

# **CITY OF GILROY**

Audit Report

## **PHOTOGRAPHIC RECORD OF EVIDENCE PROGRAM**

Chapter 875, Statutes of 1985; Chapter 734,  
Statutes of 1986; and Chapter 382, Statutes of 1990

*July 1, 2002, through June 30, 2005*



**JOHN CHIANG**  
California State Controller

May 2008



**JOHN CHIANG**  
California State Controller

May 23, 2008

Al Pinheiro, Mayor  
City of Gilroy  
190 First Street  
Gilroy, CA 95020

Dear Mr. Pinheiro:

The State Controller's Office audited the costs claimed by the City of Gilroy for the legislatively mandated Photographic Record of Evidence Program (Chapter 875, Statutes of 1985; Chapter 734, Statutes of 1986; and Chapter 382, Statutes of 1990) for the period of July 1, 2002, through June 30, 2005.

The city claimed \$364,770 for the mandated program. Our audit disclosed that the entire amount is unallowable, primarily because the city did not provide sufficient documentation to support salaries and benefits claimed. The State paid the city \$185,416, which the State will offset from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

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](http://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](mailto: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: Irma Navarro  
    Revenue Officer  
    City of Gilroy  
Cindy Murphy  
    Co-Finance Director/City Treasurer  
    City of Gilroy  
Christina Turner  
    Co-Finance Director/City Treasurer  
    City of Gilroy  
David Wellhouse  
    David Wellhouse & Associates, Inc.  
Todd Jerue, Program Budget Manager  
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    Department of Finance

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Gilroy for the legislatively mandated Photographic Record of Evidence Program (Chapter 875, Statutes of 1985; Chapter 734, Statutes of 1986; and Chapter 382, Statutes of 1990) for the period of July 1, 2002, through June 30, 2005.

The city claimed \$364,770 for the mandated program. Our audit disclosed that the entire amount is unallowable, primarily because the city did not provide sufficient documentation to support salaries and benefits claimed. The State paid the city \$185,416, which the State will offset from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

## Background

Chapter 875, Statutes of 1985; Chapter 734, Statutes of 1986; and Chapter 382, Statutes of 1990; added and amended Penal Code section 1417.3. The law requires a photographic record of evidence, and in some instances a certified chemical analysis, for those criminal trial exhibits that pose a security, storage, or safety problem, or for those exhibits that are toxic and pose a health hazard to humans.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. CSM adopted the parameters and guidelines on February 28, 2002. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts 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 Photographic Record of Evidence 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 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.

We asked the city's representative to submit a written representation letter regarding the city's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Government Auditing Standards*. However, the city declined our request.

## **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 Gilroy claimed \$364,770 for costs of the Photographic Record of Evidence Program. Our audit disclosed that the entire amount is unallowable. The State paid the city \$185,416, which it will offset from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

## **Views of Responsible Official**

We issued a draft audit report on April 4, 2008. We contacted Irma Navarro, Revenue Officer, by e-mail on May 2, 2008. Ms. Navarro stated that the city will not submit a response to the draft audit report.

## **Restricted Use**

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

May 23, 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>Reference<sup>1</sup></u>
<u>July 1, 2002, through June 30, 2003</u>				
Direct costs:				
Salaries	\$ 6,441	\$ —	\$ (6,441)	Finding 1
Materials and supplies	5,177	—	(5,177)	Finding 2
Total program costs	<u>\$ 11,618</u>	—	<u>\$ (11,618)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs:				
Salaries	\$ 74,960	\$ —	\$ (74,960)	Finding 1
Benefits	34,481	—	(34,481)	Finding 1
Materials and supplies	7,908	—	(7,908)	Finding 2
Total direct costs	117,349	—	(117,349)	
Indirect costs	50,387	—	(50,387)	Finding 1,3
Total program costs	<u>\$ 167,736</u>	—	<u>\$ (167,736)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		
<u>July 1, 2004, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 77,208	\$ —	\$ (77,208)	Finding 1
Benefits	39,917	—	(39,917)	Finding 1
Materials and supplies	4,880	—	(4,880)	Finding 2
Total direct costs	122,005	—	(122,005)	
Indirect costs	63,411	—	(63,411)	Finding 1,3
Total program costs	<u>\$ 185,416</u>	—	<u>\$ (185,416)</u>	
Less amount paid by the State		<u>(185,416)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (185,416)</u>		

## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>Summary: July 1, 2002, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 158,609	\$ —	\$ (158,609)	
Benefits	74,398	—	(74,398)	
Materials and supplies	<u>17,965</u>	<u>—</u>	<u>(17,965)</u>	
Total direct costs	250,972	—	(250,972)	
Indirect costs	<u>113,798</u>	<u>—</u>	<u>(113,798)</u>	
Total program costs	<u>\$ 364,770</u>	—	<u>\$ (364,770)</u>	
Less amount paid by the State		<u>(185,416)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (185,416)</u>		

<sup>1</sup> See the Findings and Recommendations section.

# Findings and Recommendations

## **FINDING 1— Unallowable salaries, benefits, and indirect costs**

The city claimed unallowable salaries and benefits totaling \$233,007. The related indirect costs total \$113,798. The city did not provide adequate source documentation to support mandate-related hours claimed. In addition, the city claimed training costs that were either unsupported or reimbursed through its productive hourly wage rates.

The city claimed costs to maintain files; to take, print, sort, and store photographs; and to store exhibits based on estimated hours. The city did not maintain any contemporaneous source documentation to support hours claimed. We gave the city an opportunity to conduct a time study to support claimed costs. The city submitted a time study plan on February 28, 2007, and was to conduct the time study from July 1, 2007, through August 31, 2007. However, the city did not conduct the time study.

The city also claimed 80 training hours for both its fiscal year (FY) 2003-04 and FY 2004-05 claims. The city provided training records that show only 52 training hours attended in FY 2003-04 and 32 training hours attended in FY 2004-05. Of the 84 training hours documented, 64 hours pertain to attendance at the annual California Association for Property and Evidence conference. This conference includes both mandate-related and non-mandate-related training topics. The city did not identify the mandate-related training hours. In addition, the city recovers training costs through its productive hourly wage rates. The city provided documentation to support its calculation of annual productive hours. The city deducts training hours from total annual hours to calculate productive hours and uses the productive hours to calculate productive hourly wage rates. The city uses these productive hourly wage rates to claim mandate-related costs. As a result, the city recovers training costs through its productive hourly wage rates. Because the city deducts training hours as non-productive hours, it may not claim training hours as productive hours on its mandated cost claims.

The following table summarizes the unallowable salaries, benefits, and indirect costs:

	Fiscal Year			Total
	2002-03	2003-04	2004-05	
Salaries	\$ (6,441)	\$ (74,960)	\$ (77,208)	\$(158,609)
Benefits	—	(34,481)	(39,917)	(74,398)
Subtotal	(6,441)	(109,441)	(117,125)	(233,007)
Indirect costs	—	(50,387)	(63,411)	(113,798)
Audit adjustment	\$ (6,441)	\$(159,828)	\$(180,536)	\$(346,805)

The program's parameters and guidelines state that direct costs are those costs incurred specifically for reimbursable activities. They also state, "All incurred costs claimed must be traceable to source documents that show evidence of the validity and their relationship to the reimbursable activities."

Recommendation

We recommend that the city maintain contemporaneous time records to ensure that all claimed costs are properly supported and reimbursable under the mandated program.

City's Response

The city did not respond to the audit finding.

**FINDING 2—  
Unallowable materials  
and supplies**

The city claimed unallowable materials and supplies totaling \$17,965. The city did not provide documentation showing that claimed costs are mandate-related.

The city claimed materials and supplies only for the photographic record of evidence reimbursable activity. The parameters and guidelines define that reimbursable activity as follows:

For exhibits that pose a security, safety, or storage problem as determined by the court, or for exhibits that pose a health hazard to humans, including the definition of hazardous waste in 40 Code of Federal Regulations part 261, or human health hazards which are subject to Health and Safety Code section 117600 et seq., or Health and Safety Code section 25140 et seq.:

1. Purchasing equipment and supplies reasonably necessary to photograph the exhibits, whether for digital or film pictures, including, but not limited to: cameras, developing equipment, laser printers, software, film, computers, and storage.
2. Taking of photographs, sorting and storing photographs, and developing and printing photographs. This activity is limited to photographs actually introduced or offered into evidence as exhibits. Claimants must provide supporting documentation with subsequent reimbursement claims that the court has deemed the exhibit a security, safety or storage problem by providing a copy of the court order, local rule, or other proof of the court's determination. [Emphasis added.]

The city described its claiming process as follows: (1) the city identifies a percentage of photographs entered into evidence versus the total number of photographs taken, and (2) the city applies that percentage to total photographic equipment and supply costs to arrive at the claimed mandate-related costs. However, our audit disclosed the following issues:

**FY 2002-03**

The city provided copies of invoices and purchase orders to support claimed costs. On one purchase order, a notation indicates that the city claimed 35% of the total invoice amount for certain invoices and the full invoice amount for other invoices. After originally identifying the claiming process described above, the city stated that it claimed 35% of photographic supplies, and 100% of photographic equipment. However, the city was unable to identify which invoices it claimed either partly or fully and thus was unable to reconcile the invoices to claimed costs. In

addition, the city did not provide documentation showing that certain invoices were 35% mandate-related and that other invoices were 100% mandate-related.

**FY 2003-04 and FY 2004-05**

The city claimed materials and supplies in three separate components: equipment purchases, photographic supplies, and photographic processing. The city submitted invoices that document the claimed costs for each component. Contrary to the city’s stated claiming process, the city claimed 100% of the invoice costs. The city did not provide documentation showing that all costs were mandate-related.

For all fiscal years, the city provided various photographic evidence record requests from county district attorneys. However, the city did not provide documentation that identifies which photographs were mandate-related, the number of mandate-related photographs, or the total number of photographs processed. The city also did not provide copies of court orders, local rule, or other proof of the court’s determination that exhibits were deemed to be a security, safety, or storage problem. In addition, the city did not provide documentation that photographs were actually introduced or offered into evidence as exhibits.

The following table summarizes the unallowable materials and supplies:

	Fiscal Year			Total
	2002-03	2003-04	2004-05	
Materials and supplies	\$ (5,177)	\$ (7,908)	\$ (4,880)	\$ (17,965)

The program’s parameters and guidelines state that direct costs are those incurred specifically for the reimbursable activities. The parameters and guidelines state that local governments may claim the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. The parameters and guidelines state, “All incurred costs claimed must be traceable to source documents that show evidence of the validity and their relationship to the reimbursable activities.”

Recommendation

We recommend that the city maintain adequate source documentation to identify mandate-related photographs and total photographs processed. We recommend that the city claim only those direct costs that it incurs specifically for reimbursable activities.

City’s Response

The city did not respond to the audit finding.

**FINDING 3—  
Overstated indirect  
costs rates**

The city overstated its indirect cost rates for FY 2003-04 and FY 2004-05. We previously identified all claimed indirect costs as unallowable in Finding 1. As a result, no additional unallowable costs are identified in this finding. The city overstated its indirect cost rates for the following reasons:

**FY 2003-04**

- The city calculated its indirect cost rate proposal (ICRP) based on budgeted rather than actual costs.
- The city did not provide documentation to support the actual time that the following employee classifications spent on direct and indirect activities: Police Chief, Lieutenants, Sergeants, Corporals, and Police Support Services Manager. As a result, the indirect costs are unallowable.
- The city's indirect cost pool included services and supplies that it also claimed as direct costs on its mandated cost claim.

**FY 2004-05**

- The city did not provide documentation to support the actual time that the following employee classifications spent on direct and indirect activities: Police Chief, Lieutenants, Sergeants, Corporals, and Police Support Services Manager. As a result, the indirect costs are unallowable.
- The city's indirect cost pool included services and supplies that it also claimed as direct costs on its mandated cost claim.
- The city identified uniform and tool allowance costs as fringe benefits rather than services and supplies (as it was reported in FY 2003-04). The city confirmed that uniform and tool allowance costs are not employee fringe benefits.
- The city erroneously reported office/computer supplies as unallowable/excludable county billings. In addition, the city erroneously reported unallowable/excludable county billings as office/computer supplies.

The parameters and guidelines state, "All incurred costs claimed must be traceable to source documents that show evidence of the validity and their relationship to the reimbursable activities." The parameters and guidelines also state that cities may claim indirect costs using the procedures provided in Office of Management and Budget (OMB) Circular A-87 (Title 2, Code of Federal Regulations, Part 225). The circular states that salary costs will be based on payroll documentation. It also states that the city must distribute salaries and wages based on personnel activity reports or equivalent documentation when employees work on an indirect cost activity and a direct cost activity. In addition, OMB Circular A-87 states that cities must treat each cost item consistently in like circumstances either as a direct or an indirect cost.

The following table summarizes the adjustments to the city's indirect cost rates:

	<u>Costs Reported</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>
<u>FY 2003-04</u>			
Direct costs:			
Salaries and wages	\$ 3,947,339	\$ 3,808,626	\$ (138,713)
Fringe benefits	<u>1,574,158</u>	<u>1,591,192</u>	<u>17,034</u>
Total direct costs (A)	<u>\$ 5,521,497</u>	<u>\$ 5,399,818</u>	<u>\$ (121,679)</u>
Indirect costs:			
Salaries and wages	\$ 1,508,996	\$ 345,480	(1,163,516)
Fringe benefits	694,478	163,551	(530,927)
Services and supplies	<u>338,490</u>	<u>335,612</u>	<u>(2,878)</u>
Total indirect costs (B)	<u>\$ 2,541,964</u>	<u>\$ 844,643</u>	<u>\$ (1,697,321)</u>
Indirect cost rate (B ÷ A)	<u>46.04%</u>	<u>15.64%</u>	<u>(30.40)%</u>
<u>FY 2004-05</u>			
Direct costs:			
Salaries and wages	\$ 3,837,749	\$ 3,837,749	\$ —
Fringe benefits	<u>1,694,320</u>	<u>1,660,237</u>	<u>(34,083)</u>
Total direct costs (C)	<u>\$ 5,532,069</u>	<u>\$ 5,497,986</u>	<u>\$ (34,083)</u>
Indirect costs:			
Salaries and wages	\$ 1,748,555	\$ 435,600	(1,312,955)
Fringe benefits	904,633	220,829	(683,804)
Services and supplies	<u>341,832</u>	<u>343,065</u>	<u>1,233</u>
Total indirect costs (D)	<u>\$ 2,995,020</u>	<u>\$ 999,494</u>	<u>\$ (1,995,526)</u>
Indirect cost rate (D ÷ C)	<u>54.14%</u>	<u>18.18%</u>	<u>(35.96)%</u>

#### Recommendation

We recommend that the county prepare its indirect cost rate proposals according to OMB Circular A-87 requirements.

#### City's Response

The city did not respond to the audit finding.

**State Controller's Office  
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