

CITY OF RANCHO CUCAMONGA

Audit Report

IDENTITY THEFT PROGRAM

Chapter 956, Statutes of 2000

July 1, 2002, through June 30, 2013



MALIA M. COHEN
California State Controller

November 2023



MALIA M. COHEN
CALIFORNIA STATE CONTROLLER

November 20, 2023

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Tamara Oatman, Finance Director
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91729

Dear Ms. Oatman:

The State Controller's Office audited the costs claimed by the City of Rancho Cucamonga for the legislatively mandated Identity Theft Program for the period of July 1, 2002, through June 30, 2013.

The city claimed \$500,098 for costs of the mandated program. Our audit found that \$195,540 is allowable and \$304,558 is unallowable. The costs are unallowable because the city misclassified costs, overstated the number of identity theft reports taken, misstated the time increments needed to perform the reimbursable activities, and claimed unallowable indirect costs. The State made no payments to the city. The State will pay \$195,540, contingent upon available appropriations.

Following issuance of this audit report, the Local Government Programs and Services Division of the State Controller's Office will notify the city of the adjustment to its claims via a system-generated letter for each fiscal year in the audit period.

This final audit report contains an adjustment to costs claimed by the city. If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (Commission). Pursuant to the Commission's regulations, outlined in Title 2, California Code of Regulations, section 1185.1, subdivision (c), 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than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended. IRC information is available on the Commission's website at www.csm.ca.gov/forms/IRCFrm.pdf.

Ms. Tamara Oatman
November 20, 2023
Page 2 of 2

If you have any questions, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138.

Sincerely,

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

KT/ac

cc: The Honorable L. Dennis Michael, Mayor
City of Rancho Cucamonga
Chris Hill, Principal Program Budget Analyst
Local Government Unit
California Department of Finance
Ted Doan, Finance Budget Analyst
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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Rancho Cucamonga for the legislatively mandated Identity Theft Program for the period of July 1, 2002, through June 30, 2013.

The city claimed \$500,098 for costs of the mandated program. Our audit found that \$195,540 is allowable and \$304,558 is unallowable. The costs are unallowable because the city misclassified costs, overstated the number of identity theft reports taken, misstated the time increments needed to perform the reimbursable activities, and claimed unallowable indirect costs. The State made no payments to the city. The State will pay \$195,540, contingent upon available appropriations.

Background

Penal Code (PC) section 530.6(a), as added by the Statutes of 2000, Chapter 956, requires a local law enforcement agency to take a police report and begin an investigation when a complainant residing within its jurisdiction reports suspected identity theft.

On March 27, 2009, the Commission on State Mandates (Commission) found that this legislation mandates a new program or higher level of service for local law enforcement agencies within the meaning of service for local law enforcement agencies within the meaning of Article XIII B, section 6 of the California Constitution, and imposes costs mandated by the State pursuant to Government Code (GC) section 17514.

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

1. Either a) or b) below:
 - a) Take a police report supporting a violation of Penal Code section 530.5 which includes information regarding the personal identifying information involved and any uses of that personal identifying information that were non-consensual and for an unlawful purpose, including, if available, information surrounding the suspected identity theft, places where the crime(s) occurred, and how and where the suspect obtained and used the personal identifying information. This activity includes drafting, reviewing, and editing the identity theft police report; or
 - b) Reviewing the identity theft report completed on-line by the identity theft victim.
2. Begin an investigation of the facts, including the gathering of facts sufficient to determine where the crime occurred and what pieces of personal identifying information were used for an unlawful purpose. The purpose of the investigation is to assist the victims in clearing their names. Reimbursement is not required to complete the investigation for purposes of criminal prosecution.

The Commission also determined that reimbursable activities do not include providing a copy of the report to the complainant, or referring the

matter to the law enforcement agency in the location where the suspected crime was committed for further investigation.

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

Audit Authority

We conducted this performance audit in accordance with GC sections 17558.5 and 17561, which authorize the SCO to audit the city's records to verify the actual amount of the mandated costs. In addition, GC section 12410 provides the SCO with general authority to audit the disbursement of state money for correctness, legality, and sufficient provisions of law for payment.

Objective, Scope, and Methodology

The objective of our audit was to determine whether claimed costs represent increased costs resulting from the legislatively mandated Identity Theft Program. Specifically, we conducted this audit to determine whether claimed costs were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

Unreasonable and/or excessive costs include ineligible costs that are not identified in the program's parameters and guidelines as reimbursable costs.

The audit period was July 1, 2002, through June 30, 2013.

To achieve our objective, we performed the following procedures.

- We analyzed the annual mandated cost claims filed by the city for the audit period and identified the significant cost components of each claim as salaries, benefits, and indirect costs. We determined whether there were any errors or unusual or unexpected variances from year to year. We also reviewed the claimed activities to determine whether they adhered to the SCO's *Mandated Cost Manual* and the program's parameters and guidelines.
- We completed an internal control questionnaire by interviewing key city staff. We discussed the claim preparation process with city staff members to determine what information was obtained, who obtained it, and how it was used.
- We obtained system-generated lists of identity-theft cases with jurisdiction codes for the City of Rancho Cucamonga from the San Bernardino County Sheriff's Department's (SBCSD) computer-aided dispatch (CAD) system to verify the existence, completeness, and accuracy of unduplicated case counts for each fiscal year in the audit period. We recalculated the costs based on the allowable number of cases for each of the reimbursable activities.
- We designed a statistical sampling plan to test approximately 25-50% of claimed costs, based on a moderate level of detection (audit) risk.

We judgmentally selected the city's filed claims for fiscal year (FY) 2010-11 through FY 2012-13 for testing, which comprised claimed costs totaling \$138,470 (or 27.7%) of the total costs claimed (\$500,098). The sampling plan is described in the Finding and Recommendation section.

- We used a random number table to select 264 out of 695 identity theft reports from the three fiscal years sampled. We tested the identity theft report as follows:
 - We determined whether a contemporaneously prepared and approved police report supported that a violation of PC section 530.5 occurred.
 - We determined whether the initial police reports were courtesy reports from other law enforcement agencies that had been forwarded to SBCSD's Rancho Cucamonga Patrol Station for further investigation.
 - We determined whether the victim of identity theft contacted the SBCSD to initiate the law enforcement investigation.
 - We obtained employee numbers, names, and classifications from sampled police reports documenting who performed the reimbursable activities. We compared the employee classifications obtained from the police reports to those claimed by the city.
 - We obtained system-generated time stamps from SBCSD's CAD system for the "Time On Scene" and "Time Closed" associated with each report to determine the time spent to begin an investigation. For reports with unreasonable and excessive time spent, we reviewed the detailed history of time stamps from the CAD system for the incident number related to the sampled police report, and adjusted for ineligible time spent on arrests and other incident numbers.
- We interviewed sworn and non-sworn county employees who performed the mandated activities, as documented in the sampled police reports, about their time spent performing reimbursable activities not captured by the CAD system.
- As no city staff members performed the reimbursable activities, we used copies of the city's annual law enforcement services contracts with the county during the audit period to obtain the annual contract services costs incurred by the city. The contract services costs included salary and benefit costs for various employee classifications, administrative costs, and various other additional costs related to providing law enforcement services for the city.
- We projected the audit results of the three years tested by multiplying the allowable case counts by the audited average time increments needed to perform the reimbursable activities, and multiplying the product by the contract hourly rates of county employees who performed them. Due to the homogeneity of the population, we applied the weighted three-year average error rate that we derived from testing our samples to the remaining eight years of the audit period.

- We reviewed the city's Single Audit Reports to identify potential sources of offsetting savings or reimbursements from federal or pass-through programs applicable to the Identity Theft Program. We did not identify any applicable offsetting revenues. The city certified in its claims that it did not receive such offsetting revenues applicable to this mandated program.

We did not audit the city's financial statements.

We conducted this performance 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Conclusion

As a result of performing the audit procedures, we found instances of noncompliance with the requirements described in our audit objective. We found that the city did not claim costs that are funded by another source; however, we did find that it claimed unsupported and ineligible costs, as quantified in the Schedule and described in the Finding and Recommendation section of this audit report.

For the audit period, the City of Rancho Cucamonga claimed \$500,098 for costs of the legislatively mandated Identity Theft Program. Our audit found that \$195,540 is allowable and \$304,558 is unallowable. The State made no payments to the city. The State will pay \$195,540, contingent upon available appropriations.

Following issuance of this audit report, the SCO's Local Government Programs and Services Division will notify the city of the adjustment to its claims via a system-generated letter for each fiscal year in the audit period.

Follow-up on Prior Audit Findings

We have not previously conducted an audit of the City of Rancho Cucamonga's legislatively mandated Identity Theft Program.

Views of Responsible Officials

We issued a draft audit report on April 19, 2023. The City of Rancho Cucamonga's representative responded by letter dated June 28, 2023, disagreeing with the audit results. This final audit report includes the city's response as an attachment.

Restricted Use

This audit report is solely for the information and use of the City of Rancho Cucamonga, 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 audit report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

November 20, 2023

Schedule— Summary of Program Costs July 1, 2002, through June 30, 2013

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2002, through June 30, 2003</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 20,587	\$ -	\$ (20,587)
Beginning an investigation of facts	7,356	-	(7,356)
Total salaries	27,943	-	(27,943)
Contract services:			
Taking police report on a violation of PC §530.5	-	10,999	10,999
Beginning an investigation of facts	-	9,057	9,057
Total contract services	-	20,056	20,056
Total direct costs	27,943	20,056	(7,887)
Indirect costs	26,267	-	(26,267)
Total program costs	\$ 54,210	20,056	\$ (34,154)
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		\$ 20,056	
<u>July 1, 2003, through June 30, 2004</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 20,865	\$ -	\$ (20,865)
Beginning an investigation of facts	7,456	-	(7,456)
Total salaries	28,321	-	(28,321)
Contract services:			
Taking police report on a violation of PC §530.5	-	11,098	11,098
Beginning an investigation of facts	-	9,161	9,161
Total contract services	-	20,259	20,259
Total direct costs	28,321	20,259	(8,062)
Indirect costs	24,838	-	(24,838)
Total program costs	\$ 53,159	20,259	\$ (32,900)
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		\$ 20,259	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2004, through June 30, 2005</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 27,093	\$ -	\$ (27,093)
Beginning an investigation of facts	9,688	-	(9,688)
Total salaries	36,781	-	(36,781)
Contract services:			
Taking police report on a violation of PC §530.5	-	12,910	12,910
Beginning an investigation of facts	-	10,674	10,674
Total contract services	-	23,584	23,584
Total direct costs	36,781	23,584	(13,197)
Indirect costs	29,499	-	(29,499)
Total program costs	<u>\$ 66,280</u>	23,584	<u>\$ (42,696)</u>
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		<u>\$ 23,584</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 28,650	\$ -	\$ (28,650)
Beginning an investigation of facts	10,147	-	(10,147)
Total salaries	38,796	-	(38,796)
Contract services:			
Taking police report on a violation of PC §530.5	-	14,241	14,241
Beginning an investigation of facts	-	11,569	11,569
Total contract services	-	25,810	25,810
Total direct costs	38,796	25,810	(12,986)
Indirect costs	31,542	-	(31,542)
Total program costs	<u>\$ 70,338</u>	25,810	<u>\$ (44,528)</u>
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		<u>\$ 25,810</u>	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2006, through June 30, 2007</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 18,065	\$ -	\$ (18,065)
Beginning an investigation of facts	6,443	-	(6,443)
Total salaries	24,508	-	(24,508)
Contract services:			
Taking police report on a violation of PC §530.5	-	8,696	8,696
Beginning an investigation of facts	-	7,124	7,124
Total contract services	-	15,820	15,820
Total direct costs	24,508	15,820	(8,688)
Indirect costs	19,312	-	(19,312)
Total program costs	<u>\$ 43,820</u>	15,820	<u>\$ (28,000)</u>
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		<u>\$ 15,820</u>	
<u>July 1, 2007, through June 30, 2008</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 11,859	\$ -	\$ (11,859)
Beginning an investigation of facts	4,218	-	(4,218)
Total salaries	16,077	-	(16,077)
Contract services:			
Taking police report on a violation of PC §530.5	-	5,993	5,993
Beginning an investigation of facts	-	4,884	4,884
Total contract services	-	10,877	10,877
Total direct costs	16,077	10,877	(5,200)
Indirect costs	12,718	-	(12,718)
Total program costs	<u>\$ 28,795</u>	10,877	<u>\$ (17,918)</u>
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		<u>\$ 10,877</u>	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2008, through June 30, 2009</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 8,615	\$ -	\$ (8,615)
Beginning an investigation of facts	3,060	-	(3,060)
Total salaries	11,675	-	(11,675)
Contract services:			
Taking police report on a violation of PC §530.5	-	4,473	4,473
Beginning an investigation of facts	-	3,629	3,629
Total contract services	-	8,102	8,102
Total direct costs	11,675	8,102	(3,573)
Indirect costs	9,282	-	(9,282)
Total program costs	<u>\$ 20,957</u>	8,102	<u>\$ (12,855)</u>
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		<u>\$ 8,102</u>	
<u>July 1, 2009, through June 30, 2010</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 9,803	\$ -	\$ (9,803)
Beginning an investigation of facts	3,480	-	(3,480)
Total salaries	13,283	-	(13,283)
Contract services:			
Taking police report on a violation of PC §530.5	-	5,557	5,557
Beginning an investigation of facts	-	4,508	4,508
Total contract services	-	10,065	10,065
Total direct costs	13,283	10,065	(3,218)
Indirect costs	10,786	-	(10,786)
Total program costs	<u>\$ 24,069</u>	10,065	<u>\$ (14,004)</u>
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		<u>\$ 10,065</u>	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2010, through June 30, 2011</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 12,662	\$ -	\$ (12,662)
Beginning an investigation of facts	4,495	-	(4,495)
Total salaries	17,157	-	(17,157)
Contract services:			
Taking police report on a violation of PC §530.5	-	5,948	5,948
Beginning an investigation of facts	-	4,150	4,150
Total contract services	-	10,098	10,098
Total direct costs	17,157	10,098	(7,059)
Indirect costs	12,697	-	(12,697)
Total program costs	\$ 29,854	10,098	\$ (19,756)
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		\$ 10,098	
<u>July 1, 2011, through June 30, 2012</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 21,912	\$ -	\$ (21,912)
Beginning an investigation of facts	-	-	-
Total salaries	21,912	-	(21,912)
Contract services:			
Taking police report on a violation of PC §530.5	-	7,385	7,385
Beginning an investigation of facts	-	6,803	6,803
Total contract services	-	14,188	14,188
Total direct costs	21,912	14,188	(7,724)
Indirect costs	16,214	-	(16,214)
Total program costs	\$ 38,126	14,188	\$ (23,938)
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		\$ 14,188	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2012, through June 30, 2013</u>			
Direct costs:			
Salaries:			
Taking police report on a violation of PC §530.5	\$ 39,938	\$ -	\$ (39,938)
Beginning an investigation of facts	-	-	-
Total salaries	39,938	-	(39,938)
Contract services:			
Taking police report on a violation of PC §530.5	-	20,474	20,474
Beginning an investigation of facts	-	16,207	16,207
Total contract services	-	36,681	36,681
Total direct costs	39,938	36,681	(3,257)
Indirect costs	30,552	-	(30,552)
Total program costs	<u>\$ 70,490</u>	36,681	<u>\$ (33,809)</u>
Less amount paid by the State ²		-	
Allowable costs claimed in excess of amount paid		<u>\$ 36,681</u>	
<u>Summary: July 1, 2002, through June 30, 2013</u>			
Direct costs			
Salaries	\$ 276,391	\$ -	\$ (276,391)
Contract services	-	195,540	195,540
Total direct costs	276,391	195,540	(80,851)
Indirect costs	223,707	-	(223,707)
Total program costs	<u>\$ 500,098</u>	195,540	<u>\$ (304,558)</u>
Less amount paid by the State ²			
Allowable costs claimed in excess of amount paid		<u>\$ 195,540</u>	

¹ See the Finding and Recommendation section.

² Payment amount current as of September 12, 2023.

Finding and Recommendation

FINDING— Overstated Identity Theft Program costs

The City of Rancho Cucamonga claimed \$500,098 (\$276,391 in salary costs and \$223,707 in related indirect costs) for the Identity Theft Program. We found that \$195,540 is allowable and \$304,558 is unallowable. The costs are unallowable primarily because the city claimed misclassified costs, overstated the number of identity theft reports taken, misstated the time increments needed to perform the reimbursable activities, and claimed unallowable indirect costs.

The city used the correct methodology to calculate its salary costs. It multiplied the number of identity theft police reports by the time required to perform the reimbursable activities, and it multiplied the product by the hourly rates obtained from the city's contracts with SBCSD. The SBCSD's contracts included costs for salaries and benefits, as well as additional administrative costs.

However, the city should have classified its salary costs as contract services costs, because no city staff members performed the reimbursable activities. The city contracted with San Bernardino County to have the SBCSD perform all of its law enforcement services during the audit period. Therefore, the city did not incur any salary costs—or indirect costs related to salary costs—but rather incurred contract services costs. We reallocated the costs to the appropriate cost category of Contract Services.

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

Fiscal Year	Amount Claimed ¹	Salaries		(A)	(B)	(C)	(D)=(A)+(B)+(C)
		Amount Allowable	Audit Adjustment	Audit Adjustment	Related Indirect Cost Adjustment	Contract Services Adjustment	Total Audit Adjustment
2002-03	\$ 27,943	\$ -	\$ (27,943)	\$ (27,943)	\$ (26,267)	\$ 20,056	\$ (34,154)
2003-04	28,321	-	(28,321)	(28,321)	(24,838)	20,259	(32,900)
2004-05	36,781	-	(36,781)	(36,781)	(29,499)	23,584	(42,696)
2005-06	38,796	-	(38,796)	(38,796)	(31,542)	25,810	(44,528)
2006-07	24,508	-	(24,508)	(24,508)	(19,312)	15,820	(28,000)
2007-08	16,077	-	(16,077)	(16,077)	(12,718)	10,877	(17,918)
2008-09	11,675	-	(11,675)	(11,675)	(9,282)	8,102	(12,855)
2009-10	13,283	-	(13,283)	(13,283)	(10,786)	10,065	(14,004)
2010-11	17,157	-	(17,157)	(17,157)	(12,697)	10,098	(19,756)
2011-12	21,912	-	(21,912)	(21,912)	(16,214)	14,188	(23,938)
2012-13	39,938	-	(39,938)	(39,938)	(30,552)	36,681	(33,809)
Total	\$ 276,391	\$ -	\$ (276,391)	\$ (276,391)	\$ (223,707)	\$ 195,540	\$ (304,558)

¹ Amounts claimed for FY 2004-05, FY 2007-08, FY 2010-11, and FY 2011-12 adjusted by \$1 due to claim rounding errors

Contract Services Costs

The city contracted with San Bernardino County to have the SBCSD provide all of its law enforcement services during the audit period. These

services included reimbursable activities claimed for the mandated program. The city contracted for various SBCSD staff positions each fiscal year and paid the SBCSD annual contract billing rates for the positions. These positions included, but were not limited to, Deputy Sheriffs, Office Specialists, Service Specialists, and Sergeants. No city staff members performed any of the reimbursable activities under this program; therefore, the city did not incur salary and related indirect costs as claimed, but rather incurred contract services costs. We reallocated the costs to the appropriate cost category of Contract Services.

Identity Theft Incident Reports

The city stated in its claims that it took 2,749 identity theft incident reports during the audit period. We found that the city overstated the number of reports taken by 715, and that allowable reports totaled 2,034.

The following table summarizes the counts of claimed, supported, and allowable identity theft cases, and the audit adjustment by fiscal year:

Fiscal Year	(A) Claimed Reports	(B) Audited Population	(C) Allowable Reports	(D)=(C)-(A) Audit Adjustment
2002-03	370	386	269	(101)
2003-04	375	376	262	(113)
2004-05	397	393	274	(123)
2005-06	404	408	284	(120)
2006-07	232	228	159	(73)
2007-08	144	148	103	(41)
2008-09	103	109	76	(27)
2009-10	120	135	94	(26)
2010-11	155	156	96	(59)
2011-12	163	181	113	(50)
2012-13	286	358	304	18
Total	2,749	2,878	2,034	(715)

For each fiscal year, the SBCSD provided Excel spreadsheets, generated from its CAD system, to support the claimed number of initial police reports for violations of PC section 530.5. This list of police reports identified the county jurisdiction code, the year of the report, and the report number. The SBCSD also provided a Jurisdiction Reference Chart, which disclosed county jurisdiction codes and jurisdiction codes for the cities that contract with the county for law enforcement services. The spreadsheets supported 2,878 identity theft police reports filed for the City of Rancho Cucamonga during the audit period.

We verified the accuracy of the unduplicated counts of initial police reports recorded in the CAD system by determining whether:

- Each identity theft case was supported by a contemporaneously prepared and approved police report; and
- The police report supported a violation of PC section 530.5.

Our audit plan called for testing 25% of claimed costs at a minimum. We selected FY 2010-11 through FY 2012-13 for testing purposes, as claimed salaries for these three fiscal years totaled \$79,007 (\$17,158, \$21,911, and \$39,938, respectively), which represents 28.6% of the \$276,391 amount claimed for salaries during the audit period.

For the three years, we selected a statistical sample from the documented number of identity theft incident reports (the population) based on a 95% confidence level, a precision rate of $\pm 8\%$, and an expected error rate of 50%. We used statistical samples in order to project the results to the population for each fiscal year. We randomly selected 264 out of 695 identity theft incident reports for review.

Our review of sample incident reports disclosed the following:

- For FY 2010-11, we found that 29 out of 76 identity theft incident reports were unallowable because:
 - Seven reports did not meet the requirements of PC section 530.6(a), because the victim(s) of identity theft did not initiate the investigation by contacting the local law enforcement agency;
 - Two reports were not for violations of PC section 530.5;
 - One report did not indicate that a crime occurred; and
 - Nineteen reports were courtesy reports (police reports taken and prepared by other law enforcement agencies).

Therefore, we calculated an error rate of 38.16% for FY 2010-11.

- For FY 2011-12, we found that 31 out of 82 identity theft incident reports were unallowable because:
 - Nine reports did not meet the requirements of PC section 530.6(a), because the victim(s) of identity theft did not initiate the investigation by contacting the local law enforcement agency;
 - Two reports did not indicate that a crime occurred;
 - Two reports were incident reports that did not specify violation of any specific code section;
 - Four reports did not include violations of PC section 530.5 as an offense;
 - Two reports were for victims who did not reside in the City of Rancho Cucamonga; and
 - Twelve reports were courtesy reports.

Therefore, we calculated an error rate of 37.80% for FY 2011-12.

- For FY 2012-13, we found that 16 out of 106 identity theft incident reports were unallowable because:
 - Two reports were not for violations of PC section 530.5;
 - Three reports did not indicate that a crime occurred;
 - Five reports were for victims who did not reside in the City of Rancho Cucamonga; and

- Six reports were courtesy reports.

Therefore, we calculated an error rate of 15.09% for FY 2012-13.

The following table shows the average error rates for FY 2010-11 through FY 2012-13:

	(A)	(B)	(C)=(A)÷(B)
	Number of Unallowable Cases Sampled	Sample Size	Error Rate
Fiscal Year			
2010-11	29	76	38.16%
2011-12	31	82	37.80%
2012-13	16	106	15.09%
		Total	91.05%
	Number of fiscal years sampled	÷	3
	Average Error Rate		30.35%

We extrapolated the average error rate to the audited population of reports for FY 2002-03 through FY 2009-10, and applied the actual audited error rate for each of the other fiscal years to determine the allowable and unallowable number of incident reports taken.

The following table shows the number of allowable and unallowable incident reports by fiscal year:

	(A)	(B)		(C)=(A)×(B)	(D)=(A)-(C)
			Average	Total	Total
Fiscal Year	Audited Population	Error Rate	Error Rate	Unallowable Reports	Allowable Reports
2002-03	386	N/A	30.35%	117	269
2003-04	376	N/A	30.35%	114	262
2004-05	393	N/A	30.35%	119	274
2005-06	408	N/A	30.35%	124	284
2006-07	228	N/A	30.35%	69	159
2007-08	148	N/A	30.35%	45	103
2008-09	109	N/A	30.35%	33	76
2009-10	135	N/A	30.35%	41	94
2010-11	156	38.16%	N/A	60	96
2011-12	181	37.80%	N/A	68	113
2012-13	358	15.09%	N/A	54	304
Total	2,878			844	2,034

Time Increments

The parameters and guidelines identify the following reimbursable activities:

- Activity 1a – Taking a police report on a violation of PC section 530.5;
- Activity 1b – Reviewing an online identity theft report completed by a victim; and
- Activity 2 – Beginning an investigation.

The parameters and guidelines specify that Activity 1a “includes drafting, reviewing, and editing the identity theft police report.”

For convenience, we separated Activity 1a into two sub-activities:

- Activity 1a.1 – Taking a police report; and
- Activity 1a.2 – Reviewing, editing, and approving a police report.

The city claimed the following time increments for Activity 1a.1 during the audit period:

- 55 minutes for a Deputy Sheriff for FY 2002-03 through FY 2010-11;
- 74 minutes for a Deputy Sheriff for FY 2011-12 and FY 2012-13; and
- 15 minutes for an Office Specialist to provide related clerical support for FY 2011-12 and FY 2012-13.

The city claimed the following time increments for Activity 1a.2 during the audit period:

- 12 minutes for a Sergeant for FY 2002-03 through FY 2010-11; and
- 16.5 minutes for a Sergeant for FY 2011-12 and FY 2012-13.

The city claimed 25 minutes for a Deputy Sheriff to perform Activity 2 for FY 2002-03 through FY 2010-11. It did not claim costs related to this activity for FY 2011-12 and FY 2012-13.

The city based its time increments for FY 2002-03 through FY 2010-11 on a 2011 phone interview with an SBCSD Sergeant, who estimated the amount of time required to perform the mandated activities. The city also included a time log signed on October 9, 2011, by a Service Specialist for an unspecified activity that took place from March 9 through May 20, presumably in 2011, although the year is unspecified. The activity is described only as “PC 530.5,” with time increments ranging from “2” to “4.5” and no indication whether those are minutes or hours.

For FY 2011-12 and FY 2012-13, an SBCSD Office Specialist estimated that staff members in the Office Specialist classification spent 15 minutes per case providing clerical support related to Activity 1a.1 – taking or editing a police report. In addition, the city conducted a time study in 2012 and provided two summary time logs containing time entries for 16 cases. The entries were dated from January 5, 2012, through August 21, 2012, and were completed by various employees performing Activity 1a.1 – taking or editing a police report and Activity 1a.2 – reviewing and approving a police report. An SBCSD Office Specialist signed and dated the summary time log for Activity 1a.1 – taking or editing a police report, certifying the accuracy of the entries. An SBCSD Sergeant signed and dated the summary time log for Activity 1a.2 – reviewing and approving a police report, certifying the accuracy of the results.

However, the city did not provide any contemporaneously prepared documentation supporting the time log entries, such as the related police reports or information from the SBCSD’s CAD system. In addition, the city did not provide a time study plan or any other information explaining

how it acquired and analyzed this data. Therefore, we could not determine whether the city based these time entries on actual time or on estimates.

Allowable Time Increments

The county's CAD system did not record time on Activity 1a.1, taking a police report on a violation of PC section 530.5; or on Activity 1a.2, reviewing and approving a police report. We interviewed various SBCSD employees, who provided testimonial evidence of the approximate time spent on reimbursable activities not recorded by the CAD system. We found that this information provided a reasonable representation of the time needed to perform these reimbursable activities.

For Activity 1a.1, we interviewed three Deputy Sheriffs, three Service Specialists, and one Sergeant about drafting and editing identity theft police reports taken by Officers. Based on these interviews, we determined that SBCSD staff members spent an average of 35 minutes drafting and editing identity theft police reports taken by SBCSD Deputies.

For Activity 1a.2, we interviewed three Detectives and three Sergeants about reviewing identity theft police reports. Based on these interviews, we determined that SBCSD staff members spent an average of 13 minutes reviewing police reports.

For Activity 2, the SBCSD's Rancho Cucamonga Patrol Station provided, at our request, copies of CAD reports for the same police reports that we sampled for FY 2010-11, FY 2011-12, and FY 2012-13. These reports provided time stamps detailing when an Officer arrived on scene and departed, and the time spent on the specific incident. The reports also identified the employee classification (Deputy Sheriff or Service Specialist) that performed the activity of beginning an investigation by interviewing the victim to determine where the crime occurred and what pieces of personal identifying information were used for an unlawful purpose. We used these contemporaneously prepared time reports as support for the time spent on beginning an investigation.

Based on our analysis, we determined the following time increments for each allowable police report that originated in the City of Rancho Cucamonga:

- 35 minutes (0.58 hours) for Deputy Sheriffs or Service Specialists to perform Activity 1a.1 – taking a police report on violations of PC section 530.5;
- 13 minutes (0.22 hours) for Sergeants to perform Activity 1a.2 – reviewing and approving a police report; and
- 44 minutes (0.73 hours) for Deputy Sheriffs or Service Specialists to begin an investigation (Activity 2) for FY 2002-03 through FY 2009-10, 38 minutes (0.63 hours) for FY 2010-11, 50 minutes (0.83 hours) for FY 2011-12, and 43 minutes (0.72 hours) for FY 2012-13.

The following table summarizes the time increments claimed and allowable for the reimbursable activities by fiscal year:

Fiscal Year	Claimed Minutes				Allowable Minutes		
	Activity 1a.1	Activity 1a.1	Activity 1a.2	Activity 2	Activity 1a.1	Activity 1a.2	Activity 2
	Taking a Report	Clerical Support	Reviewing a Police Report	Beginning an Investigation	Taking a Police Report *	Reviewing a Police Report	Beginning an Investigation *
	Deputy Sheriff	Office Specialist	Sergeant	Deputy Sheriff	Deputy Sheriff and Service Specialist	Sergeant	Deputy Sheriff and Service Specialist
2002-03	55	-	12	25	35	13	44
2003-04	55	-	12	25	35	13	44
2004-05	55	-	12	25	35	13	44
2005-06	55	-	12	25	35	13	44
2006-07	55	-	12	25	35	13	44
2007-08	55	-	12	25	35	13	44
2008-09	55	-	12	25	35	13	44
2009-10	55	-	12	25	35	13	44
2010-11	55	-	12	25	35	13	38
2011-12	74	15	16.5	-	35	13	50
2012-13	74	15	16.5	-	35	13	43

* As stated in the narrative, Deputy Sheriffs took police reports and began investigations for 74% of cases during FY 2002-03 through FY 2010-11, 75% for FY 2011-12, and 72% for FY 2012-13. Service Specialists took police reports for 26% of cases for FY 2002-03 through FY 2010-11, 25% for FY 2011-12, and 28% for FY 2012-13.

Claimed Job Classifications

As noted previously, the city claims for FY 2002-03 through FY 2010-11 included costs for Deputy Sheriffs to perform Activity 1a.1 – taking or editing a police report, for Sergeants to perform Activity 1a.2 – review and approve a police report, and for Deputy Sheriffs to perform Activity 2 – beginning an investigation. The city's claims for FY 2011-12 and FY 2012-13 only included costs for Deputy Sheriffs and Office Specialists to perform Activity 1a.1 and for Sergeants to perform Activity 1a.2. However, the city did not claim any costs for Activity 2 in its claims for FY 2011-12 and FY 2012-13.

Allowable Staff

In order to clarify which SBCSD staff members performed the mandated activities, we:

- Prepared a schedule of the police reports selected for testing;
- Reviewed the police reports for each case to determine the actual employee classification of the staff member who prepared each report; and
- Calculated the extent (percentage of involvement) that staff members in various employee classifications performed the mandated activities for the sampled identity theft cases.

Although the city claimed time for Deputy Sheriffs, Office Specialists, and Sergeants to perform the mandated activities, we found that Deputy Sheriffs and Sheriff Service Specialists prepared and edited police reports (actions included in Activity 1a.1) and began investigations (Activity 2). We also found that Sergeants reviewed and approved the

police reports (Activity 1a.2). We based this conclusion on our review of the copies of the uniform crime reports (police reports) that SBCSD's Rancho Cucamonga Patrol station provided for our sample selections of identity theft cases from FY 2010-11 through FY 2012-13. Using this information, we analyzed the extent to which staff members in these employee classifications performed the mandated activities and reached the following conclusions:

- Sheriff Deputies performed Activity 1a.1 and Activity 2 at an average of 74% for FY 2002-03 through FY 2010-11, while Service Specialists averaged 26% performing these activities;
- For FY 2011-12, Sheriff Deputies performed Activity 1a.1 and Activity 2 at an average of 75%, while Service Specialists averaged 25% performing these activities;
- For FY 2012-13, Sheriff Deputies performed Activity 1a.1 and Activity 2 at an average of 72%, while Service Specialists averaged 28% performing these activities;
- Sergeants performed 100% of Activity 1a.2 for all years of the audit period; and
- We found no corroborating evidence that SBCSD Office Specialists provided clerical support for Activity 1a.1.

Contract Hourly Rates

The city's claims included copies of its annual contract that it negotiated with the SBCSD for each year of the audit period. Each contract specifies the level of service performed for the city, indicating the number of various employee classifications involved in the city's law enforcement (the *level of service*) and the county's cost for providing these employees. The county uses this contract to indicate the authorized SBCSD staffing level for each year of the audit period. However, none of the contracts identified the total annual hours per service level. As a result of recalculating contract hourly rates, we determined that the city used 1,800 annual productive hours, as specified in the SCO's *Mandated Cost Manual*, for all SBCSD employees.

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 city's contract for FY 2012-13 indicates that 96.75 Deputy Sheriffs (including one Deputy Sheriff who provided law enforcement services for the city during nine months of FY 2012-13, or 75 percent of the fiscal year), and 12 Sergeants provided law enforcement for the city during the year.

The following table shows the contract hourly rate calculation for Deputy Sheriffs and Sergeants during FY 2012-13:

Employee Classification	Annual Cost	Level of Service	Cost per Employee	Productive Hours	Hourly Rate
Deputy Sheriff	\$ 14,351,923	96.75	\$ 148,340	1,800	\$ 82.41
Sergeant	\$ 2,250,050	12.00	\$ 187,504	1,800	\$ 104.17

The city used the same methodology to calculate hourly billing rates in all of its claims for the audit period.

The city's contracts with SBCSD also include additional employee classifications and items—such as vehicles, dispatch services, and equipment—that are part of the direct costs incurred to provide law enforcement for the city. However, the city explained during the audit that its contracts also include items that are clearly administrative in nature. During the audit, we discussed with city representatives the issue of recovering these administrative costs. The city believes that it should be able to prepare Indirect Cost Rate Proposals to recover these costs. However, OMB A-87 Office of Management and Budget guidance does not allow for the recovery of administrative costs using contract services as a base and classifying the administrative costs as indirect costs. The administrative costs included within the city's contracts for law enforcement services do not fit the definition of indirect costs.

The SCO's *Mandated Cost Manual* states that the costs of contract services are allowable. Costs for contract services can be claimed using an hourly billing rate. However, the 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 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 law enforcement service contracts for cities contracting with Los Angeles County. Having previously audited a number of these cities, we noted that the county's billing rates included the costs for various employee classifications. However, the total costs for those classifications included salaries and benefits plus an additional "liability percentage," which was added to the contract hourly rate at a specific percentage amount. It is our understanding that this liability percentage covers costs for administrative items, such as various forms of insurance and amounts for countywide cost allocation plans. We did not audit these billing rates.

However, San Bernardino County does not structure its contracts this way and, instead, includes administrative costs and indirect costs as separately billed line items in its contracts for law enforcement services. In order to be equitable with other California cities contracting for law enforcement services, we concluded that it was appropriate to allow the city to claim costs for line items included in San Bernardino County's contracts that are clearly administrative in nature.

We calculated an administrative cost percentage for each fiscal year of the audit period based on the city's Law Enforcement Services Contract. To calculate the percentage, we divided the cost of the following line items by the total contract cost:

- Administrative support
- Office automation
- Vehicle insurance
- Personnel liability and bonding

- TRU – Telephone Reporting Unit (FY 2002-03 through FY 2004-05)
- County-wide Cost Allocation Plan (COWCAP) – Administrative and Indirect Costs
- Board approved COWCAP subsidy (one-time for FY 2012-13 only)
- Startup costs (FY 2002-03 through FY 2009-10)

The following table shows the allowable administrative cost percentage for each fiscal year during the audit period:

<u>Fiscal Year</u>	<u>Administrative Cost Rate</u>
2002-03	9.45%
2003-04	6.18%
2004-05	5.18%
2005-06	4.56%
2006-07	4.86%
2007-08	5.51%
2008-09	5.39%
2009-10	8.19%
2010-11	5.33%
2011-12	5.42%
2012-13	6.14%

As mentioned previously, we added all of the items within each contract that we determined to be administrative in nature (based on the descriptions provided in the contracts) and then divided the total by each year's total contract cost to determine the extent that administrative costs were represented in each year's contract. The following table shows this calculation for FY 2012-13:

<u>Cost Category</u>	<u>Contract Amount</u>
Administrative support	\$ 124,976
Office automation	65,223
Vehicle insurance	110,792
Personnel liability & bonding	407,133
Countywide administrative cost plan (COWCAP)	1,270,734
Board approved COWCAP subsidy	(254,147)
Startup costs	6,987
Total administrative costs	\$ 1,731,698
Divided by total contract amount	28,209,685
Administrative cost percentage	6.14%

Therefore, claimed hourly rates for Deputy Sheriffs and Sergeants for FY 2012-13 increased as follows:

<u>Employee Classification</u>	<u>Hourly Rate</u>	<u>Administrative Percentage</u>	<u>Revised Rate</u>
Deputy Sheriff	\$ 82.41	6.14%	\$ 87.47
Sergeant	\$ 104.17	6.14%	\$ 110.57

The following table summarizes the claimed and allowable contract hourly billing rates for Deputy Sheriffs during the audit period, and the difference between those rates:

Fiscal Year	Deputy Sheriff		Rate Difference	Administrative Percentage	Revised Hourly Rate	Revised Rate Difference
	Claimed Hourly Rate	Allowable Hourly Rate				
2002-03	\$ 47.72	\$ 47.72	\$ -	9.45%	\$ 52.10	\$ 4.38
2003-04	47.72	51.14	3.42	6.18%	54.30	6.58
2004-05	58.57	56.97	(1.60)	5.18%	59.92	1.35
2005-06	60.28	60.28	-	4.56%	63.03	2.75
2006-07	66.65	66.65	-	4.86%	69.89	3.24
2007-08	70.31	70.30	(0.01)	5.51%	74.17	3.86
2008-09	71.31	71.31	-	5.39%	75.15	3.84
2009-10	69.60	69.60	-	8.19%	75.30	5.70
2010-11	69.60	75.03	5.43	5.33%	79.03	9.43
2011-12	78.98	78.98	-	5.42%	83.26	4.28
2012-13	82.41	82.43	0.02	6.14%	87.49	5.08

The following table summarizes the claimed and allowable contract hourly billing rates for Service Specialists during the audit period, and the difference between those rates:

Fiscal Year	Service Specialists		Rate Difference	Administrative Percentage	Revised Hourly Rate	Revised Rate Difference
	Claimed Hourly Rate	Allowable Hourly Rate				
2002-03	\$ -	\$ 25.81	\$ 25.81	9.45%	\$ 28.25	\$ 2.44
2003-04	-	28.25	28.25	6.18%	30.00	1.75
2004-05	-	32.42	32.42	5.18%	34.10	1.68
2005-06	-	33.13	33.13	4.56%	34.64	1.51
2006-07	-	34.80	34.80	4.86%	36.49	1.69
2007-08	-	36.12	36.12	5.51%	38.11	1.99
2008-09	-	35.18	35.18	5.39%	37.08	1.90
2009-10	-	34.87	34.87	8.19%	37.73	2.86
2010-11	-	35.74	35.74	5.33%	37.64	1.90
2011-12	-	37.16	37.16	5.42%	39.17	2.01
2012-13	-	38.34	38.34	6.14%	40.69	2.35

The following table summarizes the claimed and allowable contract hourly billing rates for Sergeants during the audit period, and the difference between those rates:

Fiscal Year	Sergeant		Rate Difference	Administrative Percentage	Revised Hourly Rate	Revised Rate Difference
	Claimed Hourly Rate	Allowable Hourly Rate				
2002-03	\$ 59.50	\$ 59.50	\$ -	9.45%	\$ 63.18	\$ 3.68
2003-04	59.50	63.52	4.02	6.18%	67.45	7.95
2004-05	72.80	70.77	(2.03)	5.18%	74.44	1.64
2005-06	78.31	78.31	-	4.56%	81.88	3.57
2006-07	83.83	83.83	-	4.86%	87.90	4.07
2007-08	89.50	89.52	0.02	5.51%	94.45	4.95
2008-09	91.35	91.35	-	5.39%	96.27	4.92
2009-10	89.44	89.44	-	8.19%	96.77	7.33
2010-11	89.44	96.99	7.55	5.33%	102.16	12.72
2011-12	101.63	101.63	-	5.42%	107.14	5.51
2012-13	104.17	104.17	-	6.14%	110.57	6.40

For the audit period, we calculated allowable contract services costs based on the audited counts of PC section 530.5 identity theft reports, audited time increments, audited contract hourly billing rates, and the additional allowable percentage to allow for administrative costs.

The following table shows the calculation of allowable contract services costs for FY 2012-13:

Employee Classification	Contract PHR [a]	Number of cases [b]	Minutes [c]	Hours [d=(b*g)/60]	Activity % [e]	Allowable costs [f=a*i*k]
<u>Prepare a report:</u>						
Deputy Sheriff	\$ 87.49	304	35	177.33	72.0%	11,171
Service Specialist	40.69	304	35	177.33	28.0%	2,020
Total, prepare a report						\$ 13,191
<u>Review a report:</u>						
Sergeant	110.57	304	13	65.87	100.0%	7,283
Total, review a report						\$ 7,283
<u>Begin an investigation:</u>						
Deputy Sheriff	\$ 87.49	304	43	217.87	72.0%	13,724
Service Specialist	40.69	304	43	217.87	28.0%	2,482
Total, begin an investigation						\$ 16,206
Total allowable contract services costs						\$ 36,681

We performed similar calculations of allowable contract services costs for all the other fiscal years of the audit period.

Indirect Costs

For the audit period, the city included copies of its Indirect Cost Rate Proposals with its mandated cost claims. The city claimed related indirect costs totaling \$223,707 for the audit period, based on \$276,393 in claimed salaries. We found that the entire amount is unallowable, because no city staff member performed any of the reimbursable activities under this program during the audit period. Instead, the city contracted with the county to have the SBCSD perform all of its law enforcement services during the audit period. Therefore, the city did not incur any direct salary costs or related indirect costs.

Furthermore, none of the costs that the city 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 . . . not directly assignable to a particular department or program.” In this instance, there is only one program (law enforcement services provided by a contractor) and there are no city departments.

The following table summarizes the claimed, allowable, and audit adjustment amounts for indirect costs by fiscal year:

Fiscal Year	Claimed		(A)	(B)	(C)=(B)-(A)
	Salaries Claimed	Indirect Cost Rate	Indirect Costs ¹	Indirect Costs Allowable	Audit Adjustment
2002-03	\$ 27,943	94.00%	\$ 26,267	\$ -	\$ (26,267)
2003-04	28,321	87.70%	24,838	-	(24,838)
2004-05	36,781	80.20%	29,499	-	(29,499)
2005-06	38,796	81.30%	31,542	-	(31,542)
2006-07	24,508	78.80%	19,312	-	(19,312)
2007-08	16,077	79.10%	12,718	-	(12,718)
2008-09	11,675	79.50%	9,282	-	(9,282)
2009-10	13,283	81.20%	10,786	-	(10,786)
2010-11	17,158	74.00%	12,697	-	(12,697)
2011-12	21,912	74.00%	16,214	-	(16,214)
2012-13	39,938	76.50%	30,552	-	(30,552)
Total	<u>\$ 276,392</u>		<u>\$ 223,707</u>	<u>\$ -</u>	<u>\$ (223,707)</u>

¹ Differences in Indirect Costs column are due to rounding.

Criteria

Section III, “Period of Reimbursement,” of the parameters and guidelines states, “Actual costs for one fiscal year shall be included in each claim.”

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

To be eligible for mandated cost reimbursement for any given 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 to 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 IV continues:

For each eligible claimant, the following ongoing activities are eligible for reimbursement:

1. Either a) or b) below:
 - a) Take a police report supporting a violation of Penal Code section 530.5 which includes information regarding the personal identifying information involved and any uses of that personal information that were non-consensual and for an unlawful purpose, including, if available, information surrounding the suspected identity theft, places where the crime(s) occurred, and how and where the suspect obtained and used the personal identifying information. This activity includes drafting, reviewing, and editing the identity theft police report; or
 - b) Reviewing the identity theft report completed on-line by the identity theft victim.
2. Begin an investigation of the facts, including the gathering of facts sufficient to determine where the crime(s) occurred and what pieces of personal identifying information were used for an unlawful purpose. The purpose of the investigation is to assist the victims in clearing their names. Reimbursement is not required to complete the investigation for purposes of criminal prosecution.

Providing a copy of the report to the complainant is not reimbursable under this program.

Referring the matter to the law enforcement agency where the suspected crime was committed for further investigation of the facts is also not reimbursable under this program.

Section V.A.1, "Salaries and Benefits," of the parameters and guidelines states:

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to these activities.

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, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include: (1) the 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 utilizing the procedure provided in [Title 2, Code of Federal Regulations] Part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of labor, excluding fringe

benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate exceeds 10%.

The SCO's *Mandated Cost Manual* ("Filing a Claim," part 7.3, "Contract Services"), dated July 1, 2013, states:

The cost of contract services is allowable if the local agency lacks the staff resources or necessary expertise, or it is economically feasible to hire a contractor to perform the mandated activity. The claimant must keep documentation on hand to support the name of the contractor, explain the reason for having to hire a contractor, describe the mandated activities performed, give the dates when the activities were performed, the number of hours spent performing the mandate, the hourly billing rate, and the total cost. The hourly billing rate must not exceed the rate specified in the P's & G's for the mandated program. The contractor's invoice or statement must include an itemized list of costs for activities performed. **A copy of the contract must be included with the submitted claim.**

Recommendation

The California State Legislature suspended the Identity Theft Program in the FY 2013-14 through FY 2022-23 Budget Acts. If the program becomes active again, we recommend that the city:

- Adhere to the 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.

City's Response

The City of Rancho Cucamonga's disagreement with the DAR [Draft Audit Report] findings lies in the denial of various necessary costs within our contract with the San Bernardino County Sheriff's Department, including cost for our administrative command staff (our Police Chief and departmental supervisory staff), cost for our patrol cars and other vehicles, cost for our clerical staff, and cost for our city's share of dispatch support costs billed by the County.

As you know State mandate law and procedures were created to satisfy the requirements of Article XIII B of the California Constitution which state that, "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service."

Government Code (GC) sections 17500 through 17617 provide for the reimbursement of costs incurred by local agencies for costs mandated by the State. Parameters and Guidelines (Ps and Gs) and Claiming Instructions assure that **all** actual costs – both direct **and** indirect related to the performance of the mandate be reimbursed to local agencies.

It is clear that this audit did not result in a fair reimbursement of those necessary costs as all that the State Controller's Office (SCO) staff recommends for reimbursement is the direct costs of Deputies and

Sergeants working specifically/directly on mandated activities (salaries and benefits) plus an average of a 6% “Administrative Allocation Rate.”

We were told the Indirect Cost Rate Proposal (ICRP) or overhead rate cannot be used because SCO audit staff contends that indirect costs are not eligible for reimbursement in our situation. Our situation being that we are a city that contracts for law enforcement services and that our service provider, San Bernardino County Sheriff’s Department (SBCSD), charges us for overhead costs on a detailed basis within our contract; thus, making it impossible according to SCO audit staff, for us to use the existing Indirect Cost Rate Proposal (ICRP) methodology prescribed in claiming instructions, claiming manuals and the Federal CFR/OMB guidelines to compute an overhead rate as other local agencies can.

SCO staff stated in the audit that they were sympathetic to our plight of not being able to recover any overhead costs, so they created a new methodology they named the “Administrative Cost Rate” (we’ll refer to this new type of rate as the “ACR”) to allow the recovery of some costs that they could identify as “clearly administrative” in nature. Thus, instead of allowing us the overhead rates that would have been allowed under existing Ps and Gs and Claiming Instructions which averaged about 70%, we were granted the “ACR” rate that averaged about 6%.

The primary activity that this State mandate program requires is that law enforcement personnel take an Identity Theft Report and begin an investigation of the facts, including the gathering of facts sufficient to determine where the crime(s) occurred and what pieces of personal identifying information were used for an unlawful purpose.

We agreed that this activity was performed by the Deputy Sheriff positions we pay for through our contract with the San Bernardino County Sheriff’s Department (SBCSD). The City has no in-house Police Department other than the one it has purchased through its contract with the SBCSD. This contract includes all direct sworn staff, indirect support and administrative personnel, and overhead costs – such as vehicle expenses, and other costs associated with operating a police department. Schedule A of our contract lists all costs charged in detail by type of cost - similar to how a full- service city would account for these costs in an expenditure report.

SCO audit staff determined that the direct costs incurred through our contract -- the salary and benefits costs of the Deputies we purchase through our contract for service with the San Bernardino County Sheriff’s Department (SBCSD) positions -- were eligible for reimbursement, however, not the vast majority of other necessary overhead costs billed within that contract. For example:

The mandate requires that our Deputy drive to the scene to take a report from the victim – yet SCO audit findings include no reimbursement of costs for the actual vehicles, fuel, and maintenance. A Deputy needs a vehicle to perform their law enforcement duties. Our Deputy would not be able to perform the mandate as they typically drive to the victim’s location to take their Identity Theft Reports. This is a reasonable and necessary cost to perform the mandate, yet the DAR findings only allow costs for vehicle insurance but omit the cost of the vehicles themselves.

The mandate requires that our communications/dispatch staff transmit information about the call for service to the Deputy so that they are aware

of what the nature of the call is and where the victim is located. Yet SCO staff reimbursement allows for no dispatch/communications staff to take the phone calls from the public and relay the request for service to the sworn Deputies who perform the direct law mandated enforcement duties.

The mandate requires that the Identity Theft report be typed, entered, and maintained in our records and computer system – yet there is no allotment of costs to reimburse us for the clerical personnel to do this activity that is required as a result of this mandate.

The mandate requires employment of sworn personnel to perform this activity. In order for an agency to provide sworn staff, it must supervise them and provide administrative support; yet no departmental support costs such as our departmental command staff costs were allowed (including our Captain, who functions as our Department's Police Chief, his Lieutenant or second-in-command, or administrative time of Sergeants who are the first line supervisors).

It is clear that the Audit Report Findings are not reasonable, nor would they satisfy the intent of the State or Federal laws and guidelines. No reasonable person would agree that a Deputy could perform their law enforcement duties or perform the mandated activities without a vehicle, administrative/command staff support, or clerical and dispatch service support.

City staff and our consultant have spent many hours and numerous correspondences back and forth trying to resolve this issue. However, to avoid this correspondence from becoming overly lengthy or repetitive, we will only touch on a few main points in this response, and will include our past communications as an attachment to our future Incorrect Reduction Claim (IRC) to serve as back up and to provide greater detail to the Commission on State Mandates (Commission) when they review this matter.

CLARITY, DISCLOSURE, AND TRANSPARENCY IS NEEDED FROM THE SCO AND CLAIMING INSTRUCTIONS TO EXPLAIN WHICH ENTITY IS ELIGIBLE TO CLAIM WHAT REIMBURSABLE COST

[The Audit Manager's] May 12, 2023 email attempts to explain to us why the indirect costs/ICRP costs we incurred are not eligible for reimbursement: "Those [our contract] salary and benefit costs belong solely to San Bernardino County, not the City of Rancho Cucamonga." And "Just because the county incurs indirect costs and bills the city for them does not mean that these are also indirect costs incurred by Rancho Cucamonga."

It appears that the crux of the argument to deny our city (and if audit precedent applies, all contract cities) law enforcement overhead costs is because SCO staff believes that technically the contracting entity (in this case San Bernardino County Sheriff's Department or SBCSD) whose employees perform the administrative and support tasks paid for in our contract [in our case the Captains, Lieutenants, Sergeants, Office Specialists, Secretaries, etc.] and support costs [such as vehicles, walkie-talkies, dispatch center charges, etc.] don't "belong" to us (the city who contracts for and pays for them) -- but to the agency that "provides" those personnel and services.

It was our understanding (and common accounting practice), that if you bought and paid for something (if you “incurred” that cost), then that cost/product becomes “yours”, and that the agency “incurring” the costs should be the one to claim for State Reimbursement since you were the agency that ultimately “lost” that money from your budget to pay for the State Mandate program.

Since both direct and indirect costs are all a part of the same contract with SBCSD then it would stand to reason that both types of costs would be treated consistently – either the city is eligible to claim and receive reimbursement for both – or neither.

However, Page 24 of the Draft Audit Report states, **“We found that the entire amount [of indirect costs claimed] is unallowable because no city staff member performed any of the reimbursable activities...”**

How can this logic hold: that indirect costs are somehow not allowable “because no city staff member performed any of the reimbursable activities”, when the opposite conclusion was arrived at regarding direct costs and activities. SCO Audit allows reimbursement for the direct contract staff performed by SBCSD Deputies and Sergeants, even though those positions are also not “city staff members” and their costs are charged and incurred through the same exact contract.

When the city requested clarification, [The Audit Manager’s] May 12, 2023 email response explains, **“the city did not incur any indirect overhead costs within its contract with San Bernardino County”**. Then he goes on to say, seemingly contradicting himself, **“[j]ust because the county incurs indirect costs and bills the city for them doesn’t mean that these are also indirect costs incurred by Rancho Cucamonga.”**

How does this make sense? SCO staff agrees that the costs are indirect when they “belonged” to the County; but if the county who incurs those indirect costs, bills the city for them, then they are no longer indirect costs or costs “incurred” by the city?

If contract cities do not “incur” indirect costs and cannot claim indirect costs billed within their contracts – does this mean that the counties that provide/incure those cost are eligible for the reimbursement of those costs? In this case, would SBCSD receive reimbursement for those costs?

Prior State Controller audits have found this is not the case. The following is a quote from page 19 of the SCO’s June 2022 audit of San Bernardino County’s Interagency Child Abuse and Neglect Investigation Reports (ICAN)):

“...we [SCO] found that the county included costs for providing services to contract cities as part of its mandated cost claims for all activities. The parameters and guidelines state that any county, city, or city and county is eligible to submit a mandate reimbursement claim. Therefore, all counties and cities—including contract cities—are eligible to submit mandate reimbursement claims. Because contract cities are eligible to submit reimbursement claims, and the county received fees for law enforcement services from its contract cities, we determined that the county should only claim costs associated with the unincorporated areas of the county. We determined

that the costs incurred by contract cities are unallowable because the county had already been compensated by contract fees. The county did not report offsetting reimbursements for the contract city cases in its mandated cost claims. Therefore, we found that the county overstated these claimed costs because it did not offset costs that were funded by other sources.”

This audit is not unique. There are numerous other audits of county law enforcement claims where the SCO comes to the same conclusion: that the contracting entity - the city, not the county -- is eligible to request or receive reimbursement of mandated costs because those costs are incurred/paid for by the contracting cities. A sampling of other similar audits includes San Bernardino County April 2022, Identity Theft Program, Los Angeles County September 2019, Crime Statistics Reports for the Department of Justice Program, and Los Angeles County November 2019, Domestic Violence Arrest Policies and Standards Program.

So, which is it? Who is entitled to claim the costs –the city that pays for the service, or the county that provides the service? Based on this audit analysis, neither the contract city nor the county would be able to obtain reimbursement of indirect costs charged to cities.

State instructions say indirect costs that are incurred by the agency incurring the direct costs are to submit the claims for reimbursement. The SCO requirement that “a city staff member perform reimbursable activities” in order to obtain reimbursement of both direct and indirect costs is contrary to the plain language of the Ps & Gs and would mean that no contract city would be able to obtain reimbursement for mandate overhead costs.

Since counties did not receive any State Mandate reimbursement for indirect costs that were paid for via city contracts and now this Audit indicates that contracting cities cannot claim for the indirect costs, this creates a loophole where only the State gains unfairly by not having to pay either party for those State Mandated costs. Claimants deserve clear, written guidelines/instructions provided to them prior to claim preparation and submission, and consistent treatment/interpretation of those rules. The State Controller’s Office cannot use different metrics and methodologies from audit to audit.

DID THESE ISSUES ARISE DUE TO A DEFICIENCY IN STATE CLAIMING FORMS?

Early in this audit in August of 2022, SCO auditor, [name redacted], issued her first set of findings which stated that indirect costs could not be claimed because the Claiming Instructions “Form 1” and “Form 2” precluded reimbursement of indirect costs because those forms “differentiate contract services” from salaries or (direct labor) for purposes of calculating indirect costs.”

Our response to this was if the SCO didn’t like the way forms looked or how costs were displayed or presented on those forms, that they had the authority to format the forms to their liking. However, having an issue with form format or how costs should be presented/displayed was not a legitimate reason for the SCO to ignore the underlying principles and direction of the Parameters and Guidelines and Claiming Instructions and deny reimbursement of eligible costs.

SCO audit report on page 20 notes that “The SCO’s Mandated Cost Manual states that costs of contract services are allowable. Costs for contract services can be claimed using an hourly billing rate.” However, the Manual does not provide specific guidelines on how to calculate an hourly billing rate.

The issue in this audit was not how direct salary costs were computed. The City of Rancho Cucamonga used the prescribed method allowed in instructions by dividing total salaries and benefits by 1,800 annual productive hours – which the SCO auditor agreed was appropriate.

The issue was how the indirect cost component should be calculated.

[The Audit Manager] informed us in his January 5th email that “[o]ur position has always been that using the A-87 methodology contained in Subpart E to claim administrative costs using contract services as a base is a non-starter for our office.” And in the May 13th email, “Indirect costs cannot be claimed against contract services.”

Our consultant provided him with evidence that this was not the case citing the 2017 City of San Marcos Crime Statistics Reporting Audit.

In the City of San Marcos audit (which contracts with the San Diego Sheriff’s Office (SDSO) for law enforcement services, the following indirect costs were allowed (See City of San Marcos 2017 – Crime Statistics Reporting Audit Report on page 23). State Controller’s Office auditors recognized there were additional indirect/overhead costs and those costs were allowed as valid overhead charges. Below is an extract from the Audit Report on page 23 that addressed the Contract Indirect Costs:

“Contract Indirect Costs

We reviewed the contract agreements between the city and the SDSO. For FY 2007-08 through FY 2011-12, the SDSO contract agreements provided schedules and identified supplemental contracted labor costs and contracted overhead costs. We determined that overhead costs identified in the contract were appropriate as they related to the performance of mandated activities. We computed indirect cost rates for contract services for these years by dividing **total contract overhead costs**, station support staff costs, and Sergeant Admin position costs, by the **contracted labor costs** identified in the contract supplemental schedules.”

In the allowable ICRP/ “**contract overhead costs**”, the audit permitted:

- 1) proration of support/admin costs including Station Level Staff Support including: Captain, Admin Secretary, Lieutenant, Sergeants, Volunteer Coordinator, Senior Clerk, Department Aide, Receptionist, Intermediate Clerk.
- 3) Law Enforcement Support including Station Detectives, Communication Center (Central Dispatch support), Crime Prevention, Juvenile Intervention, Regional Services
- 4) Services and Supplies Costs
- 5) Support Costs including Vehicles, Facilities/Space, County Management Support (Admin, Fiscal, Data Services, Personnel & Other)
- 6) Liability (charged separately)

The items we included in our ICRP are all similar, if not identical items: Administrative support, such as Captains, Lieutenants, and Sergeants; Clerical support; Vehicles; and Communication Center (Central Dispatch Services, etc.) but in our case they were NOT allowed as indirect costs.

In addition, in the case of San Marcos' Audit, the prescribed ICRP format/computational methodology was employed; using contract salaries and benefits as the denominator for determining the overhead rate, and not total contract costs as the SCO uses in their new "ACR" methodology rate computation.

Please explain why Rancho Cucamonga is being treated differently and why the interpretations and methodologies are different for two similar contract cities.

EXISTING PARAMETERS AND GUIDELINES AND CLAIMING INSTRUCTIONS PERMIT CITIES THAT CONTRACT FOR LAW ENFORCEMENT SERVICES TO OBTAIN REIMBURSEMENT FOR THEIR FULL INDIRECT COSTS AS DEFINED UNDER FEDERAL CFR/OMB STANDARDS.

Existing claiming instructions and claiming manuals under Contract Services state that "all costs charged" can be claimed.

Identity Theft Claiming Instructions

Section V. A. 3. Contracted Services:

"Report the name of the contractor and services performed to implement the reimbursable activities and attach a copy of the contract to the claim. 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 dates when services were performed and itemize all costs for those services during the period covered by the reimbursement claim. If the contract services were 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 invoices with the claim and a description of the contract scope of services."

The Claiming Manual adds that the claimant should provide: "... the mandated activities performed, the number of hours spent performing the mandate, the hourly billing rate, and the total cost."

The City complied with these instructions and provided a copy of the contract and detailed costs related to the reimbursable activities, time studies to show number of hours spent performing the mandate, the hourly billing rates – including how direct and indirect/overhead costs were computed. We accounted for all costs charged. Total costs include the necessary overhead [vehicles, dispatch support, command staff, clerical staff, etc.] to perform the mandated activities.

There is nothing in the Ps and Gs, Claiming Instructions, or the Claiming Manual that would suggest that the Commission intended that cities that contract for law enforcement would not be eligible for indirect costs or that contract cities would have to use a different set of rules or standards to compute allowable indirect costs. We see nothing that would indicate that Federal CFR/OMB guidelines would not apply.

USE OF A NEW METHODOLOGY TO COMPUTE OVERHEAD/ICRP COSTS IS NOT SUPPORTED BY CLAIMING INSTRUCTIONS, PARAMETERS AND GUIDELINES, OR THE CLAIMING MANUAL

In our correspondence, SCO staff provided many reasons why our Indirect Cost Rate Proposals (ICRPs) – rates derived using the exact format and guidelines prescribed by the Claiming Manual, Parameters and Guidelines, and in compliance with Federal CRF Guidelines - could not be used and instead why audit staff had to create and apply a new alternate methodology and format to compute indirect costs, which you have entitled: “The Allowable Administrative Percentage” or the “Administrative Cost Rate” (see page 21 of SCO Draft Audit Report).

One of the issues with this “new methodology” is that it does not allow for the inclusion of all the costs that would have been allowable under existing claiming instructions and Federal CFR/OMB Guidelines. Cost such as vehicle usage costs, command staff administrative costs, secretarial support, etc. [The Audit Manager] tried to explain why CFR/OMB Guidelines do not apply, but his explanations do not seem to be grounded in established written guidelines. Denying that existing written rules apply and then creating and applying new, unwritten methodologies without any prior notice or explanation in fact creates new rules that have not been vetted by the Commission and other interested parties.

Page 20 of the Audit narrative explains that this new methodology developed by the SCO’s staff, the “Administrative Cost Percentage,” was calculated by...dividing the costs of the following items “Administrative Support, Office Automation, Services and Supplies, Vehicle Insurance, Personnel Liability and Bonding, Telephone Reporting Unit, County Administrative Cost (COWCAP), COWCAP subsidy, and Start-up Costs” by the total contract cost.

Claiming Instructions pages 4-5 and the Claiming Manual on pages 11-12 states:

A. Indirect Cost Rate Proposal Method

If a local agency elects not to utilize the 10% fixed rate method but wants to claim indirect costs, it must prepare an ICRP for the program. The proposal must follow the provisions of the OMB Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. formerly OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments. The development of the indirect cost rate proposal requires that the indirect cost pool include only those costs which are incurred for a common or joint purpose that benefit more than one cost objective. The indirect cost pool may include only costs that can be shown to provide benefits to the program. In addition, total allocable indirect costs may include only costs that cannot be directly charged to an identifiable cost center (i.e., program).

A method for preparing a departmental indirect cost rate proposal for programs is presented as Table 6. Only this format is acceptable under the SCO reimbursement requirements. If more than one department is involved in the reimbursement program,

each department must have its own indirect cost rate proposal for the program.

We followed these rules and guidelines in preparing overhead/ICRP rates, and find no language in the Claiming Manual, the Claiming Instructions, Parameters and Guidelines, or Federal CFR Guidelines to describe or support SCO staff's alternate and newly created "Administrative Cost Percentage" method of computing overhead costs. There is no distinction made in the instructions or alternate methodology described for cities that contract for law enforcement services.

There is no reason why the existing instructions and ICRP format presented in Table 6 of the Claiming Manual cannot be used and that would necessitate the creation of an alternate indirect cost rate methodology (as we have demonstrated by preparing and submitted ICRPs in the required format with our claims – and numerous other contract city claims - over the last twenty years with no issue). Our law enforcement contract with SBCSD (See Schedule A) clearly lists and segregates all direct and indirect costs in a level of detail which is similar to how a full-service city's Actual Expenditure Report is organized and how the example in Table 6 is presented.

This new approach proposed by staff is flawed in a number of aspects. First, and most importantly, it is not described in any manual or instructions provided to us at the time of filing of these claims. How is a local agency expected to be able to compute allowable overhead costs correctly and in a consistent, uniform manner if those methods and guidelines are not described or provided in advance in any documents or manuals? Why are there different rules of eligibility for determining indirect costs for contract cities?

Creating a new procedure and methodology, after the fact, without any notice to local agencies or review by the Commission on State Mandates violates Due Process guidelines and has not been properly vetted through the State's required procedures. In addition, by creating a new methodology just for agencies that contract for Law Enforcement Services and saying they are not entitled to use the same, existing Instructions and Parameters and Guidelines constitutes "Underground Rule Making". We request that you comply with written Claiming Instructions and Guidelines and use the same ICRP methodology prescribed in the existing Parameters and Guidelines and the Federal CFR/OMB standards to audit our claims' overhead rates.

Secondly, SCO's new "Allowable Administrative Cost Percentage" or "Administrative Cost Rate" methodology which uses total contract services costs as the denominator instead of salaries and wages, is flawed because it does NOT exclude capital expenditures (see all the equipment usage charges in our contract) and other distorting items such as pass-through funds (See Countywide Cost Allocation or COWCAP costs in the contract).

The Claiming Manual states:

"The distributions 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.

Claiming Manual, Section 8. Indirect Costs (Example)

“ f) Distribution base for the computation of the indirect cost rate is total salaries and wages.

ICRP =	Allowable <u>Indirect Costs</u>	=	<u>\$300,000</u>	= 30.00%
	Total Salaries and Wages		\$1,000,000	

The contract with SBCSD itemized salaries and benefits separately, so there is no reason why this could not have been used as the base for distributing indirect costs as is required in the Claiming Instructions.

The “administrative cost rate” methodology proposed appears to contradict SCO Audit’s own statements on page 20 which says, “OMB-A-87... does not allow for the recovery of administrative costs using contract services as a base”. Yet it appears that is exactly what SCO staff’s newly created “ACR” “rate” does. Page 21 of the Audit report states, “...we divided the cost of the following line items...[administrative support, office automation, etc.] that we identified as being “clearly administrative” by the “total contract amount”.

We thought using total contract costs as a base not allowed. Our rate was prepared using total actual salaries and benefits, as specified in the instructions.

FY 2012-13 Rate Comparison

City computed ICRP =	$\frac{\$12,167,160}{\$15,907,114} = \text{Total Allowable Indirect Costs} = 76.5\%$ Total Direct Salaries & Benefits
SCO computed “ACR” =	$\frac{\$1,731,698}{\$28,209,685} = \text{Total “Allowable Admin. Costs”} = 6.1\%$ TOTAL CONTRACT SERVICE AMOUNT

SCO JUSTIFICATION FOR DENYING INDIRECT COSTS ARE FLAWED

We agree with SCO staff’s statement that there are clearly administrative costs in the contract, but why didn’t you include our administrative command and clerical staff, who are clearly administrative and clerical, in SCO’s version of the ICRP or their “Administrative Cost Rate”?

2 CFR Ch. II Part 200 Appendix IV:

(4) General administration and general expenses. The expenses under this heading are those that have been incurred for the overall general executive and administrative offices of the organization and other expenses of a general nature which do not relate solely to any major function of the organization. This category must also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation, and interest costs. Examples of this category include central offices, such as the director’s office, the office of finance, business

services, budget and planning, personnel, safety and risk management, general counsel, management information systems, and library costs.

2 CFR Ch. II

“The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate where a major project or activity explicitly requires and budgets for administrative or clerical services and other individuals involved can be identified with the program or activity.”

Command/administrative staff. Can you please explain why none of our command staff costs, including our Captain, who is our city’s Police Chief; the Lieutenants who oversee administration and operations of the entire unit; and our Sergeants, who are the first line supervisors of the Deputies; were not included in SCO overhead rate computations? These staff perform the “executive and administrative” functions of the department.

Every Deputy requires command staff oversight – supervisors must perform annual reviews of employee performance, deal with disciplinary issues, decide on pay increases, schedule time off and ensure there is always adequate coverage and staffing, perform department budgeting functions, schedule training, offer guidance and support on difficult cases, etc. In prior correspondence we provided copies of the job descriptions for these positions so you can confirm that their duties are indeed administrative and necessary support to the entire department. (<https://www.governmentjobs.com/careers/sanbernardino/promotionaljobs>)

- 1) Captain – serves as our department Police Chief. The job description for this position (attached) states under “Distinguishing Characteristics: Sheriff’s Captain is characterized by the administrative responsibility for an assigned major division, facility or station.”
- 2) Lieutenant - is also an administrative position, whose job description states, “Positions in this class are characterized by their status as second in command with authority to assume full administrative and supervisory responsibilities during the absence of the commanding officer.”
- 3) Sergeants - “The class of Sheriff’s Sergeant represents the first full level of supervision.”

Clerical staff all are costs incurred for a common or joint purpose (supporting the entire department and law enforcement staff), and they provide necessary administrative, supervisory and clerical support that is necessary to operate a police department. They provide benefits to more than one cost objective, benefit the program, and cannot be directly charged to an identifiable cost center (i.e., program). Secretaries and dispatchers don’t provide direct law enforcement service. **2 CFR Ch. II §200.414 (c)** specifically identifies clerical staff as an administrative cost: The salaries of administrative and **clerical staff** should normally be treated as indirect (F&A) costs.”

OMB/CFR guidelines also specify that clerical staff are a part of the administrative function. Thus, our Secretaries, Office Specialists, and Supervising Office Specialists should have also been included in the

SCO computation as they provide necessary clerical support to the department. Please explain the rational for excluding these necessary clerical staff both directly and indirectly from our claims.

How are these positions not administrative? Except for a portion of the Sergeant positions (who review and approve Identity Theft reports directly), these individuals are not providing direct law enforcement services, but supporting and administering the department. These positions oversee not just one program, but the entire law enforcement department and all staff. This is no different from the function of command staff in a full-service (non-contracting city) which the SCO office has routinely allowed to be included in the computation of their overhead rates. These same positions were allowed by the SCO in the SBCSD's audited Identity Theft claims overhead ICRP rates.

We previously provided SCO staff with the full job descriptions for these positions to support our contention that these are administrative positions that support the entire department (and not just one program) and are necessary administrative support to the entire department. Your staff declined numerous offers to schedule a meeting with county command staff to answer any questions your staff may have about these positions' duties so they could feel confident that these positions do indeed perform eligible administrative functions that support the entire department.

Below we have provided the citation from Federal 2 CFR Part 225 Guideline that supports allowability of the indirect costs the City of Rancho Cucamonga incurred through our contract with SBCSD – not just the eight items SCO staff included in their “ACR” rate:

Contract Cost Items NOT Included by SCO as allowable Indirect cost	Federal CFR Citation supporting the <u>allowability</u> of the cost
Captain, Lieutenant, Sergeants	<p>2 CFR Ch. II §200.414 (c) “The salaries of administrative and clerical staff should normally be treated as indirect (F&A) costs.”</p> <p>2 CFR Ch. II Pt. 200, App. IV B. ALLOCATION OF INDIRECT COSTS AND DETERMINATION OF INDIRECT COST RATES The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate where a major project or activity explicitly requires and budgets for administrative or clerical services and other individuals involved can be identified with the program or activity.</p>
Office Specialists & Secretaries	<p>2 CFR Ch. II §200.414 (c) “The salaries of administrative and clerical staff should normally be treated as indirect (F&A) costs.” (See additional narrative above)</p>
Dispatch Support	<p>Appendix B to Part 225—Selected Items of Cost 7. <i>Communication costs.</i> Costs incurred for telephone services, local and long distance telephone calls, telegrams, postage, messenger, electronic or computer transmittal services and the like are allowable. [the County charges a share of the dispatch/communications division costs with contracting cities]</p> <p>Also see above- 2 CFR Ch. II Pt. 200, App. IV B. ALLOCATION OF INDIRECT COSTS AND DETERMINATION OF INDIRECT COST RATES The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs.</p>
<p>Vehicle Usage Charges: Marked units, Unmarked Units, Marked Citizen Patrol Sedan, Pickup Trucks, & Motorcycles</p> <p>Also, Handheld Talkies (HTs), Radar Units, Tasers</p>	<p>Multiple Sections of OMB/CFR Guidelines address eligibility of equipment charges and usage:</p> <p>Appendix B to Part 225—Selected Items of Cost 11. Depreciation and use allowances. a) use allowances are means of allocating the cost of fixed assets to periods benefiting from asset use. Compensation for the use of fixed assets on hand may be made through depreciation or use allowances. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.)</p> <p>15. <i>Equipment and other capital expenditures.</i> (2) “Equipment” means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5000.</p> <p>43. <i>Travel costs.</i> a. General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the governmental unit. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred,</p>

**OTHER ALLOWABLE AND NECESSARY SUPPORT COSTS
PURSUANT TO CFR / OMB****2 CFR §200.403 Factors affecting allowability of costs.**

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles

CFR Guidelines do not limit indirect costs to only “administrative” items. The language is written broadly to take various programs into account. For example, if a “program” requires waste pick up and disposal (like in the Los Angeles County Municipal Storm Water Claim), then in addition to the direct costs of staff who do the waste pickups, the departmental support and equipment usage (garbage truck usage costs), would be considered necessary and reasonable and allowable in the overhead rate.

Similarly, in a mandate that requires “law enforcement” services – then the departmental costs that are needed to ensure a Deputy can provide law enforcement services are eligible for inclusion in the overhead rate. Those eligible overhead costs include:

Necessary Support Costs

Without vehicles, radios, and dispatch services the Deputies could not provide law enforcement services. They could not receive any calls for service or communicate with either the public or with the department command staff; they could not drive to the scene of any call for service; and there would be no clerical support to process, store, and access any of the police reports (including these mandated Identity Theft Reports) and records as required by law. No law enforcement agency could function without these support functions.

SCO ACTIONS TO DENY APPLICABILITY OF OMB/CFR GUIDELINES AND ESTABLISH NEW CLAIMING METHODOLOGIES (Administrative Cost Rates in lieu of Indirect Cost Rates) CONSTITUTES UNDERGROUND RULE MAKING.

If it is the SCO’s position that in order for a contracting city to be able to obtain full reimbursement of all direct and indirect overhead costs, a County Sheriff’s Department MUST show a billable rate that includes all overhead in its direct staff’s (Deputy Rate) cost – then shouldn’t that be stated very clearly somewhere in the instructions? It would be very easy for the SBCSD to alter their format and show all charged costs in the direct staff/Deputy Rate, similar to how Los Angeles County does. Since SCO staff interpretation makes a very material difference in reimbursement amounts – this should have been very explicitly stated in the claiming manuals and instructions. By having our costs presented by San Bernardino County individually vs. aggregately, as Los Angeles County did, we stand to be denied over \$200,000 in indirect costs which would have been eligible if we were allowed to use existing claiming instructions and OMB/CFR guidelines.

Local agencies which contract for law enforcement services have been claiming overhead costs computed based on OMB/CFR standards for over 25 years now with no issue, but suddenly this has become a new

avenue for SCO staff to think it is a legitimate way of cutting State costs. SCO appears to be making up rules as you go and doing so inconsistently for that matter from audit to audit.

In the SCO's audits of Los Angeles County contract cities, overhead costs built into the Deputy hourly rates (as well as liability charges) were allowed. In the SCO audit of San Marcos (San Diego County Sheriff contracting agency) most overhead costs were allowed and computed "using contract services costs improperly identified as salaries and benefits as a base for claiming indirect costs" – the exact same method we used and that you are now saying is invalid. Each of these audits show inconsistent treatment of overhead costs in cities that contract for law enforcement services and failure to adhere to written State and Federal instructions and guidelines.

The DAR states (on page 20) that the SCO acknowledged that different counties include different costs in their rates – for example, Los Angeles (LA) County contract cities include overhead in their hourly billing rates, plus a percentage for insurance and liability charges. SCO narrative stated the desire to "be equitable with other California cities contracting for law enforcement services" so allowed us an average 6% "administrative cost rate". However, that "ACR" rate is vastly lower than what the true ICRP rate prepared in compliance with CFR/OMB standard (76.5% for FY 12-13) would have been. It is evident from the table below how "fair" the "administrative allocation rate" is.

SCO approved rate for LA County contract cities was \$124/hour vs. \$87/hour for us and other contract cities in San Bernardino County, a rate that is substantially lower than was approved for cities in LA County and even more than the city of Rialto (a comparable full-service city in our same county).

FY 2012-13 Deputy Sheriff Hourly Rate Comparison

LA COUNTY CONTRACT CITIES HOURLY RATE CITY REQUESTED* (Including additional 10% overhead requested, but denied by SCO) *	\$136.40*
LA COUNTY CONTRACT CITIES AUDITED SCO HOURLY RATE SCO APPROVED*	\$124.00*
SAN BERNARDINO COUNTY CONTRACT CITIES HOURLY RATE CITY REQUESTED (including "ICRP/OMB A-87" rate)	\$145.45
CITY OF RIALTO AUDITED OFFICER HOURLY RATE SCO APPROVED** (including "ICRP/OMB A-87" rate)	\$126.84**
SAN BERNARDINO COUNTY CONTRACT CITIES SCO HOURLY RATE SCO RECOMMENDED PER PRELIM. AUDIT REPORT (including SCO new "ACR" Rate)	\$87.47

*See City of West Hollywood Identity Theft Audit and City of Palmdale Child Abuse and Neglect Audits

**This is the FY 11-12 SCO Officer audited hourly rate for the City of Rialto, a full-service city in the same county.

These hourly rates were computed in the following manner – first, just as SCO staff computed them on page 21 of the SCO DAR, and, second, just as we computed for the claims we originally submitted.

FY 2012-13: Billable Hourly Rate Computation for the San Bernardino County Deputy Sheriff:

SCO Allowed Hourly Billing Rate using SCO created “Administrative Cost Rate” (ACR)

FY 12-13 based rate with only salaries and benefits per contract =	\$82.41
+ overhead per SCO allowed “ACR” = \$82.41 x 6.14% rate =	+ \$5.06
SCO allowed hourly billing rate =	\$87.47

vs

City Claimed Hourly Billing Allowed Rate using existing ICRP Methodology/Claiming Instructions

FY 12-13 based rate with only salaries and benefits per contract =	\$82.41
+ overhead per Ps&Gs ICRP guidelines = \$82.41 x 76.5% ICRP rate =	+ \$63.04
Actual hourly billing rate =	\$145.45

If the SCO wishes to change the rules, head in this new direction, and apply this new interpretation – that OMB A-87/CFR methodology does not apply for computation of law enforcement overhead/Indirect Cost Rate Proposal (ICRP) rates paid through contracts with county law enforcement agencies – then this should be explicitly stated in the written rules and guidelines and all parties should be able to review and participate in the adoption of those rules. Further, it is not fair to retroactively apply new standards and impose new rules on local agencies without providing advanced notice to them.

If OMB/CFR guidelines are inapplicable and SCO’s newly developed “ACR” methodology must be used, there is no written explanation of how this new overhead/”ACR” rate is to be computed and how to determine which costs are “*clearly* administrative in nature”. It may be “clear” to SCO staff what costs apply, but we would also have included our command staff as we believe the costs are clearly administrative in nature: costs for our “Captains, Lieutenants, and Sergeants, as well as various other line- item charges” which SCO auditors concede “**may** [emphasis added] or may not **be administrative in nature** dependent on the functions that each classification performs” can qualify for inclusion in the overhead rate.

Finally, we believe SCO staff actions violate “Due Process” requirements by creating new rules and standards that are not enumerated in written claiming manuals, parameters and guidelines, claiming instructions, and the OMB/CFR Guidelines. There is no statement that Ps and Gs do not apply to cities contracting for law enforcement services: that contract cities don’t qualify for reimbursement of indirect costs. There is no explanation that indirect costs are not allowable if they are itemized in the contract with the county; but are allowable if they are already built into direct staff (Deputy) hourly billing rates. There is no description, explanation, or examples provided in any manual of how local agencies that contract for law enforcement services are supposed to claim their allowable indirect or “administrative”/“ACR” costs in a manner acceptable to the SCO.

Given SCO staff response that 1) OMB/CFR Guidelines do not apply to the computation of indirect costs for cities that contract for law enforcement agencies with county agencies; 2) that indirect costs for contract cities are in fact completely unallowable costs or are subject to

some alternate, non-written standards that only SCO staff can determine or dictate at their sole discretion, 3) that there is no explanation or written guidelines provided to claimants in the instructions that explain what costs are and are not eligible; 4) that SCO findings that city contract agencies (like those in LA County) can obtain reimbursement for all direct and indirect charges included in their hourly rates, but those contracts that do not already have overhead pre-built into their Deputy rates forfeit their right to obtain indirect costs computed in the same manner suggests that the SCO is engaged in underground rule making.

THERE ARE NO SEPARATE RULES AND GUIDELINES FOR CONTRACT CITIES (CITIES WHO PURCHASE THEIR LAW ENFORCEMENT SERVICES VIA A CONTRACT) TO CLAIM ALLOWABLE OVERHEAD COSTS:

On page 13 of the SCO's DAR that correctly states "the city contracts with San Bernardino County to have the SBCSD (San Bernardino County Sheriff's Department) to provide all its law enforcement services." The City website (<https://www.cityofrc.us/RCPD>) states, "**Police Department:** Since incorporation in 1977, law enforcement services in the City have been provided through a contract with the San Bernardino County Sheriff's Department. Rancho Cucamonga continues to be one of Southern California's most family-oriented, safe, and prosperous cities. The low crime rate that the City continues to enjoy, is a direct result of not only the hard work and dedication of the men and women of the **Police Department**, but the positive interaction and participation by the community in crime prevention activities."

The agreements and the annual Schedule of Costs shows that the city is purchasing all the components of a Police Department, including direct and indirect (overhead) costs. The expenditures listed in the contract under Schedule A is in a similar level of detail and format to a full-service city's departmental expenditure report. San Bernardino County segregates each line item of cost separately and the billing rates of each position ONLY include salary and benefit costs (see Contract, Schedule A, Footnote 1). All necessary overhead is included separately in the contract and is described in detail. Many of those costs are eligible indirect costs that are necessary to support the function of the department and to allow the Deputies to perform their primary duty of providing law enforcement services.

There are no alternate or separate guidelines for computing overhead rates in claiming instructions or in Federal CFR Guidelines, to be used for contract cities, as you are proposing. The city calculated and provided Departmental Indirect Cost rates, computed exactly as shown in the State's guidelines and in compliance with Federal CFR/OMB Guidelines.

We agree with the Parameters and Guidelines (Ps and Gs), Claiming Instructions, and the Claiming Manual where it explains how indirect costs are to be prepared; however, the instructions must be read in their entirety to determine their intent.

Parameters and Guidelines V.B. Indirect Cost Rates:

Indirect costs are costs that 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. Indirect costs may

include: (1) the 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.

In this case the UNIT performing the mandate is the law enforcement unit purchased by the City of Rancho Cucamonga from the San Bernardino County Sheriff's Department (SBCSD) as outlined in detail in their contract showing all cost components charged to the city. The Schedule A shows that in addition to the Direct Salaries and Benefits of Law Enforcement Personnel, salaries of support and administrative staff for positions such as Captain, Lieutenants, Clerical Support positions, as well as other necessary and eligible (compliant with CFR guidelines) overhead costs such as vehicle and equipment usage charges which were billed to the city.

Claiming Manual, Section 8 states,

Indirect costs are (a) Incurred for a common or joint purpose benefiting more than one **cost objective**, and (b) not readily assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved. Indirect costs can originate in the department performing the mandate or in departments that supply the department performing the mandate with goods, services, and facilities. To be allowable, a cost must be allocable to a particular cost objective. Indirect costs must be distributed to benefiting cost objectives on bases, which produce an equitable result, related to the benefits derived by the mandate.

DAR states on page 24 that “**none** of the costs that the city incurred for law enforcement services provided by the SBCSD were indirect costs” and appears to argue that because ALL costs in the contract are assignable to the law enforcement contract or City Police Department, then ALL costs must be direct.

If SCO staff interpretation was correct, there would be no such thing as a Departmental Indirect Cost Rate as shown in State claiming manuals, examples, and instructions because every cost “assignable” to that department would be a direct cost. Nothing would be indirect except for costs outside of that department that were allocated to the department through the City or County-wide cost allocation plans. That is clearly not the case as “Departmental” Indirect Cost rates are the standard.

Staff's statement “if it's assignable to the department, then it's direct” is disproved by SCO's own analysis as you acknowledged that over eight items “assigned” to our “Department”/ law enforcement services contract were indeed allowable indirect (administrative) costs and included in SCO staff's “Administrative Cost Rate”. Since these costs were also “assignable to the department”, then that would make those costs also direct costs by SCO's definition.

The wording in the instructions and guidelines shows that the terminology between: “program”, “department”, and “cost objective” are used interchangeably to allow maximum flexibility to apply to various situations. The entire instructions must be read in context, not abbreviated and cherry picked. Claiming Manual, 8. Indirect Costs states: “Indirect costs can originate in the department performing the mandate or in departments that supply the department performing

the mandate with goods, services, and facilities.” Clearly indirect costs can originate in the law enforcement unit purchased from SBCSD.

**COMMISSION ON STATE MANDATES PRIOR DECISIONS
SUPPORT THE VALIDITY OF EXISTING PARAMETERS AND
GUIDELINES AND EXISTING METHODOLOGY IN
COMPUTATION OF OVERHEAD/ICRP RATES FOR
CONTRACT CITIES:**

Prior Commission on State Mandates (CSM) decisions also provided insight on the topic of overhead for cities contracting for law enforcement services.

In the City of Palmdale’s Incorrect Reduction Claim (IRC) of the SCO’s 2016 Audit of their Interagency Child Abuse and Neglect Reporting claims (See November, 2018 CSM meeting transcript) the Commission reviewed whether the City of Palmdale, which contracted with Los Angeles County for law enforcement services, was entitled to the 10% default overhead rate they claimed in their requests for reimbursement.

The Commission staff concluded that while it was not appropriate for a contracting agency to use the default 10% ICRP rate when computing overhead costs since this rate was designed specifically for application to only salaries (not salaries and benefits); a contract city would have been eligible for indirect cost reimbursement if the city prepared their own ICRP rate demonstrating valid indirect costs. The city did prepare and submit their ICRPs showing overhead cost computations.

Commissioner Alex stated during the meeting (Page 46 of transcript, Lines 5-8 of hearing transcript) that he agreed that **“...there is overhead associated with a contract and I think that’s typical.”**

Mr. Jones of the Commission staff noted that “...the Parameters and Guidelines say you can – you can prepare an indirect cost rate proposal if the indirect cost rate exceeds 10%.” (Page 44 lines 24-25 and page 45, lines 1-2 of hearing transcript)

Commission Member Adams asked, **“And under Parameters – Parameters and Guidelines, would there have been an appropriate way to claim these indirect costs?”** (Page 38 lines 14-21 of hearing transcript)

Mr. Jones of the Commission staff responds, **“Staff’s position is that, yes, there was an appropriate way, and it was to develop an indirect cost rate proposal with documentation that the Controller could review.”** (Page 38 lines 24-25 and Page 39 lines 1-2)

Ms. Shelton of the Commission noted that, **“...you have to follow the plain language of the Parameters and Guidelines.”** (Page 47, lines 21-23 of hearing transcript). The plain language being that indirect costs were eligible for inclusion in the reimbursement claims under the language and rules established in the Parameters and Guidelines.

**SCO FINDINGS THAT OUR ADMINISTRATIVE STAFF
(CAPTAINS, LIEUTENANTS, SERGEANTS); SUPPORT STAFF
(STATION CLERKS, SECRETARIES, AND SHERIFF’S
SERVICE SPECIALISTS); AND SUPPORT COSTS (DISPATCH
SERVICES, VEHICLE AND EQUIPMENT USAGE CHARGES)
ARE NOT ALLOWABLE ARE INCONSISTENT WITH PRIOR**

AUDITS OF BOTH OTHER CONTRACT SERVICE CITIES AND FULL SERVICE CITIES:

We already cited the City of San Marcos Audit, another contract city in a similar situation. But there are many examples of full-service (non-contract) cities SCO audited where identical indirect costs (Captains, Lieutenants, Sergeants, Clerical Support, Vehicle and Equipment usage, etc.) were found to be allowable overhead/indirect costs. This list is only a small sample, listing audits our consultant was directly involved in and has personal information of:

- County of San Bernardino: Identity Theft Audit
- City of Rialto: Child Abuse and Neglect Reporting Audit
- City of South Lake Tahoe: Child Abuse and Neglect Reporting Audit
- City of Fresno: Administrative License Suspension Audit
- City of Fresno: Domestic Violence Audit
- City of Fresno: Identity Theft Audit
- City of Fresno: Peace Officer Bill of Rights Audits

Please let us know if you'd like us to send you a copy of the audits or ICRPs allowed in these reviews.

Like costs must be treated consistently to have a fair and non-arbitrary audit.

1) SCO audits of San Bernardino County Sheriff's Department:

The SCO has already audited and approved indirect cost rates for the San Bernardino County Sheriff's Department (our contracting agency) for this same program (Identity Theft) and for the same years. Since SCO approved indirect cost rates for this same organization, for activities which were performed by the same class of employees, paid at the same rates, for the same program and for the same years, our allowable overhead rates which are sourced from the same agency should not be less than those approved rates.

San Bernardino County: Identity Theft Audit Report, Release April 2022

<u>Allowable</u>	<u>Direct</u>	<u>Indirect</u>	<u>Approved</u>
<u>ICRP Rate:</u>			
2002-03	\$34,330	\$24,543	= \$24,543/\$34,330 = 71.5%
2003-04	\$34,123	\$20,965	= 61.4%
2004-05	\$44,177	\$27,142	= 61.4%
2005-06	\$44,188	\$20,875	= 47.2%
2006-07	\$49,011	\$21,727	= 46.2%
2007-08	\$50,876	\$27,743	= 54.5%
2008-09	\$43,288	\$20,596	= 47.6%
2009-10	\$34,516	\$15,770	= 45.7%
2010-11	\$30,836	\$14,215	= 46.1%
2011-12	\$38,594	\$16,468	= 42.7%
2012-13	\$34,115	\$14,335	= 42.0%

Allowing the City only an average of 6% overhead or “administrative cost allocation rate” when SCO audit of the San Bernardino County Sheriff’s Department that provides us with law enforcement services is about 7 to 10 times that, shows the inequity and erroneous basis of staff computations.

CFR guidelines state in Section 200.306 (f) of 2 CFR Part 200:

(f) When a third-party organization furnishes the services of an employee, these services must be valued at the employee’s regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, **and indirect costs at either the third-party organization’s approved federally negotiated indirect cost rate or, a rate in accordance with § 200.414 Indirect (F&A) costs, paragraph (d),** provided these services employ the same skill(s) for which the employee is normally paid.

OMB/CFR clearly states that in addition to third-party salaries and benefits (which you properly allowed), **indirect costs, at either the third-party organizations approved federally negotiated indirect cost rate, or a rate in accordance with 2 CFR Part 200 § 200.414 are eligible.** OMB A-87/CFR guidelines do not distinguish or provide alternate indirect cost rate methodologies between first- and third-parties. The same rules would apply.

If SCO staff believe Federal CFR/(prior OMB A-87 methodology) does not apply to or allow for the recovery of full indirect costs for contract cities, or that some alternate methodology exists for contract cities, please provide evidence and references to the pertinent sections of Claiming Instructions, Parameters and Guidelines, or OMB/CFR Guidelines that support this. Other than State and Federal CFR guidelines, we are not aware of any alternate rules or guidelines that dictate how indirect costs are to be computed for contract cities. Therefore, we believe the existing rules would be applicable in the computation of our ICRP rates.

IF COSTS ARE DIRECT, AS THE DAR IMPLIES, THEN WHY DOESN’T THE SCO PAY FOR THOSE COSTS DIRECTLY?

Page 20 of the DAR narrative states, “The city’s contracts with the SBCSD also includes additional employee classifications and items – such as vehicles, dispatch services, and equipment – that are all a part of the direct costs incurred to provide law enforcement for the city.”

If it is SCO’s position that these costs are not allowable in the Indirect Cost Rate, or in the SCO’s newly created “Allowable Cost Rate” (ACR), then because a portion of these costs were legitimately necessary to perform the mandate program these costs should be reimbursed. Simply brushing them off and saying that they are all a part of the direct costs to provide law enforcement to the city does not satisfy mandate law or parameters and guidelines which state all direct and indirect costs must be reimbursed.

Under Section 5 of the Claiming Manual, it states:

Allowable costs are those direct and indirect costs, less applicable credits, considered eligible for reimbursement. In order for costs to be allowable and thus eligible for

reimbursement, the costs must meet the following general criteria:

1. The cost is necessary and reasonable for proper and efficient administration of the mandate and not a general expense required in carrying out the overall responsibilities of government;
2. The cost is allocable to a particular cost objective identified in the Ps & Gs; and
3. The cost is net of any applicable credits that offset or reduce expenses of items allocable to the mandate

It would not be possible to provide law enforcement services or comply with the mandate without vehicles, dispatch services, and equipment. Vehicles, equipment and dispatch services meet these criteria. The State Mandate Claiming Manual in the ICRP Example Table 6, page 13 states that “(Each line item should be reviewed to see if it benefits the mandate to insure a fair and equitable distribution.)”

Vehicle/Equipment Use: SCO proposed “ACR” rates do not include costs for the actual vehicles/ transportation costs. Also, handheld radios or talkies were also omitted. Deputies would not be able to get the information from Dispatch without their handheld radios (HTs) or drive to the scene of the Identity Theft case. Both travel and vehicle/equipment usage are allowable as direct or indirect costs based on the instructions, so they could be claimed either way.

Appendix E to Part 225—State and Local Indirect Cost Rate Proposals Section A. 4. states:

... typical examples of indirect costs may include certain State/local-wide central service costs, general administration of the grantee department or agency, accounting and personnel services performed within the grantee department or agency, depreciation or **use allowances on buildings and equipment**, the costs of operating and maintaining facilities, etc.

The State Controller Claiming Manual in Section 7. Direct Costs, (6) Travel Expenses states:

Travel expenses are normally reimbursable in accordance with the travel rules and regulations of the local jurisdiction...

Based on these State and Federal Guidelines, we felt it was more appropriate to include the vehicle/equipment usage and related travel expenses in the overhead rate/ICRP. However, it could be claimed directly as you seem to be suggesting.

The City could be provided with a reimbursement for these costs using the allowable Federal vehicle mileage reimbursement rates by fiscal year, for example, in FY 2012-13 the rate was \$.555 per mile. We could compute the total mileage for all ID Theft cases and apply this rate to reimburse us for our travel expenses. For example, if each ID Theft victim is an average of 10 miles from the station, that would be 20 miles round trip per case (304 cases) x \$.555 per mile, or \$3,374 reimbursement for travel costs in FY 2012-13.

Dispatch Services. The Audit report state that dispatch services are a direct function. Clearly the dispatcher/communications function “benefits the mandate” and is necessary support to the entire law enforcement function of the department. As dispatch support is necessary support to the Deputies for this mandate and for all law enforcement services, the “fair and equitable distribution” (see Claiming Instructions Manual, ICRP Example, Table 6, page 13) of costs related to this mandated program must be allowed.

We could take the total number of calls for service in a year, then, using the total number of Identity Theft cases, charge that same percentage of “Dispatch Services” costs to the mandate.

Administrative and Clerical Support. A similar computation can be performed to distribute a fair allocable share of administrative support costs directly. We can take the total number of Deputies (the staff who provides the direct services of the law enforcement department) and then distribute the costs of the Captain/Police Chief and other administrative personnel for their necessary supervision and support.

Direct costing can certainly be done, but in the SCO audit, the city was not reimbursed for the cost either directly or indirectly. This omission violates the California Constitution and Parameters and Guidelines by denying us actual, increased costs that were necessary to perform the mandate.

“ALL COSTS SUBMITTED TO THE SCO ARE SUBJECT TO REVIEW TO DETERMINE IF THE COSTS ARE RELATED TO THE MANDATE”:

Page 2 of Mandated Cost Manual, Section: Audit of Costs, “All claims submitted to the SCO are subject to review to determine if costs are related to the mandate...and are prepared in accordance with SCO’s Claiming Instructions.” We believe we have complied with the instructions and shown that the items we requested reimbursement for were necessary and are supported by Parameters and Guidelines, State Instructions, and Federal CFR Guidelines.

Not allowing reimbursement of those costs for vehicles, administrative personal such as our Police Chief, clerical staff, and the dispatch charges billed to us from the county when they are clearly necessary for the provision of the mandated services would be contrary to Claiming Instructions, Parameters and Guidelines, as well as Federal CFR-200 standards which all specifically allow for the inclusion and reimbursement of both direct AND indirect costs. To simply exclude or not allow legitimate costs is contrary to State and Federal rules, and also would be inconsistent with SCO’s own office’s prior audit determinations.

Please let us know if you have any questions or if we can provide any additional information. We believe that the costs shown by the city are the proper and allowable costs, in compliance with State and Federal rules and guidelines.

SCO’s Comments

The finding and recommendation remain unchanged.

In its response, the city did not respond to the portion of the finding related to overstated identity theft reports or the misstated time increments required to perform the reimbursable activities. The city's response focuses on unallowable indirect costs (\$223,707) and its belief that the additional allowable costs we calculated for administrative costs (\$9,487) within the city's law enforcement services contracts are insufficient. The city also refers to SCO audits of other claimants; however, the Commission has affirmed in prior Incorrect Reduction Claim decisions that audits of other claimants are not relevant to the SCO's audit here, as each audit depends on the documentation and evidence provided by the claimant to show increased costs mandated by the State.

The city's response comprises an explanation for why it is eligible to claim indirect costs against contract services costs. However, the arguments it raises suggest a complete misunderstanding of indirect costs, when they apply, and what they represent.

The city did not claim allowable indirect/overhead costs by virtue of its law enforcement services contracts with San Bernardino County because the city did not incur any indirect costs as defined by the parameters and guidelines. The parameters and guidelines define indirect costs as:

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

According to the parameters and guidelines, allowable indirect costs include "the overhead costs of the unit performing the mandate." The City of Rancho Cucamonga contracts out its law enforcement services with the SBCSD. The unit performing the work related to the mandate is the SBCSD, not the city. The overhead costs for SBCSD are included in its billing rate, and our audit determined that those costs were allowable. The only indirect costs incurred by the City of Rancho Cucamonga for law enforcement services are its internal costs incurred by various city departments for negotiating and administering its contracts with San Bernardino County, however, the city did not claim these costs

San Bernardino County includes its indirect costs as separate line items in its contracts for law enforcement services; however, that does not also make those costs indirect costs incurred by the City of Rancho Cucamonga just because the city reimburses the county for these costs. There is a clear distinction. We refer to these line item costs as "administrative costs" in order to differentiate them from indirect costs.

The city's contention that it "purchased salaries and benefits" from San Bernardino County is inconsistent with Generally Accepted Accounting Principles. The costs that the city incurred are contract services costs. The city's additional contention that the unit performing the mandate is "the law enforcement unit purchased by the city" is not supportable. The city did not purchase the SBCSD, it purchased the contracted services that the SBCSD provided.

That said, we responded to an argument raised by the city's mandated cost consultant during the audit related to the methodology that another county uses to bill its contract cities for law enforcement services. That county includes administrative costs within the productive hourly rate calculations for county personnel in its law enforcement services contracts. The consultant's argument correctly noted that San Bernardino County does not structure its law enforcement services contracts in the same manner. We discussed this argument internally and agreed that there is no methodology for the city to recover these "administrative costs" included as specific line item costs within its contracts with San Bernardino County. As we did not audit any of the individual line item costs within San Bernardino County's contracts, we have no way of knowing whether the county included a factor for indirect costs in its calculations of rates for personnel and equipment.

Although we were under no obligation to do so, we determined that it is appropriate to calculate an allowable administrative percentage and add it to the productive hourly rate calculations for county staff in this instance. This is similar to the methodology noted by the city's mandated cost consultant. We based our determination that certain contract costs are "clearly" administrative costs on our judgment that such costs are not directly related to providing law enforcement services for the city. Our report spells out exactly which costs we included. We believe that the line item descriptions describe various types of indirect costs that San Bernardino County incurred to provide law enforcement services pursuant to its contracts with the city. As stated previously, just because the city is reimbursing the county for its indirect costs, Generally Accepted Accounting Principles dictates that this does not also make those indirect costs incurred by the City of Rancho Cucamonga.

Our determination of calculating additional allowable costs based on administrative costs within the city's contracts is unrelated to OMB Circular A-87 cost principles. Instead, we used a basic mathematical construct to allocate the mandated portion of administrative costs based on each year's total contract amount. The city states that certain other costs within its law enforcement contracts should be included in the calculations, such as costs for Lieutenants and certain Sergeants, because they perform an administrative function for the SBCSD. While activities performed by certain SBCSD law enforcement staff may be for an administrative *function*, the costs are still direct contract services costs incurred by the city for law enforcement services. The administrative costs that we identified in the audit are not for law enforcement services.

In its response, the city refers to Title 2, Code of Federal Regulations, part 200 (2 CFR 200), section 200.306(f) as justification for claiming indirect costs using the same indirect cost rates that San Bernardino County included in its mandated cost claims for this program. However, Section 200.306(f) is included within Subpart D of 2 CFR 200, which provides guidance for recipients of federal awards to account for cost sharing amounts. This guidance is not applicable to the calculation of indirect costs, nor is it applicable to mandated cost claims.

The parameters and guidelines for the Identity Theft Program identify 2 CFR 225, Appendix A and B (OMB Circular A-87) as the controlling

requirements for claiming indirect costs. The Commission adopted the parameters and guidelines for the Identity Theft Program in 2011. Several years later, the federal government re-codified 2 CFR 225 within 2 CFR 200 as Subpart E, along with the applicable appendices.

We used a methodology here to include the costs we identified as administrative costs within the city's contracts and re-calculated allowable productive hourly rates for county staff. This resulted in additional allowable contract services costs of \$9,487 for the city, which is not a reduction of costs.

The reductions of costs claimed in the audit are for overstated identity theft reports, misstated time increments to perform the reimbursable activities, and unallowable indirect costs. The city is responding only to the portion of the finding related to the reduction of claimed indirect costs. The city used an incorrect methodology to claim indirect costs, in violation of the parameters and guidelines. As a result, the costs are unallowable. The Commission previously agreed to this conclusion within prior Incorrect Reduction Claims; however, the city has the option to file an Incorrect Reduction Claim with the Commission and have the matter adjudicated again.

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



Mayor L. Dennis Michael | **Mayor Pro Tem** Lynne B. Kennedy
Council Members Ryan A. Hutchison, Kristine D. Scott, Ashley N. Stickler
City Manager John R. Gillison

CITY OF RANCHO CUCAMONGA

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June 28, 2023

Ms. Lisa Kurokawa, Audit Bureau Chief
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250

SENT VIA EMAIL

Dear Ms. Kurokawa:

We appreciate the time spent by SCO staff reviewing this State Mandate Program and for the opportunity to respond to the Draft Audit Report (DAR) findings. We have reviewed the DAR document and explanation of the findings.

The City of Rancho Cucamonga's disagreement with the DAR findings lies in the denial of various necessary costs within our contract with the San Bernardino County Sheriff's Department, including cost for our administrative command staff (our Police Chief and departmental supervisory staff), cost for our patrol cars and other vehicles, cost for our clerical staff, and cost for our city's share of dispatch support costs billed by the County.

As you know State mandate law and procedures were created to satisfy the requirements of Article XIII B of the California Constitution which state that, "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service."

Government Code (GC) sections 17500 through 17617 provide for the reimbursement of costs incurred by local agencies for costs mandated by the State. Parameters and Guidelines (Ps and Gs) and Claiming Instructions assure that all actual costs – both direct **and** indirect related to the performance of the mandate be reimbursed to local agencies.

It is clear that this audit did not result in a fair reimbursement of those necessary costs as all that the State Controller's Office (SCO) staff recommends for reimbursement is the direct costs of Deputies and Sergeants working specifically/directly on mandated activities (salaries and benefits) plus an average of a 6% "Administrative Allocation Rate."

We were told the Indirect Cost Rate Proposal (ICRP) or overhead rate cannot be used because SCO audit staff contends that indirect costs are not eligible for reimbursement in our situation. Our situation being that we are a city that contracts for law enforcement services and that our service provider, San Bernardino County Sheriff's Department (SBCSD), charges us for overhead costs on a detailed basis

within our contract; thus, making it impossible according to SCO audit staff, for us to use the existing Indirect Cost Rate Proposal (ICRP) methodology prescribed in claiming instructions, claiming manuals and the Federal CFR/OMB guidelines to compute an overhead rate as other local agencies can.

SCO staff stated in the audit that they were sympathetic to our plight of not being able to recover any overhead costs, so they created a new methodology they named the "Administrative Cost Rate" (we'll refer to this new type of rate as the "ACR") to allow the recovery of some costs that they could identify as "clearly administrative" in nature. Thus, instead of allowing us the overhead rates that would have been allowed under existing Ps and Gs and Claiming Instructions which averaged about 70%, we were granted the "ACR" rate that averaged about 6%.

The primary activity that this State mandate program requires is that law enforcement personnel take an Identity Theft Report and begin an investigation of the facts, including the gathering of facts sufficient to determine where the crime(s) occurred and what pieces of personal identifying information were used for an unlawful purpose.

We agreed that this activity was performed by the Deputy Sheriff positions we pay for through our contract with the San Bernardino County Sheriff's Department (SBCSD). The City has no in-house Police Department other than the one it has purchased through its contract with the SBCSD. This contract includes all direct sworn staff, indirect support and administrative personnel, and overhead costs – such as vehicle expenses, and other costs associated with operating a police department. Schedule A of our contract lists all costs charged in detail by type of cost - similar to how a full- service city would account for these costs in an expenditure report.

SCO audit staff determined that the direct costs incurred through our contract -- the salary and benefits costs of the Deputies we purchase through our contract for service with the San Bernardino County Sheriff's Department (SBCSD) positions -- were eligible for reimbursement, however, not the vast majority of other necessary overhead costs billed within that contract. For example:

The mandate requires that our Deputy drive to the scene to take a report from the victim – yet SCO audit findings include no reimbursement of costs for the actual vehicles, fuel, and maintenance. A Deputy needs a vehicle to perform their law enforcement duties. Our Deputy would not be able to perform the mandate as they typically drive to the victim's location to take their Identity Theft Reports. This is a reasonable and necessary cost to perform the mandate, yet the DAR findings only allow costs for vehicle insurance but omit the cost of the vehicles themselves.

The mandate requires that our communications/dispatch staff transmit information about the call for service to the Deputy so that they are aware of what the nature of the call is and where the victim is located. Yet SCO staff reimbursement allows for no dispatch/communications staff to take the phone calls from the public and relay the request for service to the sworn Deputies who perform the direct law mandated enforcement duties.

The mandate requires that the Identity Theft report be typed, entered, and maintained in our records and computer system – yet there is no allotment of costs to reimburse us for the clerical personnel to do this activity that is required as a result of this mandate.

The mandate requires employment of sworn personnel to perform this activity. In order for an agency to provide sworn staff, it must supervise them and provide administrative support; yet no departmental

support costs such as our departmental command staff costs were allowed (including our Captain, who functions as our Department's Police Chief, his Lieutenant or second-in-command, or administrative time of Sergeants who are the first line supervisors).

It is clear that the Audit Report Findings are not reasonable, nor would they satisfy the intent of the State or Federal laws and guidelines. No reasonable person would agree that a Deputy could perform their law enforcement duties or perform the mandated activities without a vehicle, administrative/command staff support, or clerical and dispatch service support.

City staff and our consultant have spent many hours and numerous correspondences back and forth trying to resolve this issue. However, to avoid this correspondence from becoming overly lengthy or repetitive, we will only touch on a few main points in this response, and will include our past communications as an attachment to our future Incorrect Reduction Claim (IRC) to serve as back up and to provide greater detail to the Commission on State Mandates (Commission) when they review this matter.

CLARITY, DISCLOSURE, AND TRANSPARENCY IS NEEDED FROM THE SCO AND CLAIMING INSTRUCTIONS TO EXPLAIN WHICH ENTITY IS ELIGIBLE TO CLAIM WHAT REIMBURSABLE COST

██████████ May 12, 2023 email attempts to explain to us why the indirect costs/ICRP costs we incurred are not eligible for reimbursement: "Those [our contract] salary and benefit costs belong solely to San Bernardino County, not the City of Rancho Cucamonga." And "Just because the county incurs indirect costs and bills the city for them does not mean that these are also indirect costs incurred by Rancho Cucamonga."

It appears that the crux of the argument to deny our city (and if audit precedent applies, all contract cities) law enforcement overhead costs is because SCO staff believes that technically the contracting entity (in this case San Bernardino County Sheriff's Department or SBCSD) whose employees perform the administrative and support tasks paid for in our contract [in our case the Captains, Lieutenants, Sergeants, Office Specialists, Secretaries, etc.] and support costs [such as vehicles, walkie-talkies, dispatch center charges, etc.] don't "belong" to us (the city who contracts for and pays for them) -- but to the agency that "provides" those personnel and services.

It was our understanding (and common accounting practice), that if you bought and paid for something (if you "incurred" that cost), then that cost/product becomes "yours", and that the agency "incurring" the costs should be the one to claim for State Reimbursement since you were the agency that ultimately "lost" that money from your budget to pay for the State Mandate program.

Since both direct and indirect costs are all a part of the same contract with SBCSD then it would stand to reason that both types of costs would be treated consistently -- either the city is eligible to claim and receive reimbursement for both -- or neither.

However, Page 24 of the Draft Audit Report states, "**We found that the entire amount [of indirect costs claimed] is unallowable because no city staff member performed any of the reimbursable activities...**"

How can this logic hold: that indirect costs are somehow not allowable "because no city staff member performed any of the reimbursable activities", when the opposite conclusion was arrived at regarding direct costs and activities. SCO Audit allows reimbursement for the direct contract staff performed by

SBCSD Deputies and Sergeants, even though those positions are also not “city staff members” and their costs are charged and incurred through the same exact contract.

When the city requested clarification, [REDACTED] May 12, 2023 email response explains, **“the city did not incur any indirect overhead costs within its contract with San Bernardino County”**. Then he goes on to say, seemingly contradicting himself, **“[j]ust because the county incurs indirect costs and bills the city for them doesn’t mean that these are also indirect costs incurred by Rancho Cucamonga.”**

How does this make sense? SCO staff agrees that the costs are indirect when they “belonged” to the County; but if the county who incurs those indirect costs, bills the city for them, then they are no longer indirect costs or costs “incurred” by the city?

If contract cities do not “incur” indirect costs and cannot claim indirect costs billed within their contracts – does this mean that the counties that provide/incure those cost are eligible for the reimbursement of those costs? In this case, would SBCSD receive reimbursement for those costs?

Prior State Controller audits have found this is not the case. The following is a quote from page 19 of the SCO’s June 2022 audit of San Bernardino County’s Interagency Child Abuse and Neglect Investigation Reports (ICAN)):

“...we [SCO] found that the county included costs for providing services to contract cities as part of its mandated cost claims for all activities. The parameters and guidelines state that any county, city, or city and county is eligible to submit a mandate reimbursement claim. Therefore, all counties and cities—including contract cities—are eligible to submit mandate reimbursement claims. Because contract cities are eligible to submit reimbursement claims, and the county received fees for law enforcement services from its contract cities, we determined that the county should only claim costs associated with the unincorporated areas of the county. We determined that the costs incurred by contract cities are unallowable because the county had already been compensated by contract fees. The county did not report offsetting reimbursements for the contract city cases in its mandated cost claims. Therefore, we found that the county overstated these claimed costs because it did not offset costs that were funded by other sources.”

This audit is not unique. There are numerous other audits of county law enforcement claims where the SCO comes to the same conclusion: that the contracting entity - the city, not the county -- is eligible to request or receive reimbursement of mandated costs because those costs are incurred/paid for by the contracting cities. A sampling of other similar audits includes San Bernardino County April 2022, Identity Theft Program, Los Angeles County September 2019, Crime Statistics Reports for the Department of Justice Program, and Los Angeles County November 2019, Domestic Violence Arrest Policies and Standards Program.

So, which is it? Who is entitled to claim the costs –the city that pays for the service, or the county that provides the service? Based on this audit analysis, neither the contract city nor the county would be able to obtain reimbursement of indirect costs charged to cities.

State instructions say indirect costs that are incurred by the agency incurring the direct costs are to submit the claims for reimbursement. The SCO requirement that “a city staff member perform reimbursable activities” in order to obtain reimbursement of both direct and indirect costs is contrary to

the plain language of the Ps & Gs and would mean that no contract city would be able to obtain reimbursement for mandate overhead costs.

Since counties did not receive any State Mandate reimbursement for indirect costs that were paid for via city contracts and now this Audit indicates that contracting cities cannot claim for the indirect costs, this creates a loophole where only the State gains unfairly by not having to pay either party for those State Mandated costs. Claimants deserve clear, written guidelines/instructions provided to them prior to claim preparation and submission, and consistent treatment/interpretation of those rules. The State Controller's Office cannot use different metrics and methodologies from audit to audit.

DID THESE ISSUES ARISE DUE TO A DEFICIENCY IN STATE CLAIMING FORMS?

Early in this audit in August of 2022, SCO auditor, [REDACTED], issued her first set of findings which stated that indirect costs could not be claimed because the Claiming Instructions "Form 1" and "Form 2" precluded reimbursement of indirect costs because those forms "differentiate contract services" from salaries or (direct labor) for purposes of calculating indirect costs."

Our responds to this was if the SCO didn't like the way forms looked or how costs were displayed or presented on those forms, that they had the authority to format the forms to their liking. However, having an issue with form format or how costs should be presented/displayed was not a legitimate reason for the SCO to ignore the underlying principles and direction of the Parameters and Guidelines and Claiming Instructions and deny reimbursement of eligible costs.

SCO audit report on page 20 notes that "The SCO's Mandated Cost Manual states that costs of contract services are allowable. Costs for contract services can be claimed using an hourly billing rate."

However, the Manual does not provide specific guidelines on how to calculate an hourly billing rate.

The issue in this audit was not how direct salary costs were computed. The City of Rancho Cucamonga used the prescribed method allowed in instructions by dividing total salaries and benefits by 1,800 annual productive hours – which the SCO auditor agreed was appropriate.

The issue was how the indirect cost component should be calculated.

[REDACTED] informed us in his January 5th email that "[o]ur position has always been that using the A-87 methodology contained in Subpart E to claim administrative costs using contract services as a base is a non-starter for our office." And in the May 13th email, "Indirect costs cannot be claimed against contract services."

Our consultant provided him with evidence that this was not the case citing the 2017 City of San Marcos Crime Statistics Reporting Audit.

In the City of San Marcos audit (which contracts with the San Diego Sheriff's Office (SDSO) for law enforcement services, the following indirect costs were allowed (See City of San Marcos 2017 – Crime Statistics Reporting Audit Report on page 23). State Controller's Office auditors recognized there were additional indirect/overhead costs and those costs were allowed as valid overhead charges. Below is an extract from the Audit Report on page 23 that addressed the Contract Indirect Costs:

"Contract Indirect Costs

We reviewed the contract agreements between the city and the SDSO. For FY 2007-08 through FY 2011-12, the SDSO contract agreements provided schedules and identified supplemental contracted labor costs and contracted overhead costs. We determined that overhead costs identified in the contract were appropriate as they related to the performance of mandated activities. We computed indirect cost rates for contract services for these years by dividing total contract overhead costs, station support staff costs, and Sergeant Admin position costs, by the contracted labor costs identified in the contract supplemental schedules.

In the allowable ICRP/ "**contract overhead costs**", the audit permitted:

- 1) proration of support/admin costs including Station Level Staff Support including: Captain, Admin Secretary, Lieutenant, Sergeants, Volunteer Coordinator, Senior Clerk, Department Aide, Receptionist, Intermediate Clerk.
- 3) Law Enforcement Support including Station Detectives, Communication Center (Central Dispatch support), Crime Prevention, Juvenile Intervention, Regional Services
- 4) Services and Supplies Costs
- 5) Support Costs including Vehicles, Facilities/Space, County Management Support (Admin, Fiscal, Data Services, Personnel & Other)
- 6) Liability (charged separately)

The items we included in our ICRP are all similar, if not identical items: Administrative support, such as Captains, Lieutenants, and Sergeants; Clerical support; Vehicles; and Communication Center (Central Dispatch Services, etc.) but in our case they were NOT allowed as indirect costs.

In addition, in the case of San Marcos' Audit, the prescribed ICRP format/computational methodology was employed; using contract salaries and benefits as the denominator for determining the overhead rate, and not total contract costs as the SCO uses in their new "ACR" methodology rate computation.

Please explain why Rancho Cucamonga is being treated differently and why the interpretations and methodologies are different for two similar contract cities.

EXISTING PARAMETERS AND GUIDELINES AND CLAIMING INSTRUCTIONS PERMIT CITIES THAT CONTRACT FOR LAW ENFORCEMENT SERVICES TO OBTAIN REIMBURSEMENT FOR THEIR FULL INDIRECT COSTS AS DEFINED UNDER FEDERAL CFR/OMB STANDARDS.

Existing claiming instructions and claiming manuals under Contract Services state that "all costs charged" can be claimed.

Identity Theft Claiming Instructions

Section V. A. 3. Contracted Services:

"Report the name of the contractor and services performed to implement the reimbursable activities and attach a copy of the contract to the claim. 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 dates when services were performed and itemize all costs for those services during the period covered by the

reimbursement claim. If the contract services were 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 invoices with the claim and a description of the contract scope of services."

The Claiming Manual adds that the claimant should provide: "... the mandated activities performed, the number of hours spent performing the mandate, the hourly billing rate, and the total cost."

The City complied with these instructions and provided a copy of the contract and detailed costs related to the reimbursable activities, time studies to show number of hours spent performing the mandate, the hourly billing rates – including how direct and indirect/overhead costs were computed. We accounted for all costs charged. Total costs include the necessary overhead [vehicles, dispatch support, command staff, clerical staff, etc.] to perform the mandated activities.

There is nothing in the Ps and Gs, Claiming Instructions, or the Claiming Manual that would suggest that the Commission intended that cities that contract for law enforcement would not be eligible for indirect costs or that contract cities would have to use a different set of rules or standards to compute allowable indirect costs. We see nothing that would indicate that Federal CFR/OMB guidelines would not apply.

USE OF A NEW METHODOLOGY TO COMPUTE OVERHEAD/ICRP COSTS IS NOT SUPPORTED BY CLAIMING INSTRUCTIONS, PARAMETERS AND GUIDELINES, OR THE CLAIMING MANUAL

In our correspondence, SCO staff provided many reasons why our Indirect Cost Rate Proposals (ICRPs) – rates derived using the exact format and guidelines prescribed by the Claiming Manual, Parameters and Guidelines, and in compliance with Federal CRF Guidelines - could not be used and instead why audit staff had to create and apply a new alternate methodology and format to compute indirect costs, which you have entitled: "The Allowable Administrative Percentage" or the "Administrative Cost Rate" (see page 21 of SCO Draft Audit Report).

One of the issues with this "new methodology" is that it does not allow for the inclusion of all the costs that would have been allowable under existing claiming instructions and Federal CFR/OMB Guidelines. Cost such as vehicle usage costs, command staff administrative costs, secretarial support, etc. [REDACTED] tried to explain why CFR/OMB Guidelines do not apply, but his explanations do not seem to be grounded in established written guidelines. Denying that existing written rules apply and then creating and applying new, unwritten methodologies without any prior notice or explanation in fact creates new rules that have not been vetted by the Commission and other interested parties.

Page 20 of the Audit narrative explains that this new methodology developed by the SCO's staff, the "Administrative Cost Percentage," was calculated by...dividing the costs of the following items "Administrative Support, Office Automation, Services and Supplies, Vehicle Insurance, Personnel Liability and Bonding, Telephone Reporting Unit, County Administrative Cost (COWCAP), COWCAP subsidy, and Start-up Costs" by the total contract cost.

Claiming Instructions pages 4-5 and the Claiming Manual on pages 11-12 states:

A. Indirect Cost Rate Proposal Method

If a local agency elects not to utilize the 10% fixed rate method but wants to claim indirect costs, it

must prepare an ICRP for the program. The proposal must follow the provisions of the OMB Circular 2 CFR, Chapter I and Chapter II, Part 200 et al., formerly OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments. The development of the indirect cost rate proposal requires that the indirect cost pool include only those costs which are incurred for a common or joint purpose that benefit more than one cost objective. The indirect cost pool may include only costs that can be shown to provide benefits to the program. In addition, total allocable indirect costs may include only costs that cannot be directly charged to an identifiable cost center (i.e., program).

A method for preparing a departmental indirect cost rate proposal for programs is presented as Table 6. Only this format is acceptable under the SCO reimbursement requirements. If more than one department is involved in the reimbursement program, each department must have its own indirect cost rate proposal for the program.

We followed these rules and guidelines in preparing overhead/ICRP rates, and find no language in the Claiming Manual, the Claiming Instructions, Parameters and Guidelines, or Federal CFR Guidelines to describe or support SCO staff's alternate and newly created "Administrative Cost Percentage" method of computing overhead costs. There is no distinction made in the instructions or alternate methodology described for cities that contract for law enforcement services.

There is no reason why the existing instructions and ICRP format presented in Table 6 of the Claiming Manual cannot be used and that would necessitate the creation of an alternate indirect cost rate methodology (as we have demonstrated by preparing and submitted ICRPs in the required format with our claims – and numerous other contract city claims - over the last twenty years with no issue). Our law enforcement contract with SBCSD (See Schedule A) clearly lists and segregates all direct and indirect costs in a level of detail which is similar to how a full-service city's Actual Expenditure Report is organized and how the example in Table 6 is presented.

This new approach proposed by staff is flawed in a number of aspects. First, and most importantly, it is not described in any manual or instructions provided to us at the time of filing of these claims. How is a local agency expected to be able to compute allowable overhead costs correctly and in a consistent, uniform manner if those methods and guidelines are not described or provided in advance in any documents or manuals? Why are there different rules of eligibility for determining indirect costs for contract cities?

Creating a new procedure and methodology, after the fact, without any notice to local agencies or review by the Commission on State Mandates violates Due Process guidelines and has not been properly vetted through the State's required procedures. In addition, by creating a new methodology just for agencies that contract for Law Enforcement Services and saying they are not entitled to use the same, existing Instructions and Parameters and Guidelines constitutes "Underground Rule Making". We request that you comply with written Claiming Instructions and Guidelines and use the same ICRP methodology prescribed in the existing Parameters and Guidelines and the Federal CFR/OMB standards to audit our claims' overhead rates.

Secondly, SCO's new "Allowable Administrative Cost Percentage" or "Administrative Cost Rate" methodology which uses total contract services costs as the denominator instead of salaries and wages, is flawed because it does NOT exclude capital expenditures (see all the equipment usage charges in our contract) and other distorting items such as pass-through funds (See Countywide Cost Allocation or COWCAP costs in the contract).

The Claiming Manual states:

"The distributions 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.

Claiming Manual, Section 8. Indirect Costs (Example)

" f) Distribution base for the computation of the indirect cost rate is total salaries and wages.

ICRP =	Allowable Indirect Costs	=	\$300,000	= 30.00%
	Total Salaries and Wages		\$1,000,000	

The contract with SBCSD itemized salaries and benefits separately, so there is no reason why this could not have been used as the base for distributing indirect costs as is required in the Claiming Instructions.

The "administrative cost rate" methodology proposed appears to contradict SCO Audit's own statements on page 20 which says, "OMB A-87... does not allow for the recovery of administrative costs using contract services as a base". Yet it appears that is exactly what SCO staff's newly created "ACR" "rate" does. Page 21 of the Audit report states, "...we divided the cost of the following line items...[administrative support, office automation, etc.] that we identified as being "clearly administrative" by the "total contract amount".

We thought using total contract costs as a base not allowed. Our rate was prepared using total actual salaries and benefits, as specified in the instructions.

FY 2012-13 Rate Comparison

City computed ICRP =	<u>\$12,167,160 = Total Allowable Indirect Costs = 76.5%</u> \$15,907,114 Total Direct Salaries & Benefits
SCO computed "ACR" =	<u>\$1,731,698, = Total "Allowable Admin. Costs" = 6.1%</u> \$28,209,685 TOTAL CONTRACT SERVICE AMOUNT

SCO JUSTIFICATION FOR DENYING INDIRECT COSTS ARE FLAWED

We agree with SCO staff's statement that there are clearly administrative costs in the contract, but why didn't you include our administrative command and clerical staff, who are clearly administrative and clerical, in SCO's version of the ICRP or their "Administrative Cost Rate"?

2 CFR Ch. II Part 200 Appendix IV:

"(4) General administration and general expenses. The expenses under this heading are those that have been incurred for the overall general executive and administrative offices of the organization and other expenses of a general nature which do not relate solely to any major function of the organization. This

category must also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation, and interest costs. Examples of this category include central offices, such as the director's office, the office of finance, business services, budget and planning, personnel, safety and risk management, general counsel, management information systems, and library costs. "

2 CFR Ch. II

"The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate where a major project or activity explicitly requires and budgets for administrative or clerical services and other individuals involved can be identified with the program or activity."

Command/administrative staff. Can you please explain why none of our command staff costs, including our Captain, who is our city's Police Chief; the Lieutenants who oversee administration and operations of the entire unit; and our Sergeants, who are the first line supervisors of the Deputies; were not included in SCO overhead rate computations? These staff perform the "executive and administrative" functions of the department.

Every Deputy requires command staff oversight – supervisors must perform annual reviews of employee performance, deal with disciplinary issues, decide on pay increases, schedule time off and ensure there is always adequate coverage and staffing, perform department budgeting functions, schedule training, offer guidance and support on difficult cases, etc. In prior correspondence we provided copies of the job descriptions for these positions so you can confirm that their duties are indeed administrative and necessary support to the entire department.

(<https://www.governmentjobs.com/careers/sanbernardino/promotionaljobs>)

- 1) Captain – serves as our department Police Chief. The job description for this position (attached) states under "Distinguishing Characteristics: Sheriff's Captain is characterized by the administrative responsibility for an assigned major division, facility or station."
- 2) Lieutenant - is also an administrative position, whose job description states, "Positions in this class are characterized by their status as second in command with authority to assume full administrative and supervisory responsibilities during the absence of the commanding officer."
- 3) Sergeants - "The class of Sheriff's Sergeant represents the first full level of supervision."

Clerical staff all are costs incurred for a common or joint purpose (supporting the entire department and law enforcement staff), and they provide necessary administrative, supervisory and clerical support that is necessary to operate a police department. They provide benefits to more than one cost objective, benefit the program, and cannot be directly charged to an identifiable cost center (i.e., program). Secretaries and dispatchers don't provide direct law enforcement service. **2 CFR Ch. II §200.414 (c)** specifically identifies clerical staff as an administrative cost: The salaries of administrative and **clerical staff** should normally be treated as **indirect (F&A) costs**."

OMB/CFR guidelines also specify that clerical staff are a part of the administrative function. Thus, our Secretaries, Office Specialists, and Supervising Office Specialists should have also been included in the SCO computation as they provide necessary clerical support to the department. Please explain the rational for excluding these necessary clerical staff both directly and indirectly from our claims.

How are these positions not administrative? Except for a portion of the Sergeant positions (who review and approve Identity Theft reports directly), these individuals are not providing direct law enforcement services, but supporting and administering the department. These positions oversee not just one program, but the entire law enforcement department and all staff. This is no different from the function of command staff in a full-service (non-contracting city) which the SCO office has routinely allowed to be included in the computation of their overhead rates. These same positions were allowed by the SCO in the SBCSD's audited Identity Theft claims overhead ICRP rates.

We previously provided SCO staff with the full job descriptions for these positions to support our contention that these are administrative positions that support the entire department (and not just one program) and are necessary administrative support to the entire department. Your staff declined numerous offers to schedule a meeting with county command staff to answer any questions your staff may have about these positions' duties so they could feel confident that these positions do indeed perform eligible administrative functions that support the entire department.

Below we have provided the citation from Federal 2 CFR Part 225 Guideline that supports allowability of the indirect costs the City of Rancho Cucamonga incurred through our contract with SBCSD – not just the eight items SCO staff included in their "ACR" rate:

Contract Cost Items NOT Included by SCO as allowable Indirect cost	Federal CFR Citation supporting the <u>allowability</u> of the cost
Captain, Lieutenant, Sergeants	<p>2 CFR Ch. II §200.414 (c) "The salaries of administrative and clerical staff should normally be treated as indirect (F&A) costs."</p> <p>2 CFR Ch. II Pt. 200, App. IV B. ALLOCATION OF INDIRECT COSTS AND DETERMINATION OF INDIRECT COST RATES The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate where a major project or activity explicitly requires and budgets for administrative or clerical services and other individuals involved can be identified with the program or activity.</p>
Office Specialists & Secretaries	<p>2 CFR Ch. II §200.414 (c) "The salaries of administrative and clerical staff should normally be treated as indirect (F&A) costs." (See additional narrative above)</p>
Dispatch Support	<p>Appendix B to Part 225—Selected Items of Cost 7. Communication costs. Costs incurred for telephone services, local and long distance telephone calls, telegrams, postage, messenger, electronic or computer transmittal services and the like are allowable. [the County charges a share of the dispatch/communications division costs with contracting cities]</p> <p>Also see above- 2 CFR Ch. II Pt. 200, App. IV B. ALLOCATION OF INDIRECT COSTS AND DETERMINATION OF INDIRECT COST RATES The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs.</p>
<p>Vehicle Usage Charges: Marked units, Unmarked Units, Marked Citizen Patrol Sedan, Pickup Trucks, & Motorcycles</p> <p>Also, Handheld Talkies (HTs), Radar Units, Tasers</p>	<p>Multiple Sections of OMB/CFR Guidelines address eligibility of equipment charges and usage:</p> <p>Appendix B to Part 225—Selected Items of Cost 11. Depreciation and use allowances. a) use allowances are means of allocating the cost of fixed assets to periods benefiting from asset use. Compensation for the use of fixed assets on hand may be made through depreciation or use allowances. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.)</p> <p>15. Equipment and other capital expenditures. (2)"Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5000.</p> <p>43. Travel costs. a. General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the governmental unit. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred,</p>

OTHER ALLOWABLE AND NECESSARY SUPPORT COSTS PURSUANT TO CFR / OMB

2 CFR §200.403 Factors affecting allowability of costs.

"Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles”

CFR Guidelines do not limit indirect costs to only “administrative” items. The language is written broadly to take various programs into account. For example, if a “program” requires waste pick up and disposal (like in the Los Angeles County Municipal Storm Water Claim), then in addition to the direct costs of staff who do the waste pickups, the departmental support and equipment usage (garbage truck usage costs), would be considered necessary and reasonable and allowable in the overhead rate.

Similarly, in a mandate that requires “law enforcement” services – then the departmental costs that are needed to ensure a Deputy can provide law enforcement services are eligible for inclusion in the overhead rate. Those eligible overhead costs include:

Necessary Support Costs

Without vehicles, radios, and dispatch services the Deputies could not provide law enforcement services. They could not receive any calls for service or communicate with either the public or with the department command staff; they could not drive to the scene of any call for service; and there would be no clerical support to process, store, and access any of the police reports (including these mandated Identity Theft Reports) and records as required by law. No law enforcement agency could function without these support functions.

SCO ACTIONS TO DENY APPLICABILITY OF OMB/CFR GUIDELINES AND ESTABLISH NEW CLAIMING METHODOLOGIES (Administrative Cost Rates in lieu of Indirect Cost Rates) CONSTITUTES UNDERGROUND RULE MAKING.

If it is the SCO’s position that in order for a contracting city to be able to obtain full reimbursement of all direct and indirect overhead costs, a County Sheriff’s Department MUST show a billable rate that includes all overhead in its direct staff’s (Deputy Rate) cost – then shouldn’t that be stated very clearly somewhere in the instructions? It would be very easy for the SBCSD to alter their format and show all charged costs in the direct staff/Deputy Rate, similar to how Los Angeles County does. Since SCO staff interpretation makes a very material difference in reimbursement amounts – this should have been very explicitly stated in the claiming manuals and instructions. By having our costs presented by San Bernardino County individually vs. aggregately, as Los Angeles County did, we stand to be denied over \$200,000 in indirect costs which would have been eligible if we were allowed to use existing claiming instructions and OMB/CFR guidelines.

Local agencies which contract for law enforcement services have been claiming overhead costs computed based on OMB/CFR standards for over 25 years now with no issue, but suddenly this has become a new avenue for SCO staff to think it is a legitimate way of cutting State costs. SCO appears to be making up rules as you go and doing so inconsistently for that matter from audit to audit.

In the SCO’s audits of Los Angeles County contract cities, overhead costs built into the Deputy hourly rates (as well as liability charges) were allowed. In the SCO audit of San Marcos (San Diego County Sheriff contracting agency) most overhead costs were allowed and computed “using contract services costs improperly identified as salaries and benefits as a base for claiming indirect costs” – the exact same method we used and that you are now saying is invalid. Each of these audits show inconsistent

treatment of overhead costs in cities that contract for law enforcement services and failure to adhere to written State and Federal instructions and guidelines.

The DAR states (on page 20) that the SCO acknowledged that different counties include different costs in their rates – for example, Los Angeles (LA) County contract cities include overhead in their hourly billing rates, plus a percentage for insurance and liability charges. SCO narrative stated the desire to “be equitable with other California cities contracting for law enforcement services” so allowed us an average 6% “administrative cost rate”. However, that “ACR” rate is vastly lower than what the true ICRP rate prepared in compliance with CFR/OMB standard (76.5% for FY 12-13) would have been. It is evident from the table below how “fair” the “administrative allocation rate” is.

SCO approved rate for LA County contract cities was \$124/hour vs. \$87/hour for us and other contract cities in San Bernardino County, a rate that is substantially lower than was approved for cities in LA County and even more than the city of Rialto (a comparable full-service city in our same county).

FY 2012-13 Deputy Sheriff Hourly Rate Comparison

LA COUNTY CONTRACT CITIES HOURLY RATE CITY REQUESTED* (Including additional 10% overhead requested, but denied by SCO) *	\$136.40*
LA COUNTY CONTRACT CITIES AUDITED SCO HOURLY RATE SCO APPROVED*	\$124.00*
SAN BERNARDINO COUNTY CONTRACT CITIES HOURLY RATE CITY REQUESTED (including “ICRP/OMB A-87” rate)	\$145.45
CITY OF RIALTO AUDITED OFFICER HOURLY RATE SCO APPROVED** (including “ICRP/OMB A-87” rate)	\$126.84**
SAN BERNARDINO COUNTY CONTRACT CITIES SCO HOURLY RATE SCO RECOMMENDED PER PRELIM. AUDIT REPORT (including SCO new “ACR” Rate)	\$87.47

*See City of West Hollywood Identity Theft Audit and City of Palmdale Child Abuse and Neglect Audits

**This is the FY 11-12 SCO Officer audited hourly rate for the City of Rialto, a full-service city in the same county.

These hourly rates were computed in the following manner – first, just as SCO staff computed them on page 21 of the SCO DAR, and, second, just as we computed for the claims we originally submitted.

FY 2012-13: Billable Hourly Rate Computation for the San Bernardino County Deputy Sheriff:

SCO Allowed Hourly Billing Rate using SCO created “Administrative Cost Rate” (ACR)

FY 12-13 based rate with only salaries and benefits per contract = \$82.41

+ overhead per SCO allowed “ACR” = $\$82.41 \times 6.14\%$ rate = + \$5.06

SCO allowed hourly billing rate = \$87.47

vs

City Claimed Hourly Billing Allowed Rate using existing ICRP Methodology/Claiming Instructions

FY 12-13 based rate with only salaries and benefits per contract = \$82.41

+ overhead per Ps&Gs ICRP guidelines = $\$82.41 \times 76.5\%$ ICRP rate = + \$63.04

Actual hourly billing rate = \$145.45

If the SCO wishes to change the rules, head in this new direction, and apply this new interpretation – that OMB A-87/CFR methodology does not apply for computation of law enforcement overhead/Indirect Cost Rate Proposal (ICRP) rates paid through contracts with county law enforcement agencies – then this should be explicitly stated in the written rules and guidelines and all parties should be able to review and participate in the adoption of those rules. Further, it is not fair to retroactively apply new standards and impose new rules on local agencies without providing advanced notice to them.

If OMB/CFR guidelines are inapplicable and SCO's newly developed "ACR" methodology must be used, there is no written explanation of how this new overhead/"ACR" rate is to be computed and how to determine which costs are "*clearly* administrative in nature". It may be "clear" to SCO staff what costs apply, but we would also have included our command staff as we believe the costs are clearly administrative in nature: costs for our "Captains, Lieutenants, and Sergeants, as well as various other line- item charges" which SCO auditors concede "**may** [emphasis added] or may not **be administrative in nature** dependent on the functions that each classification performs" can qualify for inclusion in the overhead rate.

Finally, we believe SCO staff actions violate "Due Process" requirements by creating new rules and standards that are not enumerated in written claiming manuals, parameters and guidelines, claiming instructions, and the OMB/CFR Guidelines. There is no statement that Ps and Gs do not apply to cities contracting for law enforcement services: that contract cities don't qualify for reimbursement of indirect costs. There is no explanation that indirect costs are not allowable if they are itemized in the contract with the county; but are allowable if they are already built into direct staff (Deputy) hourly billing rates. There is no description, explanation, or examples provided in any manual of how local agencies that contract for law enforcement services are supposed to claim their allowable indirect or "administrative"/"ACR" costs in a manner acceptable to the SCO.

Given SCO staff response that 1) OMB/CFR Guidelines do not apply to the computation of indirect costs for cities that contract for law enforcement agencies with county agencies; 2) that indirect costs for contract cities are in fact completely unallowable costs or are subject to some alternate, non-written standards that only SCO staff can determine or dictate at their sole discretion, 3) that there is no explanation or written guidelines provided to claimants in the instructions that explain what costs are and are not eligible; 4) that SCO findings that city contract agencies (like those in LA County) can obtain reimbursement for all direct and indirect charges included in their hourly rates, but those contracts that do not already have overhead pre-built into their Deputy rates forfeit their right to obtain indirect costs computed in the same manner suggests that the SCO is engaged in underground rule making.

THERE ARE NO SEPARATE RULES AND GUIDELINES FOR CONTRACT CITIES (CITIES WHO PURCHASE THEIR LAW ENFORCEMENT SERVICES VIA A CONTRACT) TO CLAIM ALLOWABLE OVERHEAD COSTS:

On page 13 of the SCO's DAR that correctly states "the city contracts with San Bernardino County to have the SBCSD (San Bernardino County Sheriff's Department) to provide all its law enforcement services." The City website (<https://www.cityofrc.us/RCPD>) states, "**Police Department:** Since incorporation in 1977, law enforcement services in the City have been provided through a contract with

the San Bernardino County Sheriff's Department. Rancho Cucamonga continues to be one of Southern California's most family-oriented, safe, and prosperous cities. The low crime rate that the City continues to enjoy, is a direct result of not only the hard work and dedication of the men and women of the **Police Department**, but the positive interaction and participation by the community in crime prevention activities."

The agreements and the annual Schedule of Costs shows that the city is purchasing all the components of a Police Department, including direct and indirect (overhead) costs. The expenditures listed in the contract under Schedule A is in a similar level of detail and format to a full-service city's departmental expenditure report. San Bernardino County segregates each line item of cost separately and the billing rates of each position ONLY include salary and benefit costs (see Contract, Schedule A, Footnote 1). All necessary overhead is included separately in the contract and is described in detail. Many of those costs are eligible indirect costs that are necessary to support the function of the department and to allow the Deputies to perform their primary duty of providing law enforcement services.

There are no alternate or separate guidelines for computing overhead rates in claiming instructions or in Federal CFR Guidelines, to be used for contract cities, as you are proposing. The city calculated and provided Departmental Indirect Cost rates, computed exactly as shown in the State's guidelines and in compliance with Federal CFR/OMB Guidelines.

We agree with the Parameters and Guidelines (Ps and Gs), Claiming Instructions, and the Claiming Manual where it explains how indirect costs are to be prepared; however, the instructions must be read in their entirety to determine their intent.

Parameters and Guidelines V.B. Indirect Cost Rates:

"Indirect costs are costs that 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. Indirect costs may include: (1) the 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."

In this case the UNIT performing the mandate is the law enforcement unit purchased by the City of Rancho Cucamonga from the San Bernardino County Sheriff's Department (SBCSD) as outlined in detail in their contract showing all cost components charged to the city. The Schedule A shows that in addition to the Direct Salaries and Benefits of Law Enforcement Personnel, salaries of support and administrative staff for positions such as Captain, Lieutenants, Clerical Support positions, as well as other necessary and eligible (compliant with CFR guidelines) overhead costs such as vehicle and equipment usage charges which were billed to the city.

Claiming Manual, Section 8 states,

"Indirect costs are (a) Incurred for a common or joint purpose benefiting more than one **cost objective**, and (b) not readily assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved. Indirect costs can originate in the department performing the mandate or in departments that supply the department performing the mandate with goods, services, and facilities. To be allowable, a cost must be allocable to a particular cost objective. Indirect costs must be distributed to benefiting cost objectives on bases, which produce an equitable result, related to the benefits derived by the mandate.

DAR states on page 24 that “**none** of the costs that the city incurred for law enforcement services provided by the SBCSD were indirect costs” and appears to argue that because ALL costs in the contract are assignable to the law enforcement contract or City Police Department, then ALL costs must be direct.

If SCO staff interpretation was correct, there would be no such thing as a Departmental Indirect Cost Rate as shown in State claiming manuals, examples, and instructions because every cost “assignable” to that department would be a direct cost. Nothing would be indirect except for costs outside of that department that were allocated to the department through the City or County-wide cost allocation plans. That is clearly not the case as “Departmental” Indirect Cost rates are the standard.

Staff’s statement “if it’s assignable to the department, **then** it’s direct” is disproved by SCO’s own analysis as you acknowledged that over eight items “assigned” to our “Department”/ law enforcement services contract were indeed allowable indirect (administrative) costs and included in SCO staff’s “Administrative Cost Rate”. Since these costs were also “assignable to the department”, then that would make those costs also direct costs by SCO’s definition.

The wording in the instructions and guidelines shows that the terminology between: “program”, “department”, and “cost objective” are used interchangeably to allow maximum flexibility to apply to various situations. The entire instructions must be read in context, not abbreviated and cherry picked. Claiming Manual, 8. Indirect Costs states: “Indirect costs can originate in the department performing the mandate **or in departments that supply the department performing the mandate with goods, services, and facilities.**” Clearly indirect costs can originate in the law enforcement unit purchased from SBCSD.

COMMISSION ON STATE MANDATES PRIOR DECISIONS SUPPORT THE VALIDITY OF EXISTING PARAMETERS AND GUIDELINES AND EXISTING METHODOLOGY IN COMPUTATION OF OVERHEAD/ICRP RATES FOR CONTRACT CITIES:

Prior Commission on State Mandates (CSM) decisions also provided insight on the topic of overhead for cities contracting for law enforcement services.

In the City of Palmdale’s Incorrect Reduction Claim (IRC) of the SCO’s 2016 Audit of their Interagency Child Abuse and Neglect Reporting claims (See November, 2018 CSM meeting transcript) the Commission reviewed whether the City of Palmdale, which contracted with Los Angeles County for law enforcement services, was entitled to the 10% default overhead rate they claimed in their requests for reimbursement.

The Commission staff concluded that while it was not appropriate for a contracting agency to use the default 10% ICRP rate when computing overhead costs since this rate was designed specifically for application to only salaries (not salaries and benefits); a contract city would have been eligible for indirect cost reimbursement if the city prepared their own ICRP rate demonstrating valid indirect costs. The city did prepare and submit their ICRPs showing overhead cost computations.

Commissioner Alex stated during the meeting (Page 46 of transcript, Lines 5-8 of hearing transcript) that he agreed that “**...there is overhead associated with a contract and I think that’s typical.**”

Mr. Jones of the Commission staff noted that "...the Parameters and Guidelines say you can – you can prepare an indirect cost rate proposal if the indirect cost rate exceeds 10%." (Page 44 lines 24-25 and page 45, lines 1-2 of hearing transcript)

Commission Member Adams asked, **"And under Parameters – Parameters and Guidelines, would there have been an appropriate way to claim these indirect costs?"** (Page 38 lines 14-21 of hearing transcript)

Mr. Jones of the Commission staff responds, **"Staff's position is that, yes, there was an appropriate way, and it was to develop an indirect cost rate proposal with documentation that the Controller could review."** (Page 38 lines 24-25 and Page 39 lines 1-2)

Ms. Shelton of the Commission noted that, **"...you have to follow the plain language of the Parameters and Guidelines."** (Page 47, lines 21-23 of hearing transcript). The plain language being that indirect costs were eligible for inclusion in the reimbursement claims under the language and rules established in the Parameters and Guidelines.

SCO FINDINGS THAT OUR ADMINISTRATIVE STAFF (CAPTAINS, LIEUTENANTS, SERGEANTS); SUPPORT STAFF (STATION CLERKS, SECRETARIES, AND SHERIFF'S SERVICE SPECIALISTS); AND SUPPORT COSTS (DISPATCH SERVICES, VEHICLE AND EQUIPMENT USAGE CHARGES) ARE NOT ALLOWABLE ARE INCONSISTENT WITH PRIOR AUDITS OF BOTH OTHER CONTRACT SERVICE CITIES AND FULL SERVICE CITIES:

We already cited the City of San Marcos Audit, another contract city in a similar situation. But there are many examples of full-service (non-contract) cities SCO audited where identical indirect costs (Captains, Lieutenants, Sergeants, Clerical Support, Vehicle and Equipment usage, etc.) were found to be allowable overhead/indirect costs. This list is only a small sample, listing audits our consultant was directly involved in and has personal information of:

- County of San Bernardino: Identity Theft Audit
- City of Rialto: Child Abuse and Neglect Reporting Audit
- City of South Lake Tahoe: Child Abuse and Neglect Reporting Audit
- City of Fresno: Administrative License Suspension Audit
- City of Fresno: Domestic Violence Audit
- City of Fresno: Identity Theft Audit
- City of Fresno: Peace Officer Bill of Rights Audits

Please let us know if you'd like us to send you a copy of the audits or ICRPs allowed in these reviews.

Like costs must be treated consistently to have a fair and non-arbitrary audit.

1) SCO audits of San Bernardino County Sheriff's Department:

The SCO has already audited and approved indirect cost rates for the San Bernardino County Sheriff's Department (our contracting agency) for this same program (Identity Theft) and for the same years. Since SCO approved indirect cost rates for this same organization, for activities which were performed by the same class of employees, paid at the same rates, for the same program and for the same years,

our allowable overhead rates which are sourced from the same agency should not be less than those approved rates.

San Bernardino County : Identity Theft Audit Report, Release April 2022

Allowable	Direct	Indirect	Approved ICRP Rate:
2002-03	\$34,330	\$24,543	= \$24,543 / \$34,330 = 71.5%
2003-04	\$34,123	\$20,965	= 61.4%
2004-05	\$44,177	\$27,142	= 61.4%
2005-06	\$44,188	\$20,875	= 47.2%
2006-07	\$49,011	\$21,727	= 46.2%
2007-08	\$50,876	\$27,743	= 54.5%
2008-09	\$43,288	\$20,596	= 47.6%
2009-10	\$34,516	\$15,770	= 45.7%
2010-11	\$30,836	\$14,215	= 46.1%
2011-12	\$38,594	\$16,468	= 42.7%
2012-13	\$34,115	\$14,335	= 42.0%

Allowing the City only an average of 6% overhead or “administrative cost allocation rate” when SCO audit of the San Bernardino County Sheriff’s Department that provides us with law enforcement services is about 7 to 10 times that, shows the inequity and erroneous basis of staff computations.

CFR guidelines state in Section 200.306 (f) of 2 CFR Part 200:

(f) When a third-party organization furnishes the services of an employee, these services must be valued at the employee’s regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, and indirect costs at either the third-party organization’s approved federally negotiated indirect cost rate or, a rate in accordance with § 200.414 Indirect (F&A) costs, paragraph (d), provided these services employ the same skill(s) for which the employee is normally paid.

OMB/CFR clearly states that in addition to third-party salaries and benefits (which you properly allowed), indirect costs, at either the third-party organizations approved federally negotiated indirect cost rate, or a rate in accordance with 2 CFR Part 200 § 200.414 are eligible. OMB A-87/CFR guidelines do not distinguish or provide alternate indirect cost rate methodologies between first- and third-parties. The same rules would apply.

If SCO staff believe Federal CFR/(prior OMB A-87 methodology) does not apply to or allow for the recovery of full indirect costs for contract cities, or that some alternate methodology exists for contract cities, please provide evidence and references to the pertinent sections of Claiming Instructions, Parameters and Guidelines, or OMB/CFR Guidelines that support this. Other than State and Federal CFR guidelines, we are not aware of any alternate rules or guidelines that dictate how indirect costs are to be computed for contract cities. Therefore, we believe the existing rules would be applicable in the computation of our ICRP rates.

IF COSTS ARE DIRECT, AS THE DAR IMPLIES, THEN WHY DOESN'T THE SCO PAY FOR THOSE COSTS DIRECTLY?

Page 20 of the DAR narrative states, “The city’s contracts with the SBCSD also includes additional employee classifications and items – such as vehicles, dispatch services, and equipment – that are all a part of the direct costs incurred to provide law enforcement for the city.”

If it is SCO’s position that these costs are not allowable in the Indirect Cost Rate, or in the SCO’s newly created “Allowable Cost Rate” (ACR), then because a portion of these costs were legitimately necessary to perform the mandate program these costs should be reimbursed. Simply brushing them off and saying that they are all a part of the direct costs to provide law enforcement to the city does not satisfy mandate law or parameters and guidelines which state all direct and indirect costs must be reimbursed.

Under Section 5 of the Claiming Manual, it states:

“Allowable costs are those direct and indirect costs, less applicable credits, considered eligible for reimbursement. In order for costs to be allowable and thus eligible for reimbursement, the costs must meet the following general criteria:

1. The cost is necessary and reasonable for proper and efficient administration of the mandate and not a general expense required in carrying out the overall responsibilities of government;
2. The cost is allocable to a particular cost objective identified in the Ps & Gs; and
3. The cost is net of any applicable credits that offset or reduce expenses of items allocable to the mandate”

It would not be possible to provide law enforcement services or comply with the mandate without vehicles, dispatch services, and equipment. Vehicles, equipment and dispatch services meet these criteria. The State Mandate Claiming Manual in the ICRP Example Table 6, page 13 states that “(Each line item should be reviewed to see if it benefits the mandate to insure a fair and equitable distribution.)”

Vehicle/Equipment Use: SCO proposed “ACR” rates do not include costs for the actual vehicles/transportation costs. Also, handheld radios or talkies were also omitted. Deputies would not be able to get the information from Dispatch without their handheld radios (HTs) or drive to the scene of the Identity Theft case. Both travel and vehicle/equipment usage are allowable as direct or indirect costs based on the instructions, so they could be claimed either way.

Appendix E to Part 225—State and Local Indirect Cost Rate Proposals Section A. 4. states:

“... typical examples of indirect costs may include certain State/local-wide central service costs, general administration of the grantee department or agency, accounting and personnel services performed within the grantee department or agency, depreciation or **use allowances on buildings and equipment**, the costs of operating and maintaining facilities, etc.”

The State Controller Claiming Manual in Section 7. Direct Costs, (6) Travel Expenses states:

“Travel expenses are normally reimbursable in accordance with the travel rules and regulations of the local jurisdiction...”

Based on these State and Federal Guidelines, we felt it was more appropriate to include the vehicle/equipment usage and related travel expenses in the overhead rate/ICRP. However, it could be claimed directly as you seem to be suggesting.

The City could be provided with a reimbursement for these costs using the allowable Federal vehicle mileage reimbursement rates by fiscal year, for example, in FY 2012-13 the rate was \$.555 per mile. We could compute the total mileage for all ID Theft cases and apply this rate to reimburse us for our travel expenses. For example, if each ID Theft victim is an average of 10 miles from the station, that would be 20 miles round trip per case (304 cases) x \$.555 per mile, or \$3,374 reimbursement for travel costs in FY 2012-13.

Dispatch Services. The Audit report state that dispatch services are a direct function. Clearly the dispatcher/communications function “benefits the mandate” and is necessary support to the entire law enforcement function of the department. As dispatch support is necessary support to the Deputies for this mandate and for all law enforcement services, the “fair and equitable distribution” (see Claiming Instructions Manual, ICRP Example, Table 6, page 13) of costs related to this mandated program must be allowed.

We could take the total number of calls for service in a year, then, using the total number of Identity Theft cases, charge that same percentage of “Dispatch Services” costs to the mandate

Administrative and Clerical Support. A similar computation can be performed to distribute a fair allocable share of administrative support costs directly. We can take the total number of Deputies (the staff who provides the direct services of the law enforcement department) and then distribute the costs of the Captain/Police Chief and other administrative personnel for their necessary supervision and support.

Direct costing can certainly be done, but in the SCO audit, the city was not reimbursed for the cost either directly or indirectly. This omission violates the California Constitution and Parameters and Guidelines by denying us actual, increased costs that were necessary to perform the mandate.

“ALL COSTS SUBMITTED TO THE SCO ARE SUBJECT TO REVIEW TO DETERMINE IF THE COSTS ARE RELATED TO THE MANDATE”:

Page 2 of Mandated Cost Manual, Section: Audit of Costs, “All claims submitted to the SCO are subject to review to determine if costs are related to the mandate...and are prepared in accordance with SCO’s Claiming Instructions.” We believe we have complied with the instructions and shown that the items we requested reimbursement for were necessary and are supported by Parameters and Guidelines, State Instructions, and Federal CFR Guidelines.

Not allowing reimbursement of those costs for vehicles, administrative personal such as our Police Chief, clerical staff, and the dispatch charges billed to us from the county when they are clearly necessary for the provision of the mandated services would be contrary to Claiming Instructions, Parameters and Guidelines, as well as Federal CFR-200 standards which all specifically allow for the inclusion and reimbursement of both direct AND indirect costs. To simply exclude or not allow legitimate costs is contrary to State and Federal rules, and also would be inconsistent with SCO’s own office’s prior audit determinations.

Please let us know if we you have any questions or if we can provide any additional information. We believe that the costs shown by the city are the proper and allowable costs, in compliance with State and Federal rules and guidelines.

Thank you for your time and consideration,



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