of incidents supported by back-up data, as follows:

<u>Fiscal Year</u>	<u>Incidents Reported</u>	<u>Incidents Documented</u>	<u>Difference</u>
1999-2000	8,822	6,687	2,135
2000-2001	7,491	6,232	1,259
2001-2002	<u>5,883</u>	<u>4,999</u>	884
	22,196	17,918	4,278

The Family Violence Unit cannot definitively explain the discrepancies, but they suspect a number of factors occurring within the 1999-2002 timeframe were contributory, such as a transition to a new record management system and the method of separating and tracking Domestic Violence Team (DVT) and Threat Management Team (TMT) cases within Program Manager Reports. However, staff believes that the current data compiled by the Crime Analysis Unit, including actual case numbers, is the most accurate data available and fully supports 17,918 domestic violence incidents. Folders A, B and C include supporting documentation by fiscal year compiled by the Crime Analysis Unit. The documentation includes case numbers for all reports assigned to the Family Violence Unit utilizing system codes of "DV" and "TM".

The San Jose Police Department (SJPD) Duty Manual Section L7307 states in effect that a crime report and a domestic violence supplementary report will be completed in all cases of domestic violence, whether or not an arrest occurs. In addition, the necessity of completing a report in any domestic violence incident is underscored in the Santa Clara County Police Chief's Association "Domestic Violence Protocol for Law Enforcement". Reports chronicling domestic violence physical assaults are forwarded to the Family Violence Unit and assigned to the DVT under the system code "DV" for follow-up investigation and presentation to the District Attorney's Office. Reports indicating other domestic violence related violations such as stalking, harassment, vandalism, threats and restraining order violations are forwarded to the Family Violence Unit and assigned to the TMT under the system code "TM" in the same manner. In either case, a report received by the respective teams is reflective of a patrol officer responding to a domestic violence incident and documenting the incident with a crime report.

Finding: The City also claimed \$27,152 for one-time costs to train officers about domestic violence arrest policies. The City did not provide adequate documentation to support training costs claimed. Furthermore, FY 2000-01 training costs claimed included \$9,537 to train sergeants, lieutenants, captains, deputy chiefs, the assistant police chief, and the police chief. These positions are not eligible for training under the mandated program.

Response: Folder D includes copies of two rosters supplied by the San Jose Police Department Training Unit. The first printout is the hourly distribution schedule from the Training Management System database listing 1,271 sworn personnel and 101 reserve police officers who attended Day Two of the 2000-2001 Continued Professional Training (CPT) cycle held at the SJPD Training Unit in San Jose, CA. During this period of training, Family Violence Unit personnel presented the POST-mandated two hour domestic violence update. The second printout is a copy of the roster sent to the

Name: Domestic Violence Arrest Policies and Standards Program
Subject: City of San Jose Response to State Controller's Office Audit Report
Date: November 30, 2004
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Department of Justice Commission on Peace Officer Standards and Training to verify attendance.

The State Controller's Office contention that sergeants, lieutenants and captains are not eligible for training under the mandated program appears to be based on the assumption that these ranks are not considered "first responders". However, patrol sergeants and lieutenants are frequent "first responders" with officers to domestic violence calls where there is significant injury, and therefore must be conversant with the latest legal updates. In cases of officer-involved domestic violence, it is common for captains to be "first responders" with lieutenants and sergeants to oversee the investigation. This again necessitates current knowledge of the law enforcement domestic violence protocol.

The City acknowledges that it does not have support to document all previous claims to the State including a total of 22,196 domestic violence incident responses; nonetheless, the City is providing documentation to fully support 17,918 incidents as part of this response, as well as documentation to support the disallowed training costs. We believe the information provided is sufficient for the State Controller's Office to reconsider the decision to disallow all costs.

Should you have any further questions regarding this matter, or need clarification of any issue, please contact me and I will coordinate any necessary follow-up with City staff.

Sincerely,



Mark Burton
Deputy Director
Finance Department

Attachments

cc Chief Robert L. Davis, Police Department
Deputy Chief Ruben Guizar, Police Department
Deputy Chief Peter Oliver, Police Department
Lt. Peter Decena, Police Department
Danielle Kenealey, City Attorney's Office
Patrick Sawicki, Finance Department

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

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