



BETTY T. YEE
California State Controller

April 28, 2015

The Honorable Robert W. Geis, CPA
Auditor-Controller
Santa Barbara County
105 E. Anapamu Street, Room 303
Santa Barbara, CA 93101

Dear Mr. Geis:

The State Controller's Office performed a desk review of costs claimed by Santa Barbara County for the legislatively mandated Peace Officers Procedural Bill of Rights Program (Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990) for the period of July 1, 2007, through June 30, 2013. We conducted our review under the authority of Government Code sections 12410, 17558.5, and 17561. Our review was limited to ensuring that the county properly reported the number of full-time sworn peace officers.

The county claimed \$176,382 for the mandated program. Our review found that \$104,942 is allowable and \$71,440 is unallowable. The costs are unallowable because the county overstated the number of full-time sworn peace officers reported to the Department of Justice, as described in the attached Summary of Program Costs (Attachment 1) and the Review Results (Attachment 2). The State made no payments to the county. The State will pay \$104,942, contingent upon available appropriations.

We informed Adriana Zidek, Financial Systems Analyst I, of the review finding via email on February 12, 2015. On March 23, 2015, Betsy Schaffer, Division Chief, Financial Reporting, Budget, and Cost Division; responded by email disagreeing with the review finding. Included in Ms. Schaffer's email was a letter you signed also disagreeing with the review finding (Attachment 3). This letter includes the county's response.

If you disagree with the review finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (Commission). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the Commission's website at www.csm.ca.gov/docs/IRCForm.pdf.

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, by telephone at (916) 323-5849.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/ljs

Attachments

RE: S15-MCC-9006

cc: Betsy M. Schaffer, CPA, Division Chief
Auditor-Controller's Office, Santa Barbara County
Adriana Zidek, Financial Systems Analyst I
Auditor-Controller's Office, Santa Barbara County
Evelyn Suess, Principal Program Budget Analyst
Mandates Unit, California Department of Finance
Jay Lal, Manager
Division of Accounting and Reporting
State Controller's Office

**Attachment 1—
Summary of Program Costs
July 1, 2007, through June 30, 2013**

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment ¹
<u>July 1, 2007, through June 30, 2008</u>			
Unit cost per full-time sworn peace officer	\$ 39.31	\$ 39.31	\$ 39.31
Number of full-time sworn peace officers	× 601	× 309	× (292)
Total program costs	<u>\$ 23,625</u>	12,146	<u>\$ (11,479)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 12,146</u>	
<u>July 1, 2008, through June 30, 2009</u>			
Unit cost per full-time sworn peace officer	\$ 40.50	\$ 40.50	\$ 40.50
Number of full-time sworn peace officers	× 760	× 479	× (281)
Total program costs	<u>\$ 30,780</u>	19,400	<u>\$ (11,380)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 19,400</u>	
<u>July 1, 2009, through June 30, 2010</u>			
Unit cost per full-time sworn peace officer	\$ 40.69	\$ 40.69	\$ 40.69
Number of full-time sworn peace officers	× 741	× 457	× (284)
Total program costs	<u>\$ 30,151</u>	18,595	<u>\$ (11,556)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 18,595</u>	
<u>July 1, 2010, through June 30, 2011</u>			
Unit cost per full-time sworn peace officer	\$ 41.64	\$ 41.64	\$ 41.64
Number of full-time sworn peace officers	× 715	× 436	× (279)
Total program costs	<u>\$ 29,773</u>	18,155	<u>\$ (11,618)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 18,155</u>	
<u>July 1, 2011, through June 30, 2012</u>			
Unit cost per full-time sworn peace officer	\$ 43.04	\$ 43.04	\$ 43.04
Number of full-time sworn peace officers	× 705	× 430	× (275)
Total program costs	<u>\$ 30,343</u>	18,507	<u>\$ (11,836)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 18,507</u>	

Attachment 1 (Continued)

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment ¹
<u>July 1, 2012, through June 30, 2013</u>			
Unit cost per full-time sworn peace officer	\$ 43.92	\$ 43.92	\$ 43.92
Number of full-time sworn peace officers	× 722	× 413	× (309)
Total program costs	<u>\$ 31,710</u>	18,139	<u>\$ (13,571)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 18,139</u>	
<u>Summary: July 1, 2007, through June 30, 2013</u>			
Total program costs	<u>\$ 176,382</u>	\$ 104,942	<u>\$ (71,440)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 104,942</u>	

¹ See Attachment 2, Review Results.

Attachment 2— Review Results July 1, 2007, through June 30, 2013

BACKGROUND—

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990 added and amended Government Code sections 3300 through 3310. This legislation, known as the Peace Officers Procedural Bill of Rights (POBOR) was enacted to ensure stable employer-employee relations and effective law enforcement services.

This legislation provides procedural protections to peace officers employed by local agencies when a peace officer is subject to an interrogation by the employer, is facing punitive action, or receives an adverse comment in his or her personnel file. The protections required apply to peace officers classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause (“at will” employees), and peace officers on probation who have not reached permanent status.

On November 30, 1999, the Commission on State Mandates (Commission) determined that this legislation imposed a state mandate reimbursable under Government Code section 17561 and adopted the Statement of Decision. The Commission determined that the peace officer rights law constitutes a partially reimbursable state-mandated program within the meaning of the California Constitution, Article XII B, section 6, and Government Code section 17514. The Commission further defined that activities covered by due process are not reimbursable.

The program’s parameters and guidelines establish the State mandate and define the reimbursement criteria. The Commission adopted the parameters and guidelines on July 27, 2000, and corrected it on August 17, 2000. The parameters and guidelines categorize reimbursable activities into the four following components: Administrative Activities, Administrative Appeal, Interrogations, and Adverse Comments. In compliance with Government Code section 17558, the State Controller’s Office (SCO) issues claiming instructions to assist local agencies, school districts, and community college districts in claiming mandated program reimbursable costs.

On March 28, 2008, the parameters and guidelines were amended to provide claimants an opportunity to claim reimbursement for the activities by using either the reasonable reimbursement methodology (RRM) or by filing an actual cost claim. The RRM allows each eligible claimant to be reimbursed at a rate of \$37.25 per full-time sworn peace officer employed by the agency and reported to the Department of Justice (DOJ) for all direct and indirect costs of performing the activities. The rate per full-time sworn peace officer is adjusted each year by the Implicit Price Deflator referenced in Government Code section 17523.

**FINDING—
Overstated number of
full-time sworn peace
officers**

The county overstated the number of full-time sworn peace officers on its mandated cost claims for fiscal year (FY) 2007-08 through FY 2012-13. For the fiscal years in the review period, the county claimed \$176,382. We found that \$104,942 is allowable and \$71,440 is unallowable.

For FY 2007-08 through FY 2012-13, Santa Barbara County claimed reimbursement using the Commission-adopted RRM. In reviewing the POBOR mandated cost claims, we found that the number of full-time sworn peace officers claimed by the county for each fiscal year was overstated.

The parameters and guidelines (section V. Claim Preparation and Submission, subsection A. 2. Formula) state:

Reimbursement is determined by multiplying the rate per full time sworn peace officer for the appropriate fiscal year by the number of full time sworn peace officers employed by the agency and reported to the Department of Justice.

Each October 31, the county reports to the DOJ the number of full-time law enforcement employees, both officers and civilians. Law enforcement officers are defined as individuals who ordinarily carry a firearm and a badge, have full arrest powers, and are paid from governmental funds set aside specifically to pay sworn law enforcement officers.

Reimbursement for POBOR activities is limited to sworn peace officers and does not include civilians. Civilian employees are not trained as peace officers. They do not carry guns nor do they have arrest powers. Civilian employees include full-time personnel such as radio dispatchers and meter attendants.

The following table summarizes the adjustment calculation for the review period:

	Fiscal Year						Total
	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	
No. of full-time sworn officers claimed	601	760	741	715	705	722	
No. of full-time sworn officers reported to DOJ	309	479	457	436	430	413	
Difference	(292)	(281)	(284)	(279)	(275)	(309)	
Unit cost per full-time sworn officer	\$ 39.31	\$ 40.50	\$ 40.69	\$ 41.64	\$ 43.04	\$ 43.92	
Review adjustment	\$ (11,479)	\$ (11,380)	\$ (11,556)	\$ (11,618)	\$ (11,836)	\$ (13,571)	\$ (71,440)

On March 23, 2015, Robert W. Geis, Auditor-Controller, responded by letter (Attachment 3), disagreeing with the preliminary finding we emailed the district on February 12, 2015. Within the letter, the county contends that that POBOR parameters and guidelines are fundamentally flawed and that the SCO is misinterpreting the parameters and guidelines as well as the FBI's Table 80 (DOJ statistics).

The county believes that the POBOR parameters and guidelines are flawed because it states that reimbursement is for every full-time peace officer employed by the agency and then indicates that reimbursement is limited to those sworn officers reported to the DOJ (which excludes sworn officers outside of the sheriff's department). Further, the county believes that it is inappropriate for the SCO to allow reimbursement for just those sworn officers identified on the DOJ website.

The preliminary finding identified in our February 12, 2015 email remains unchanged. The mandate allows the county to claim costs using either the actual costs methodology or the Commission-adopted RRM. The county claimed costs using the RRM. The RRM was based on statewide cost data for FY 2004-05 from actual claims filed by local agencies that factored in a variation of reimbursable costs among local agencies. The RRM was developed in a manner that estimated total allowable costs of all sworn peace officers (inclusive of sworn peace officers not identified on the DOJ website) divided by the number of sworn peace officers that are identified on the DOJ website. Therefore, the RRM does reimburse counties for costs of sworn peace officers that are not identified on the DOJ website.

Recommendation

We recommend that if the county continues to claim reimbursement using the RRM, it ensure that the same number of full-time sworn peace officers reported to the DOJ is reported on its mandated cost claim.

In addition, we recommend that the county submit a request to amend the parameters and guidelines to include clarifying language for any section it believes to be flawed.

**Attachment 3—
County's Response to Review Finding**

COUNTY OF SANTA BARBARA

ROBERT W. GEIS, C.P.A.
Auditor-Controller

THEO FALLATI, C.P.A.
Assistant Auditor-Controller



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OFFICE OF THE AUDITOR-CONTROLLER

March 23, 2015

Audit Manager
State Controller's Office
Division of Audits | Mandated Cost Bureau

Dear Lisa Kurokawa:

The County of Santa Barbara disagrees with the State Controller's assertion that the County over reported the number of sworn full-time peace officers in relation to the Peace Officer Bill of Rights (POBOR) mandate claim. The County's disagreement is based on two primary flaws in the Ps & Gs and the State Controller's interpretation of the Ps & Gs and the FBI's Table 80:

1. The Ps & Gs for this program are fundamentally flawed. In the section discussing the reasonable reimbursement methodology, it indicates that a flat amount will be reimbursed by the State for every full-time peace officer employed by the agency. The next paragraph indicates that the flat rate for the RRM will be adjusted each year by the IPD as prescribed in GC Section 17523. So far, so good. The section which is being relied upon by the SCO most heavily is the next paragraph:

Reimbursement is determined by multiplying the rate per full time sworn peace officer for the appropriate fiscal year by the number of full time sworn peace officers employed by the agency and reported to the Department of Justice.

The claiming instructions do not allow local agencies the ability to calculate the rate of full-time peace officers and multiply that by the total number of sworn officers. This would result in an RRM that is much larger than the current model. If the State will allow local agencies to file RRM claims based on this section, every agency in the state would gladly do so.

The final portion of that paragraph is equally problematic. The RRM was always intended to be applied to, "every full-time peace officer employed by the agency," regardless of what is reported by the agency to the State. The DOJ phrase was obviously intended to be a double check for the State to determine if agencies were correctly reporting their total sworn headcount.

Just as local agencies cannot rely upon the first part of this paragraph to file these claims, the SCO cannot misconstrue the last part of the paragraph to disqualify our County's full-time peace officers who are covered under POBOR rights.

2. When Santa Barbara County checked with our Probation Department, they indicated that they did report their sworn officers to the DOJ, but only the ones who had POBOR activities. They under reported their total census. However, after further research and investigation, their numbers wouldn't have mattered either way. We contacted the FBI CJIS Division over the phone and they indicated that the numbers being reported on Table 80 were from sheriff department submissions only. We have since followed up with them with a written clarification to ensure that interpretation is accurate.

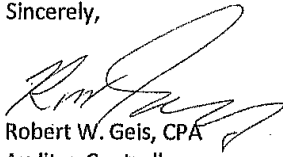
The obvious and clear meaning of the POBOR RRM is expressed in the SCO's own claiming instructions, claim summary instructions:

(04) Enter the number of full-time sworn peace officers who were employed by the agency during the fiscal year of claim.

It is clear that the intent of the RRM negotiated between locals and the Commission on State Mandates was straightforward and clear. The number of full-time sworn peace officers x the RRM amount which is updated each year. The recent audit discussions initiated by the State Controller rely on an already flawed paragraph in the Ps & Gs, and then further relies on an FBI table that does not include sworn officers outside of police or sheriff departments.

We respectfully request that the State Controller withdraw its audit activities in this matter. The County is happy to provide full records that will show that our census numbers for sworn officers has been accurate in each fiscal year.

Sincerely,



Robert W. Geis, CPA
Auditor-Controller
Santa Barbara County