

CITY OF LONG BEACH

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, 2002, through June 30, 2003



JOHN CHIANG
California State Controller

February 2008



JOHN CHIANG
California State Controller

February 6, 2008

Mike Killebrew
Director of Finance
Department of Finance
City of Long Beach
333 West Ocean Boulevard, 6th Floor
Long Beach, CA 90802

Dear Mr. Killebrew:

The State Controller's Office audited the costs claimed by the City of Long Beach 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, 2002, through June 30, 2003.

The city claimed \$1,307,923 for the mandated program. Our audit disclosed that the entire amount is unallowable. The unallowable costs resulted primarily because the city claimed estimated costs that were not supported with corroborating documentation. The State paid the city \$46. The city should return \$46 to the State.

If the county subsequently provides corroborating evidence to support the time it takes to perform individual reimbursable activities, as well as the number of activities performed, we will revise the final audit report as appropriate.

If you disagree with the audit finding, 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 (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, Mandated Cost Audits Bureau, at (916) 323-5849.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

cc: Todd Jerue, Program Budget Manager
Corrections and General Government
Department of Finance
Carla Castaneda
Principal Program Budget Analyst
Department of Finance
Paula Higashi, Executive Director
Commission on State Mandates

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Long Beach 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, 2002, through June 30, 2003.

The city claimed \$1,307,923 for the mandated program. Our audit disclosed that the entire amount is unallowable. The unallowable costs resulted primarily because the city claimed estimated costs that were not supported with corroborating documentation. The State paid the city \$46. The city should return \$46 to the State.

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 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 the statement of decision. CSM determined 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. CSM further defined that activities covered by due process are not reimbursable.

The parameters and guidelines establish the state mandate and define reimbursement criteria. CSM adopted the parameters and guidelines on July 27, 2000, and corrected them on August 17, 2000. The parameters and guidelines categorized 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.

**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, 2002, through June 30, 2003.

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 sections 12410, 17558.5, and 17561. We did not audit the city'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 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 (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, the City of Long Beach claimed \$1,307,923 for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that the entire amount is unallowable. If the county subsequently provides corroborating evidence to support the time it takes to perform individual reimbursable activities, as well as the number of activities performed, we will revise the final audit report as appropriate.

**Views of
Responsible
Official**

We issued a draft report on November 16, 2007. We contacted Melinda Nickelberry, Revenue Analyst, by telephone on December 18, 2007. The city did not respond to the draft report.

Restricted Use

This report is solely for the information and use of the City of Long Beach, 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

February 6, 2008

**Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2003**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment ¹</u>
Services and supplies ²	\$ 1,307,923	\$ —	\$ (1,307,923)
Total program costs	<u>\$ 1,307,923</u>	—	<u>\$ (1,307,923)</u>
Less amount paid by the State		<u>(46)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (46)</u>	

¹ See the Finding and Recommendation section.

² The city filed only for the Interrogations cost component.

Finding and Recommendation

FINDING— Overstated salaries and benefits

The city overstated salaries and benefits totaling \$1,307,923 for fiscal year (FY) 2002-03. The city inappropriately claimed these costs as services and supplies on its reimbursement claim.

The overstated costs resulted because the city inadequately documented costs incurred to comply with the mandated program. To support claimed costs, the city provided only a letter that documents a breakdown of costs for internal affairs investigations conducted in FY 2002-03. The letter—from Commander Scott Robinson to the city’s consultant—states, “The hours worked were calculated using a formula of 2,088 hours annually for each fulltime employee, subtracting 25% of the total time to account for holiday, vacation, sick time, training, etc.”

“Fulltime staff” includes one commander, one lieutenant, six sergeants, one detective, and two clerk-typists. The city also employed one consultant. In addition, the letter states:

Using this formula, fulltime staff used a total of 17,226 regular work hours on internal affairs investigations and the consultant used 926 hours. An additional 848.7 overtime hours were used. This calculates to a total of \$854,123.80, which is \$453,800.06 below our total expenditures of \$1,307,923 for fiscal year 2003. The city did not provide any other documentation to support costs claimed.

The city claimed 100% of the expenditures incurred for internal affairs investigations during the year. All of its costs were claimed under the cost category of Interrogations. The program’s parameters and guidelines state that specific, identified interrogation activities are reimbursable when a peace officer is under investigation or becomes a witness to an incident under investigation and is subjected to an interrogation by the commanding officer or any other member of the employing public safety department during off-duty time if the interrogation could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. Section IV(C) identifies reimbursable activities under compensation and timing of an interrogation, interrogation notice, tape recording of an interrogation, and documents provided to the employee.

The city’s claim assumes that the city spent 100% of its investigation time performing mandated activities. However, the city did not provide any corroborating information on the specific activities that it performed or who performed them.

We believe that the city may have performed reimbursable activities during the audit period. We will allow the city the option of conducting a valid time study of the eligible activities that it performed during the current year and applying the results to reimbursable activities that it performed during the audit period. If the city elects to exercise this option, we would request that the city submit a time study plan to our office for review, in order to minimize any potential problems with the plan.

The parameters and guidelines for POBOR, adopted by the CSM on July 27, 2000, define the criteria for procedural protection for the county's peace officers.

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

The parameters and guidelines, section V(A)(1) (Claim Preparation and Submission (Supporting Documentation)), under Item 1, Salaries and Benefits, state:

Identify the employee(s) and/or show the classification of the employee(s) 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.

The parameters and guidelines, section VI (Supporting Data), state:

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show 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 did not respond to the audit finding.

**State Controller's Office
Division of Audits
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