



MALIA M. COHEN
CALIFORNIA STATE CONTROLLER

April 29, 2024

Emad Gewaily, Director of Finance
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307

Dear Mr. Gewaily:

The State Controller's Office performed a review of costs claimed by the Town of Apple Valley (the town) for the legislatively mandated Racial and Identity Profiling Program (Chapter 466, Statutes of 2015; and Chapter 328, Statutes of 2017) for the period of July 1, 2018, through June 30, 2022. We conducted our review under the authority of Government Code sections 12410, 17558.5, and 17561. Our review was limited to recalculating the town's contract hourly rates and validating the claimed contract costs.

The town claimed and was paid \$440,799 for costs of the mandated program. Our review found that \$303,631 is allowable and \$137,168 is unallowable. The costs are unallowable because the town overstated its contract hourly rates, as quantified in the attached Summary of Program Costs and described in the Review Results.

This letter report contains an adjustment to costs claimed by the town. If you disagree with the review finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (Commission). Pursuant to Section 1185(c), of the Commission's regulations (Title 2, California Code of Regulations), an IRC challenging this adjustment must be filed with the Commission no later than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended. You may obtain IRC information on the Commission's website at www.csm.ca.gov/forms/IRCForm.pdf.

If you have any questions, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3128.

Sincerely,

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

Mr. Emad Gewaily
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KT/rs

Attachments

RE: S24-MCC-9008

cc: The Honorable Scott Nassif, Mayor
Town of Apple Valley
Chris Hill, Principal Program Budget Analyst
Local Government Unit, California Department of Finance
Kaily Yap, Finance Budget Analyst
Local Government Unit, California Department of Finance
Darryl Mar, Manager
Local Reimbursements Section
State Controller's Office
Everett Luc, Supervisor
Local Reimbursements Section
State Controller's Office

**Attachment 1—
Summary of Program Costs
July 1, 2018, through June 30, 2022**

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment ¹
<u>July 1, 2018, through June 30, 2019</u>			
Direct costs:			
Contract services:			
Collect and report data	\$ 90,173	\$ 62,188	\$ (27,985)
Audit and validate data	28,023	19,304	(8,719)
Total program costs	<u>\$ 118,196</u>	81,492	<u>\$ (36,704)</u>
Less amount paid by the State ²		(118,196)	
Amount paid in excess of allowable costs claimed		<u>\$ (36,704)</u>	
<u>July 1, 2019, through June 30, 2020</u>			
Direct costs:			
Contract services:			
Collect and report data	\$ 92,169	\$ 63,947	\$ (28,222)
Audit and validate data	30,597	21,215	(9,382)
Total program costs	<u>\$ 122,766</u>	85,162	<u>\$ (37,604)</u>
Less amount paid by the State ²		(122,766)	
Amount paid in excess of allowable costs claimed		<u>\$ (37,604)</u>	
<u>July 1, 2020, through June 30, 2021</u>			
Direct costs:			
Contract services:			
Train peace officers and supervisors	\$ 1,870	\$ 1,276	\$ (594)
Collect and report data	64,575	44,072	(20,503)
Audit and validate data	25,101	17,132	(7,969)
Total program costs	<u>\$ 91,546</u>	62,480	<u>\$ (29,066)</u>
Less amount paid by the State ²		(91,546)	
Amount paid in excess of allowable costs claimed		<u>\$ (29,066)</u>	

Attachment 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment ¹
<u>July 1, 2021, through June 30, 2022</u>			
Direct costs:			
Contract services:			
Collect and report data	\$ 74,034	\$ 50,930	\$ (23,104)
Audit and validate data	34,257	23,567	(10,690)
Total program costs	<u>\$ 108,291</u>	74,497	<u>\$ (33,794)</u>
Less amount paid by the State ²		(108,291)	
Amount paid in excess of allowable costs claimed		<u>\$ (33,794)</u>	
 <u>Summary: July 1, 2018, through June 30, 2022</u>			
Direct costs:			
Contract services	\$ 440,799	\$ 303,631	\$ (137,168)
Total program costs	<u>\$ 440,799</u>	303,631	<u>\$ (137,168)</u>
Less amount paid by the State ²		(440,799)	
Amount paid in excess of allowable costs claimed		<u>\$ (137,168)</u>	

¹ See Attachment 2, Review Results.

² Payment amount current as of January 8, 2024.

Attachment 2— Review Results July 1, 2018, through June 30, 2022

BACKGROUND—

Government Code (GC) section 12525.5, as added and amended by the Statutes of 2015, Chapter 466 and Statutes 2017, Chapter 328; and Title 11, California Code of Regulations, sections 999.224 through 999.229 established the state-mandated Racial and Identity Profiling Program.

The program requires a local law enforcement agency that employs peace officers—or that contracts for peace officers from another city or county for police protection services—to electronically report to the Attorney General, on an annual basis, data on all “stops” conducted by peace officers within its jurisdiction. For purposes of the program, “peace officer” does not include probation officers and officers in custodial settings.

On May 22, 2020, the Commission on State Mandates (Commission) found that GC section 12525.5 constitutes a reimbursable state-mandated program beginning November 7, 2017, for local law enforcement agencies.

The Commission determined that each claimant is allowed to claim and be reimbursed for the following activities identified in the parameters and guidelines (Section IV., “Reimbursable Activities”):

A. One-Time Activities

1. One-time training per peace officer employee and supervisor assigned to perform the reimbursable activities listed in section IV.B. of these Parameters and Guidelines.
2. One-time installation and testing of software necessary to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.

B. Ongoing Activities

1. Identification of the peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number. . . .
2. Collection and reporting data on all stops, as defined, conducted by that agency’s peace officers for the preceding calendar year in accordance with sections 999.226(a) and 999.227 of the regulations. . . .
3. Electronic submission of data to DOJ and retention of stop data collected. . . .
4. Audits and validation of data collected. . . .
5. For stop data collected, ensure that the name, address, social security number, or other unique personally identifiable information of the individual stopped, searched, or subjected to property seizure, and the badge number or other unique

identifying information of the peace officer involved, is not transmitted to the Attorney General in an open text field. . . .

The parameters and guidelines describe the 16 types of stop data and all applicable data elements, data fields, and narrative explanation fields that peace officers must collect for every stop.

The following types of stops are not reportable:

- Interactions with passengers in a stopped vehicle who have not been observed or suspected of violating the law;
- Stops made during public-safety mass evacuations;
- Stops made during active-shooter incidents;
- Stops resulting from routine security screenings to enter a building or special event;
- Interactions during traffic control of vehicles due to a traffic accident or emergency, crowd control actions requiring pedestrians to remain in a fixed location for public safety reasons, detaining of persons at residences so that officers can check for proof of age while investigating underage drinking, and checkpoints and roadblocks at which officers detain a person as the result of regulatory activity that is general and not based on individualized suspicion or personal characteristics;
- Interactions with a person who is subject to a warrant or search condition at his or her residence;
- Interactions with a person who is subject to home detention or house arrest;
- Stops in a custodial setting; and
- Stops that occur while an officer is off duty.

The program's parameters and guidelines establish the state mandate and define the reimbursement criteria. In compliance with GC section 17558, the State Controller's Office (SCO) issues the *Mandated Cost Manual for Local Agencies (Mandated Cost Manual)* to assist local agencies in claiming mandated program reimbursable costs.

**FINDING—
Overstated Racial and
Identity Profiling
Program costs**

The Town of Apple Valley (town) claimed \$440,799 in contract services costs for the Racial and Identity Profiling Program. We found that \$303,631 is allowable and \$137,168 is unallowable. The costs are unallowable because the town overstated its contract hourly rates by \$137,337 and understated its claimed costs by \$169 due to rounding errors.

We found that the town correctly classified claimed costs as contract services costs because it contracted with the San Bernardino County Sheriff's Department (SBCSD) for its law enforcement services during the review period. The town used the correct methodology to calculate its contract services costs: it multiplied the number of stops recorded by the time required to perform the reimbursable activities, and then by the

hourly rates obtained from the town’s contract with SBCSD. The SBCSD’s contracts included costs for salaries and benefits, as well as additional administrative costs.

However, the contract hourly rates were overstated because the town included a contract overhead amount in its hourly rate calculations based on unallowable indirect costs. The indirect costs are unallowable because they are based on salary and wage costs that the town did not incur.

The following table summarizes the claimed, allowable, and review adjustment amounts by fiscal year:

	(A)	(B)	(C) = (B) - (A)
	Contract Services		
Fiscal Year	Amount Claimed	Amount Allowable	Review Adjustment
2018-19	\$ 118,196	\$ 81,492	\$ (36,704)
2019-20	122,766	85,162	(37,604)
2020-21	91,546	62,480	(29,066)
2021-22	108,291	74,497	(33,794)
Total	<u>\$ 440,799</u>	<u>\$ 303,631</u>	<u>\$ (137,168)</u>

Contract Services Costs

The town contracted with the SBCSD to perform its law enforcement services during the review period. The “Police Department” page of the town’s website states, in part:

The Town of Apple Valley contracts with the San Bernardino County Sheriff’s Department for our public safety services. They proudly serve as the Town of Apple Valley Police Department, working alongside Town staff, and serving and protecting our citizens. . . .

These services included the reimbursable activities claimed for the mandated program. The town contracted for various SBCSD staff positions each fiscal year, which included, but were not limited to, Deputy Sheriffs, Sergeants, Corporals, Captains, and Lieutenants. No town staff member performed any of the reimbursable activities under this program; therefore, the town did not incur salary and related indirect costs. For the review period, we recalculated allowable contract services costs based on the claimed number of stops and the claimed time increments to perform the reimbursable activities multiplied by the revised contract hourly rates.

Contract Hourly Rates

The town provided copies of the “Schedule A Law Enforcement Services Contract” it negotiated with SBCSD for each year of the review period. Each contract specifies the level of service provided to the town, indicating the number of employees (the *level of service*) in various law enforcement classifications and the county’s costs for providing these employees. The

county uses this contract to indicate the authorized SBCSD staffing level for each year of the review period.

We used this information to determine the contract hourly billing rates for various employee classifications by using the total contract cost for each employee classification divided by the number of personnel that the county provided. For example, the town’s contract for fiscal year (FY) 2021-22 indicates that 37 Deputy Sheriffs and seven Sergeants provided law enforcement for the town during the year.

The following table shows the contract hourly rate calculation for Deputy Sheriffs and Sergeants during FY 2021-22:

Employee Classification	Annual Cost	Level of Service	Cost per Employee	Productive Hours	Hourly Rate
Deputy Sheriff	\$ 7,925,585	37	\$ 214,205	1,800	\$ 119.00
Sergeant	2,081,457	7	297,351	1,800	165.20

As a result of recalculating contract hourly rates, we determined that the town used 1,800 annual productive hours for all SBCSD employees in its claims for all years of the review period, as specified in the SCO’s *Mandated Cost Manual*).

The *Mandated Cost Manual* also states that the cost of contract services is allowable. Costs for contract services can be claimed using an hourly billing rate. However, the *Mandated Cost Manual* does not provide specific guidance on how to calculate an hourly billing rate. Generally speaking, an hourly rate for a specific employee classification would be determined by dividing the contract cost for an individual employee who performs reimbursable activities by 1,800 annual productive hours. However, this approach does not allow claimants to recover any additional contract costs, such as administrative costs, that could be reimbursable.

For additional guidance, we reviewed the report issued on May 19, 2023, for our review of the town’s mandated cost claims submitted for the Identity Theft Program. In that report, we noted that San Bernardino County includes administrative costs and indirect costs as separately billed line items in its contracts for law enforcement services. To treat the town equitably with other California cities contracting for law enforcement services, we concluded that it was appropriate to allow the town to claim its administrative costs as an addition to the contract hourly rate for employee classifications included in its contracts with the SBCSD.

We calculated an administrative cost percentage for each fiscal year of the review period based on the town’s contracts with the SBCSD. To calculate the percentage, we divided the cost of the following line items by the total contract cost:

- Taser Replacement
- Administrative Support
- Office Automation
- Services and Supplies

- Vehicle Insurance
- Personnel Liability and Bonding
- Workers’ Comp Experience Modification
- Law Enforcement Experience Modification (all years except FY 2018-19)
- County Administrative Costs
- Startup Cost (FY 2021-22 only)

The following table shows the allowable administrative cost percentage that we calculated for each fiscal year of the review period:

Fiscal Year	Allowable Administrative Percentage
2018-19	9.94%
2019-20	11.28%
2020-21	10.97%
2021-22	10.69%

As stated previously, we added the items within each contract that we determined were clearly administrative in nature and divided the total by each year’s total contract cost to determine the extent that administrative costs were represented within each year’s contract. The following table shows how we made this calculation for FY 2021-22:

Cost Category	Contract Amount
Taser Replacement	\$ 16,464
Administrative Support	69,114
Office Automation	221,158
Services and Supplies	75,600
Vehicle Insurance	179,456
Personnel Liability and Bonding	451,091
Workers' Comp Experience Modification	47,513
Law Enforcement Experience Modification	188,205
County Administrative Costs	474,128
Startup Cost	1,500
Total administrative costs	\$ 1,724,229
Divided by total contract amount	<u>16,130,617</u>
Administrative cost percentage	<u>10.69%</u>

Claimed hourly rates for Deputy Sheriffs and Sergeants increased as follows for FY 2021-22:

Employee Classification	Hourly Rate	Administrative Percentage	Revised Rate
Deputy Sheriff	\$ 119.00	10.69%	\$ 131.72
Sergeant	165.20	10.69%	182.85

To calculate the average contract hourly rate for each fiscal year, we divided the annual unit cost for each SBCSD employee classification by 1,800 annual productive hours and multiplied the product by the appropriate administrative cost percentage. We applied a similar calculation to the other employee classifications.

For example, the following table summarizes our analysis of the claimed and allowable contract services costs for the Deputy Sheriff classification for FY 2021-22:

Position	Claimed ¹				Allowable		
	Overhead @	Weighted	Claimed	Claimed	Administrative	Weighted	Allowable
	60.9%	Rate	Hours	Costs	Costs @ 10.69 %	Rate	Costs
(a)	(b)	(c) = (a)×(b)	(d)	(e) = (c)×(d)	(f)	(g) = (a)+(f)	(h) = (g)×(d)
\$ 119.00	\$ 72.47	\$ 191.48	386.65	\$ 74,034	\$ 12.72	\$ 131.72	\$ 50,930

¹ Claimed amounts in columns [c] and [e] contain rounding errors

The following table summarizes the claimed and allowable contract hourly rates for each of the employee classifications appearing in the town’s claims (Deputy Sheriffs, Sergeants, Captains, Corporals, and Lieutenants) during the review period, and the difference between those rates:

Fiscal Year	Claimed Hourly Rate	Allowable Hourly Rate	Rate Difference	Fiscal Year	Claimed Hourly Rate	Allowable Hourly Rate	Rate Difference
<u>Deputy Sheriff</u>				<u>Sergeant</u>			
2018-19	\$ 165.25	\$ 113.83	\$ (51.42)	2018-19	\$ 218.49	\$ 150.51	\$ (67.98)
2019-20	173.03	119.97	(53.06)	2019-20	230.61	159.89	(70.72)
2020-21	186.99	127.62	(59.37)	2020-21	186.99	172.16	(14.83)
2021-22	191.48	131.72	(59.76)	2021-22	265.80	182.86	(82.94)
<u>Captain</u>				<u>Corporal</u>			
2018-19	325.07	223.93	(101.14)	2018-19	183.71	126.54	(57.17)
2019-20	335.76	232.80	(102.96)	2019-20	194.41	134.79	(59.62)
2020-21	not claimed	-	-	2020-21	252.25	145.02	(107.23)
2021-22	not claimed	-	-	2021-22	not claimed	-	-
<u>Lieutenant</u>							
2018-19	254.66	175.42	(79.24)				
2019-20	not claimed	-	-				
2020-21	not claimed	-	-				
2021-22	not claimed	-	-				

The following table shows the calculation of the review adjustment for FY 2021-22:

Classification	Claimed Hours [a]	Claimed Rate [b]	Claimed Costs c = [a] * [b]	Allowable Rate [e]	Allowable Costs f = [a] * [e]	Review Adjustment g = [f] - [c]
Deputy Sheriff	386.65	\$ 191.48	\$ 74,036	\$ 131.72	\$ 50,930	\$ (23,106)
Sergeant	128.88	265.80	34,256	182.86	23,567	(10,689)
Rounding error			(1)		-	1
Totals			\$ 108,291		\$ 74,497	\$ (33,794)

Rounding Errors

We also found rounding errors totaling \$169 in the town’s claims when we recalculated claimed costs using the contract cost computation schedules provided with the claims. We recalculated claimed costs by multiplying the claimed employee billing rates by the claimed labor hours.

The following table summarizes the claimed and recalculated claimed costs by activity by fiscal year.

Fiscal Year	Activity 2 Claimed [a]	Activity 2 Recalculated [b]	Difference [c] = [b] - [a]	Activity 4 Claimed [d]	Activity 4 Recalculated [e]	Difference [f] = [e] - [d]	Total Difference [g] = [c] + [f]
2018-19	\$ 90,173	\$ 90,279	\$ 106	\$ 28,023	\$ 28,024	\$ 1	\$ 107
2019-20	92,169	92,229	60	30,597	30,597	-	60
2020-21	64,575	64,576	1	25,101	25,101	-	1
2021-22	74,034	74,036	2	34,257	34,256	(1)	1
Totals	<u>\$ 320,951</u>	<u>\$ 321,120</u>	<u>\$ 169</u>	<u>\$ 117,978</u>	<u>\$ 117,978</u>	<u>\$ -</u>	<u>\$ 169</u>

Contract Overhead Costs

The town provided copies of its Indirect Cost Rate Proposals (ICRPs) for FY 2018-19 through FY 2021-22. The ICRPs were prepared for the Town of Apple Valley Sheriff, which does not exist as an entity or as a person. The town’s ICRPs used a distribution base of direct salaries and wages for SBCSD staff to calculate its indirect cost rates. However, as no town staff member performed any of the reimbursable activities, the town did not incur any salary and wage costs with which to calculate an indirect cost rate. Instead, the town incurred contract services costs. Substituting salary and wage costs for contract services costs is inconsistent with generally accepted accounting principles; therefore, these rates are unallowable.

Furthermore, none of the costs that the town incurred for law enforcement services provided by the SBCSD were indirect costs. The parameters and guidelines (Section V.B., “Indirect Cost Rates”) provide that indirect costs are “incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved.” In this instance, there is only one program (law enforcement services provided by a contractor) and there are no town departments.

Criteria

Section IV, “Reimbursable Activities,” of the parameters and guidelines begins:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity

in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheet, invoices, and receipts.

Section V.A.3, “Contracted Services,” of the parameters and guidelines states:

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

Section V.B., “Indirect Cost Rates,” of the parameters and guidelines states, in part:

Indirect costs are costs that are incurred for a common or joint purpose, benefitting more than one program, and are not directly assigned to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement in accordance with the Office of Management and Budget Circular 2 CFR [Code of Federal Regulations], Chapter I and Chapter II, Part 200 et al. Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate exceeds 10 percent. . . .

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution. . . .

Recommendation

We recommend the town:

- Adhere to the Racial and Identity Profiling Program’s parameters and guidelines and the SCO’s *Mandated Cost Manual* when claiming reimbursement for mandated costs; and
- Ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.