

CITY OF ROCKLIN

Audit Report

PEACE OFFICER 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; Chapter 675, Statutes of 1990

July 1, 2002, through June 30, 2005



JOHN CHIANG
California State Controller

December 2008



JOHN CHIANG
California State Controller

December 10, 2008

The Honorable Brett Storey
Mayor of the City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677

Dear Mr. Storey:

The State Controller's Office audited the costs claimed by the City of Rocklin for the legislatively mandated Peace Officer 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; Chapter 675, Statutes of 1990) for the period of July 1, 2002, through June 30, 2005.

The city claimed \$321,165 (\$321,418 less a \$253 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$4,499 is allowable and \$316,666 is unallowable. The costs are unallowable because the city claimed reimbursement for unallowable costs. The State did not make any payments to the city. The State will pay allowable costs claimed that exceed the amount paid, totaling \$4,499, contingent upon available appropriations.

Regarding the unsupported costs, if the city subsequently provides corroborating evidence to support the time it takes to perform individual reimbursable activities and the number of activities performed, we will revise the final audit report as appropriate.

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 (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: Kimberly Sarkovich, Chief Financial Officer
City of Rocklin
Judy LaPorte, Director of Administrative Services
City of Rocklin
Todd Jerue, Program Budget Manager
Corrections and General Government
Department of Finance
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Principal Program Budget Analyst
Department of Finance
Paula Higashi, Executive Director
Commission on State Mandates

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Official	2
Restricted Use	3
Schedule 1—Summary of Program Costs.....	4
Findings and Recommendations	5
Attachment—City’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Rocklin for the legislatively mandated Peace Officer 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; Chapter 675, Statutes of 1990) for the period of July 1, 2002, through June 30, 2005.

The city claimed \$321,165 (\$321,418 less a \$253 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$4,499 is allowable and \$316,666 is unallowable. The costs are unallowable because the city claimed reimbursement for unallowable costs. The State did not make any payments to the city. The State will pay allowable costs claimed that exceed the amount paid, totaling \$4,499, contingent upon available appropriations.

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 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 (CSM) determined that this legislation imposed a state mandate reimbursable under Government Code section 17561 and adopted the Statement of Decision. The CSM 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 175144. The CSM further defined that activities covered by due process are not reimbursable.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM 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, Interrogation, and Adverse Comment. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies in claiming mandated program reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Peace Officer Procedural Bill of Rights Program for the period of July 1, 2002, through June 30, 2005.

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 (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the City of Rocklin claimed \$321,165 (\$321,418 less a \$253 penalty for filing a late claim) for costs of the Peace Officer Procedural Bill of Rights Program. Our audit disclosed that \$4,499 is allowable and \$316,666 is unallowable.

The State did not make any payments to the city. Our audit disclosed that \$4,499 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$4,499, contingent upon available appropriations.

Views of Responsible Official

We issued a draft audit report on October 17, 2008. Judy LaPorte, Director of Administrative Services, responded by letter dated October 30, 2008 (Attachment), agreeing with the audit results except for the portion of Findings 1 and 2 related to the Interrogations cost component.

Restricted Use

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

December 10, 2008

**Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2005**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>	<u>Reference¹</u>
<u>July 1, 2002, through June 30, 2003</u>				
Salaries, benefits, and related indirect costs	\$ 7,330	\$ 946	\$ (6,384)	Finding 1
Less late penalty	(253)	(253)	—	
Total program costs	<u>\$ 7,077</u>	693	<u>\$ (6,384)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 693</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Salaries, benefits, and related indirect costs	\$ 5,723	\$ 3,417	\$ (2,306)	Finding 1
Services and supplies	177,891	—	(177,891)	Finding 2
Total program costs	<u>\$ 183,614</u>	3,417	<u>\$ (180,197)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 3,417</u>		
<u>July 1, 2004, through June 30, 2005</u>				
Salaries, benefits, and related indirect costs	\$ 389	\$ 389	\$ —	
Services and supplies	130,085	—	(130,085)	
Total program costs	<u>\$ 130,474</u>	389	<u>\$ (130,085)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 389</u>		
<u>Summary: July 1, 2002, through June 30, 2005</u>				
Salaries, benefits, and related indirect costs	\$ 13,442	\$ 4,752	\$ (8,690)	
Services and supplies	307,976	—	(307,976)	
Subtotal	321,418	4,752	(316,666)	
Less late penalty	(253)	(253)	—	
Total program costs	<u>\$ 321,165</u>	4,499	<u>\$ (316,666)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 4,499</u>		
<u>Recap by Components</u>				
Administrative Appeals	\$ 236,309	\$ —	\$ (236,309)	
Interrogations	83,570	2,601	(80,969)	
Adverse Comments	1,539	2,151	612	
Total direct and indirect costs	321,418	4,752	(316,666)	
Less late penalty	(253)	(253)	—	
Total program costs	<u>\$ 321,165</u>	<u>\$ 4,499</u>	<u>\$ (316,666)</u>	

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unallowable salaries and benefits and indirect costs

The city claimed \$13,442 in salaries, benefits, and related indirect costs for the audit period. We determined that \$4,752 is allowable and \$8,690 is unallowable. We determined that some costs were unallowable because activities claimed were either not identified in the parameters and guidelines as reimbursable costs (\$7,201) or were unsupported (\$1,546). The unallowable costs are net of a \$57 understatement because the city used an incorrect fully burdened salary for fiscal year (FY) 2003-04.

The following table summarizes the claimed, allowable, and unallowable costs for the audit period:

Reimbursable Component	Amount Claimed	Amount Allowed	Audit Adjustment
Interrogations	\$ 11,903	\$ 2,601	\$ (9,302)
Adverse Comment	1,539	2,151	612
	<u>\$ 13,442</u>	<u>\$ 4,752</u>	<u>\$ (8,690)</u>

Interrogations

For the Interrogations cost component, the city claimed \$11,903 in salaries, benefits, and indirect costs for the audit period. We determined that \$2,601 is allowable and \$9,302 is unallowable. We determined that some costs were unallowable because activities claimed were either not identified in the parameters and guidelines as reimbursable costs (\$7,201), were unsupported (\$1,546), or were misclassified (\$555).

Ineligible Activities

The city claimed reimbursement of \$7,201 for the following ineligible activities:

Activity	Fiscal Year		Total
	2002-03	2003-04	
Writing the report	\$ 2,839	\$ —	\$ 2,839
Interviewing the subject and/or witness	583	1,362	1,945
Administrative time	474	—	474
Time spent being interviewed	375	—	375
Dealing with complainant	244	92	336
Meetings	—	298	298
Putting the IA package together for chief	165	131	296
Interviewing complainant	224	—	224
Reviewing video-taped evidence	—	201	201
Report of findings to Chief	—	101	101
Following up on investigations	75	—	75
Miscellaneous	—	37	37
Total	<u>\$ 4,979</u>	<u>\$ 2,222</u>	<u>\$ 7,201</u>

The activities associated with interviewing and dealing with the complainant, following up on the investigation, taking care of administrative issues, putting the Internal Affairs package together for the Chief, reviewing video-taped evidence, writing a report of findings to

the Chief, and writing the report implement the existing procedural requirements of the due-process clause of the United States and California Constitutions, and thus are not reimbursable.

In addition, conducting interrogations is not a reimbursable activity. Reimbursement is limited, under the Interrogations cost component, to overtime costs incurred for the police officer or police officer-witness being interrogated because the interrogations occurred during his or her off-duty time.

Unsupported Costs

The city could not support the following costs totaling \$1,546:

- 34.4 hours for the administrative secretary for FY 2002-03 (\$1,405)
- 1.25 hours for a lieutenant for FY 2003-04 (\$124)
- 0.25 hours for a police officer for FY 2003-04 (\$17)

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.

Allowable Adverse Comment Costs

The city claimed reimbursement of 4.4 hours, or \$555, under the Interrogations cost component for the Police Chief to perform the following activities for FY 2003-04 that were allowable under Adverse Comment:

- Prepare letter to subjects (1.4 hours)
- Prepare letter to witness (3 hours)

The city provided documentation supporting 8.8 hours, but claimed half of those hours (4.4 hours) under the Adverse Comment cost component and half (4.4 hours) under the Interrogations cost component. We determined that these activities were fully allowable under the Adverse Comment cost component; therefore, \$555 was reclassified as an allowable Adverse Comment cost.

Adverse Comment

For the Adverse Comment cost component, the city claimed \$1,539 in salaries, benefits, and indirect costs for the audit period. We determined that \$2,151 is allowable. In addition to determining that all claimed costs were allowable, we determined that Adverse Comment costs of \$555 were misclassified as Interrogation costs, as noted in the paragraph above, and the city understated costs by \$57 because it used the wrong fully burdened salary rate for the Police Chief for FY 2003-04.

Incorrect Fully Burdened Rate Used

The city claimed reimbursement in FY 2003-04 for the Police Chief using the wrong fully burdened hourly rate. The city claimed reimbursement of \$113.03 per hour, which is the FY 2002-03 rate, instead of \$126.03, which is the FY 2003-04 rate. We applied the correct hourly rate to the claimed hours (4.4 hours); the result was an additional \$57 of allowable costs.

Recommendation

We recommend 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

Areas in which we disagree with the audit reductions are:

Interrogations:

The State Controller's Office (SCO) audit disallowed all of the costs claimed under this section. While we have time records supporting these costs, the State has concluded, we believe erroneously, that only overtime interrogations of the subject officer are eligible for reimbursement.

We disagree with this narrow interpretation and believe that this is contrary to the intent of the statutes and the Peace Officer Bill of Rights Statement of Decision which states on page 13, "The Commission agreed. 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."

"Accordingly, the Commission found that Government Code section 3303, subdivision (a) constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes "costs mandated by the state" under Government Code Section 17514."

Government Code 3303, subdivision (a) states: "The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If the interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for any off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed."

The California State Auditor notes in their October, 2003 review of State Mandates, that "Commission staff and our legal counsel have advised us that the statement of decisions is legally binding on the claimants and that the claimants should be familiar with the analysis and conclusions it contains when submitting their claims." (pg. 26, Cal. State Audit Report 2003-106)

While we also disagreed with several other cuts made, such as for activities including: “Meeting time,” “Putting the IA package together for the Chief”, and “Report of findings to the Chief”, the dollar amounts are too small to make an issue of them. We believe these descriptions can easily fall under eligible categories under Administrative Activities and Adverse Comment. Putting the package together and presenting it to the Chief would be reasonably related to: “review the circumstances or documentation leading to the adverse comment by command staff, including determination of whether the same constitutes an adverse comment and review for accuracy.”

We wish to thank the State Controller audit staff for their courtesy, professionalism, and responsiveness. We would appreciate your ongoing assistance and future cooperation as we develop time studies to ensure that they comply with State guidelines.

SCO’s Comment

The finding and recommendation remain unchanged.

The city believes that costs for non-overtime interrogations of the subject officer claimed under the Interrogations cost component are reimbursable based on certain wording contained in the mandated program’s original statement of decision and in Government Code section 3303, subdivision (a). However, the CSM adopted the program’s parameters and guidelines on July 27, 2000, and corrected them on August 17, 2000. The parameters and guidelines do not identify such costs as reimbursable under the mandate.

The city also quotes wording from the Bureau of State Audits report, issued in 2003, that refers to the POBOR program, which is irrelevant to the conduct of this audit. The city does not include the wording from the adopted parameters and guidelines that specifies the reimbursable activities. The parameters and guidelines state (in section IV(C), Interrogation) that “claimants are not eligible for reimbursement for the activities listed in this section when an interrogation of a peace officer is in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or any other routine or unplanned contact with, a supervisor or any other public safety officer.” The document goes on to specify five activities that are reimbursable.

Section IV (c)(1) describes the only reimbursable activity that relates to interrogations. It states “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.”

Further, the language used by CSM staff in its analysis for Item #10 of the proposed parameters and guidelines for POBOR heard at its July 27, 2000, hearing (specifically on page 912) contains reference to Government Code section 3303, subdivision (a). The CSM states that this section of the test claim legislation:

. . . addresses only the compensation and timing of the interrogation. 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.

The staff analysis goes on to state:

Based on the foregoing, staff has modified Section IV(C) as follows:

"1. Conducting an interrogation of a peace officer while the officer is on duty or compensating 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. (Gov. Code section 3303, subd. (a).)

There is clarifying language that *also* appears on page 12 of the original statement of decision, noting that "Government Code section 3303 describes the procedures for the interrogation of a peace officer. The procedures and rights given to peace officers under section 3303 do *not* apply to any interrogation in the normal course of duty, counseling, instruction, or informal verbal admonition by a supervisor."

We believe that the language on which the city is relying in the statement of decision refers to a situation wherein a peace officer is on-duty during his or her off-duty time (i.e. on overtime) and is subject to an interrogation. The CSM noted that overtime compensation in this scenario would be reimbursable.

To state that interrogations conducted during an officer's regular on-duty time is reimbursable is contrary to the other wording that appears in the statement of decision, the staff analysis for the proposed parameters and guidelines, and in the adopted parameters and guidelines. Therefore, the preponderance of evidence on this issue does not support the city's contention.

We also noted that at a subsequent CSM hearing, held on December 4, 2006, one of the agenda items (item #13) concerned requests to amend parameters and guidelines for the POBOR Program. During testimony for this item, a San Bernardino County representative testified that the county had submitted an amendment to clarify what was adopted in the original statement of decision. The county representative disagreed with the CSM staff's conclusion regarding interrogations because it was supposedly inconsistent with the original statement of decision; the representative urged CSM to reconsider the amendment. The Chief Legal Counsel for the CSM responded that some statements in the original statement of decision were being taken out of context. She clarified that the test claim legislation does not mandate local agencies to interrogate an officer and it does not mandate local agencies to investigate. Rather, these activities are based on local policy and regulation.

The city also expresses its belief that the activities described in the city’s time logs as “Putting the IA package together for the Chief” and “Report of findings to the Chief” would be reimbursable under the Adverse Comment cost component and goes on to correctly quote language from the parameters and guidelines. However, the language quoted refers to the *review* of circumstances or documentation by command staff, which is reimbursable. While the language quoted states that review of this documentation is reimbursable, the language is absent any indication that preparation of this material is reimbursable.

If the city decides to implement a time study in an effort to support costs incurred under the mandated program, our office will provide appropriate assistance. In the event that a subsequent time study provides evidence to support the time it takes to perform individual reimbursable activities that occurred during the audit period, as well as the number of activities performed, we will revise the audit findings as appropriate.

**FINDING 2—
Unallowable services
and supplies**

The city claimed \$307,976 in service and supply costs for the audit period. All of the costs claimed are unallowable because the activities claimed were either not identified in the parameters and guidelines as reimbursable costs (\$275,602), were claimed twice (\$31,410), or were not supported (\$964).

The following table summarizes the claimed, allowable, and unallowable costs for the audit period:

<u>Services and Supplies</u>	<u>Amount Claimed</u>	<u>Amount Allowed</u>	<u>Audit Adjustment</u>
Administrative Appeals	\$ 236,309	\$ —	\$ (236,309)
Interrogations	71,667	—	(71,667)
Total	<u>\$ 307,976</u>	<u>\$ —</u>	<u>\$ (307,976)</u>

Administrative Appeals

For the Administrative Appeals cost component, the city claimed \$236,309 in services and supplies costs for the audit period. The audit determined that none of the costs are allowable because the activities claimed were either not identified in the parameters and guidelines as reimbursable costs (\$235,345) or were unsupported (\$964).

Ineligible Activities

The city claimed \$235,345 in attorney fees for costs it incurred when two peace officers appealed their terminations (\$105,671 for FY 2003-04 and \$129,674 for FY 2004-05). In the statement of decision for the POBOR Program, the CSM determined that dismissal (a.k.a. termination) does not constitute a new program or higher level of service because prior law allowed for such an appeal under the due process clause of the United States and California Constitutions. Therefore, the parameters and guidelines do not provide reimbursement for such cases.

However, the parameters and guidelines do allow reimbursement for providing the opportunity for, and the conduct of, an administrative appeal for the following disciplinary actions:

- Dismissal, demotion, suspension, salary reduction, or written reprimand received *by the Chief of Police* [emphasis added] whose liberty interest is not affected
- Transfer of permanent employees for purposes of punishment
- Denial of promotion for permanent employees for reasons other than merit
- Other actions against permanent employees or the Chief of Police that result in disadvantage, harm, loss, or hardship and impact the career opportunities of the employee

Unsupported Costs

The city claimed \$106,635 for attorney services, but provided invoices supporting only \$105,671 in costs. The difference of \$964 is unsupported.

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.

Interrogations

For the Interrogations cost component, the city claimed \$71,667 in services and supplies for the audit period. The audit determined that none of the costs are allowable because the activities claimed were either not identified in the parameters and guidelines as reimbursable costs (\$40,257) or were claimed twice (\$31,410).

Ineligible Activities

The city claimed reimbursement for the following unallowable activities in the amount of \$40,257 (\$39,846 for FY 2003-04 and \$411 for FY 2004-05) for services provided by a private attorney:

- Preparing for interrogations;
- Interrogating city employees;
- Time spent in conferences with various city employees;
- Drafting responses to telephone conferences;
- Reviewing case files; and
- Analyzing and transcribing interrogations.

However, the parameters and guidelines specifically state the reimbursement under this cost component is limited to the following activities:

- Compensating the peace officer for interrogations occurring during off-duty time;
- Providing prior notice to the peace officer regarding the nature of the interrogation;
- Tape recording the interrogation when the peace officer employee records the interrogation;
- Providing the peace officer employee with access to the tape prior to any further interrogation at a subsequent time; and
- Producing transcribed copies of any notes made by a stenographer at an interrogation when requested by the officer being interrogated.

Costs Claimed Twice

The city claimed reimbursement twice for an attorney invoice in the amount of \$31,410. This invoice was first claimed as an Interrogation cost for FY 2003-04 and again as an Administrative Appeal cost for FY 2004-05.

Recommendation

We recommend 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 concurs with the finding, except for the portion of the finding related to Interrogations (see the city's response in Finding 1).

SCO's Comment

The finding and recommendation remain unchanged.

In its response, the city did not differentiate between the contents of Findings 1 and 2, although the city's language disagreeing with unallowable costs related to the Interrogations cost component in Finding 1 seems to also relate to costs claimed for interrogations under services and supplies. Accordingly, our comments on this issue are identical to those as regards Finding 1.

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



City of Rocklin

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October 30, 2008

Mr. James L. Spano, Chief
Division of Audits
State Controller's Office
PO Box 942850
Sacramento, California 94250-5874

RE: City of Rocklin Peace Officer Bill of Rights Audit

Dear Mr. Spano,

We have reviewed the draft audit results for the periods covering July 1, 2002 through June 30, 2005. In general, we concur with the findings.

Areas in which we disagree with the audit reductions are:

Interrogations:

The State Controller's Office (SCO) audit disallowed all of the costs claimed under this section. While we have time records supporting these costs, the State has concluded, we believe erroneously, that only overtime interrogations of the subject officer are eligible for reimbursement.

We disagree with this narrow interpretation and believe that this is contrary to the intent of the statutes and the Peace Officer Bill of Rights Statement of Decision which states on page 13, "The Commission agreed. 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."

"Accordingly, the Commission found that Government Code section 3303, subdivision (a) constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes "costs mandated by the state" under Government Code Section 17514."

Government Code 3303, subdivision (a) states: "The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the

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Community Services & Facilities 916.625.5200 • Fire 916.625.5300 • Police 916.625.5400 • Public Works 916.625.5500

normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If the interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for any off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed."

The California State Auditor notes in their October 2003 review of State Mandates that "regularly binding on the claimants and that the claimants should be familiar with the analysis and conclusion it contains when submitting their claims." (pg. 26, Cal. State Audit Report 2003-106)

While we also disagree with several other cuts made, such as for activities including: "Meeting time," "Putting the IA package together for the Chief", and "Report of findings to the Chief", the dollar amounts are too small to make an issue of them. We believe these descriptions can easily fall under eligible categories under Administrative Activities and Adverse Comment. Putting the package together and presenting it to the Chief would be reasonably related to: "review the circumstances or documentation leading to the adverse comment by command staff, including determination of whether the same constitutes an adverse comment and review for accuracy."

We wish to thank the State Controller audit staff for their courtesy, professionalism, and responsiveness. We would appreciate your ongoing assistance and future cooperation as we develop time studies to ensure that they comply with State guidelines.

Sincerely,



Judy LaPorte
Director of Administrative Services

cc: Kim Sarkovich, Chief Financial Officer
Annette Chinn, Cost Recovery Systems

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