

CITY OF OAKLAND

Audit Report

DOMESTIC VIOLENCE ARREST POLICIES AND STANDARDS PROGRAM

Chapter 246, Statutes of 1995

July 1, 2007, through June 30, 2010



JOHN CHIANG
California State Controller

June 2013



JOHN CHIANG
California State Controller

June 19, 2013

The Honorable Jean Quan, Mayor
City of Oakland
1 Frank H. Ogawa Plaza, 3rd Floor
Oakland, CA 94612

Dear Mayor Quan:

The State Controller's Office audited the costs claimed by the City of Oakland for the legislatively mandated Domestic Violence Arrest Policies and Standards Program (Chapter 246, Statutes of 1995) for the period of July 1, 2007, through June 30, 2010.

The city claimed and was paid \$994,336 for the mandated program. Our audit found that \$434,510 is allowable and \$559,826 is unallowable. The costs are unallowable primarily because the city claimed unsupported, non-mandate-related, and duplicate domestic violence incident reports. The State will offset \$559,826 from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the CSM'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, at (916) 323-5849.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/nh

cc: Scott P. Johnson, Assistant City Administrator
City of Oakland
Osborn Solitei, Controller
City of Oakland
Felicia Silva, MPA, Fiscal Manager
Oakland Police Department
Randall Ward, Principal Program Budget Analyst
Mandates Unit, California Department of Finance
Jay Lal, Manager
Division of Accounting and Reporting
State Controller's Office

Contents

Audit Report

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

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Oakland for the legislatively mandated Domestic Violence Arrest Policies and Standards Program (Chapter 246, Statutes of 1995) for the period of July 1, 2007, through June 30, 2010.

The city claimed and was paid \$994,336 for the mandated program. Our audit found that \$434,510 is allowable and \$559,826 is unallowable. The costs are unallowable primarily because the city claimed unsupported, non-mandate-related, and duplicate domestic violence incident reports. The State will offset \$559,826 from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

Background

Penal Code section 13701, subdivision (b) (added by Chapter 246, Statutes of 1995), required local law enforcement agencies to develop, adopt, and implement written *arrest* policies for domestic violence offenders by July 1, 1996. The legislation also required local law enforcement agencies to obtain input from local domestic violence agencies in developing the arrest policies. Under previous law, local law enforcement agencies were required to develop, adopt, and implement written policies for *response* to domestic violence calls and were encouraged, but not obligated, to consult with domestic violence experts.

On September 25, 1997, the Commission on State Mandates (CSM) determined that Chapter 246, Statutes of 1995, imposed a state mandated program reimbursable under Government Code section 17561.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on August 20, 1998, and amended them on October 30, 2009. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Domestic Violence Arrest Policies and Standards Program for the period of July 1, 2007, through June 30, 2010.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the city's financial statements. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient,

appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We limited our review of the city's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit found instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the City of Oakland claimed and was paid \$994,336 for costs of the Domestic Violence Arrest Policies and Standards Program. Our audit found that \$434,510 is allowable and \$559,826 is unallowable. The State will offset \$559,826 from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

Views of Responsible Official

We issued a draft audit report on May 8, 2013. Scott P. Johnson, Assistant City Administrator, responded by letter dated May 30, 2013 (Attachment), agreeing with the audit results except for Finding 2. This final audit report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of Oakland, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

June 19, 2013

**Schedule 1—
Summary of Program Costs
July 1, 2007, through June 30, 2010**

<u>Cost Elements</u>	<u>Costs Claimed</u>	<u>Allowable Per Audit</u>	<u>Audit Adjustment</u>	<u>Reference ¹</u>
<u>July 1, 2007, through June 30, 2008</u>				
Direct costs:				
Salaries and benefits	\$ 142,477	\$ 108,177	\$ (34,300)	Findings 1, 2, 3
Indirect costs	<u>64,527</u>	<u>30,710</u>	<u>(33,817)</u>	Findings 1, 2, 3, 4
Total program costs	<u>\$ 207,004</u>	138,887	<u>\$ (68,117)</u>	
Less amount paid by the state		<u>(207,004)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (68,117)</u>		
<u>July 1, 2008, through June 30, 2009</u>				
Direct costs:				
Salaries and benefits	\$ 262,057	\$ 118,276	\$ (143,781)	Findings 1, 2, 3
Indirect costs	<u>64,182</u>	<u>16,166</u>	<u>(48,016)</u>	Findings 1, 2, 3, 4
Total program costs	<u>\$ 326,239</u>	134,442	<u>\$ (191,797)</u>	
Less amount paid by the state		<u>(326,239)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (191,797)</u>		
<u>July 1, 2009, through June 30, 2010</u>				
Direct costs:				
Salaries and benefits	\$ 344,665	\$ 123,283	\$ (221,382)	Findings 1, 2, 3
Indirect costs	<u>116,428</u>	<u>37,898</u>	<u>(78,530)</u>	Findings 1, 2, 3, 4
Total program costs	<u>\$ 461,093</u>	161,181	<u>\$ (299,912)</u>	
Less amount paid by the state		<u>(461,093)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (299,912)</u>		
<u>Summary: July 1, 2007, through June 30, 2010</u>				
Direct costs:				
Salaries and benefits	\$ 749,199	\$ 349,736	\$ (399,463)	
Indirect costs	<u>245,137</u>	<u>84,774</u>	<u>(160,363)</u>	
Total program costs	<u>\$ 994,336</u>	434,510	<u>\$ (559,826)</u>	
Less amount paid by the state		<u>(994,336)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (559,826)</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Overstated costs

The city overstated costs related to implementing domestic violence arrest policies. Claimed costs were overstated by \$389,344. The city overstated costs for the audit period because it understated or overstated the documented number of domestic violence incident reports for each fiscal year, claimed non-mandate-related reports, and claimed duplicate reports. The following table summarizes the total audit adjustment:

	Fiscal Year			Total
	2007-08	2008-09	2009-10	
Understated or overstated number of incident reports	\$ 45,945	\$ (5,111)	\$ (111,425)	\$ (70,591)
Non-mandate-related reports	(55,956)	(55,548)	(63,137)	(174,641)
Duplicate reports	(37,007)	(52,327)	(54,778)	(144,112)
Total audit adjustment	<u>\$ (47,018)</u>	<u>\$ (112,986)</u>	<u>\$ (229,340)</u>	<u>\$ (389,344)</u>

Understated or overstated number of incident reports

For each fiscal year, the city provided a summary report to support the claimed number of domestic violence incident reports. The city created the summary reports using its Legal Records Management System (LRMS) database. The summary reports identified the domestic violence incidents within the database. The LRMS information did not support the number of domestic violence incident reports that the city claimed. The following table summarizes the audit adjustment for the understated or overstated number of incident reports:

	Fiscal Year			Total
	2007-08	2008-09	2009-10	
Number of domestic violence incidents per LRMS	5,896	5,988	5,838	
Less domestic violence incident reports claimed	<u>(4,825)</u>	<u>(6,084)</u>	<u>(7,699)</u>	
Understated/(overstated) number of reports	1,071	(96)	(1,861)	
Uniform time allowance (hours)	× <u>0.48</u>	× <u>0.48</u>	× <u>0.48</u>	
Understated/overstated hours	514	(46)	(893)	
Claimed productive hourly rate, salaries and benefits ¹	× <u>\$61.52</u>	× <u>\$89.12</u>	× <u>\$93.27</u>	
Understated/(overstated) salaries and benefits ² (A)	\$ 31,623	\$ (4,100)	\$ (83,290)	
Indirect cost rate claimed	× <u>45.29%</u>	× <u>24.66%</u>	× <u>33.78%</u>	
Related indirect costs (B)	<u>14,322</u>	<u>(1,011)</u>	<u>(28,135)</u>	
Audit adjustment, overstated or understated number of reports ((A)+(B))	<u>\$ 45,945</u>	<u>\$ (5,111)</u>	<u>\$ (111,425)</u>	<u>\$ (70,591)</u>

¹ For fiscal year (FY) 2007-08, the city's claim identified a productive hourly rate of \$36.26 for salaries and a benefit rate of 69.67%.

² Calculation differences due to rounding.

Non-mandate-related reports

The city's LRMS summary reports included incident reports identified as "domestic dispute." A city representative stated that this type of incident is typically an argument between parties. The incident does not meet the definition of domestic violence provided in Penal Code section 13700, subdivision (b). This type of incident does not result in a domestic violence incident report. Therefore, the incident is not reimbursable under the mandated program.

The following table summarizes the audit adjustment related to domestic dispute incidents claimed:

	Fiscal Year			Total
	2007-08	2008-09	2009-10	
Number of domestic dispute incidents	(1,304)	(1,042)	(1,054)	
Uniform time allowance (hours)	× 0.48	× 0.48	× 0.48	
Unallowable hours	(626)	(500)	(506)	
Claimed productive hourly rate, salaries and benefits ¹	× \$61.52	× \$89.12	× \$93.27	
Unallowable salaries and benefits ² (A)	\$ (38,513)	\$ (44,560)	\$ (47,195)	
Indirect cost rate claimed	× 45.29%	× 24.66%	× 33.78%	
Related indirect costs (B)	(17,443)	(10,988)	(15,942)	
Audit adjustment, non-mandate-related reports ((A)+(B))	<u>\$ (55,956)</u>	<u>\$ (55,548)</u>	<u>\$ (63,137)</u>	<u>\$ (174,641)</u>

¹ For FY 2007-08, the city's claim identified a productive hourly rate of \$36.26 for salaries and a benefit rate of 69.67%.

² Calculation differences due to rounding.

Duplicate reports

The number of documented domestic violence incident reports included duplicate reports. The LRMS reports included several line items that had the same redistribution number (case number), date, and time. Each line item identified different violations, such as domestic battery, vandalism, rape, stalking, and theft. In documenting the total number of incident reports, the city identified each line item as a separate incident. A city representative stated that the LRMS is designed to identify each violation separately to address different reporting requirements. However, all line items with the same case number, date, and time should be counted as one incident report for mandated program purposes.

The following table summarizes the audit adjustment for duplicate reports:

	Fiscal Year			Total
	2007-08	2008-09	2009-10	
Number of duplicate incident reports	(863)	(982)	(914)	
Uniform time allowance (hours)	x 0.48	x 0.48	x 0.48	
Unallowable hours	(414)	(471)	(439)	
Claimed productive hourly rate, salaries and benefits ¹	x \$61.52	x \$89.12	x \$93.27	
Unallowable salaries and benefits ² (A)	\$ (25,471)	\$ (41,976)	\$ (40,946)	
Indirect cost rate claimed	x 45.29%	x 24.66%	x 33.78%	
Related indirect costs (B)	(11,536)	(10,351)	(13,832)	
Audit adjustment, duplicate incident reports ((A) + (B))	<u>\$ (37,007)</u>	<u>\$ (52,327)</u>	<u>\$ (54,778)</u>	<u>(144,111)</u>

¹ For FY 2007-08, the city's claim identified a productive hourly rate of \$36.26 for salaries and a benefit rate of 69.67%.

² Calculation differences due to rounding.

The program's parameters and guidelines state:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities.

The parameters and guidelines identify the reimbursable activity as interviewing both parties involved in a domestic violence incident and considering various specified factors.

Recommendation

We recommend that the city:

- Properly identify mandate-related domestic violence incident reports; and
- Maintain documentation that supports the number of domestic violence incident reports claimed.

City's Response

The city agreed with the audit finding.

**FINDING 2—
Ineligible salaries and
benefits**

The city claimed ineligible costs related to implementing domestic violence arrest policies. The ineligible salaries and benefits totaled \$101,126. The related indirect costs totaled \$33,309.

As noted in Finding 1, the city overstated the total number of domestic violence incident reports.

The following table summarizes the audited population of incident reports and the claimed hours attributable to the audited population:

	Fiscal Year		
	2007-08	2008-09	2009-10
Number of domestic violence incidents per LRMS	5,896	5,988	5,838
Less number of domestic dispute incidents	(1,304)	(1,042)	(1,054)
Less number of duplicate incident reports	<u>(863)</u>	<u>(982)</u>	<u>(914)</u>
Audited population of domestic violence incident reports	3,729	3,964	3,870
Uniform time allowance (hours)	x 0.48	x 0.48	x 0.48
Claimed hours attributable to audited population	<u>1,790</u>	<u>1,903</u>	<u>1,858</u>

For each fiscal year, we selected a statistical sample from the audited population of domestic violence incident reports based on a 95% confidence level, a precision rate of +/- 8%, and an expected error rate of 50%. We used statistical samples so that the results could be projected to the audited population of incident reports for each fiscal year. We selected a random sample of 144 incident reports each for FY 2007-08 and FY 2009-10, and 145 incident reports for FY 2008-09. We reviewed the sample incident reports to determine whether the required mandated program activities were performed. Our review found that:

- 198 incident reports were fully reimbursable under the mandated program. These reports are reimbursable at 29 minutes (0.48 hours) per report.
- 194 incident reports were partially reimbursable because the responding officers did not interview both parties involved in the domestic violence incident. These reports are reimbursable at 20.5 minutes (0.34 hours) per report, based on 8.5 minutes to interview one party and 12 minutes to consider the various factors identified in the parameters and guidelines.
- One incident report was partially reimbursable because the responding officer did not interview both parties and the report did not provide evidence that the officer considered any of the factors specified in the parameters and guidelines. The reimbursable time for this report totals 8.5 minutes (0.14 hours), based on the allowable time to interview one party.
- 40 incident reports were not reimbursable because they were unrelated to domestic violence. The incidents involved issues such as court order violations and custody disputes.

The following table summarizes the calculation of reimbursable hours and the resulting unallowable hours claimed:

	Fiscal Year			Total
	2007-08	2008-09	2009-10	
Fully reimbursable incident reports	58	64	76	198
Uniform time allowance (hours)	x 0.48	x 0.48	x 0.48	
Subtotal	<u>27.84</u>	<u>30.72</u>	<u>36.48</u>	
Partially reimbursable incident reports - only one party interviewed	74	64	56	194
Allowable uniform time allowance (hours)	x 0.34	x 0.34	x 0.34	
Subtotal	<u>25.16</u>	<u>21.76</u>	<u>19.04</u>	
Partially reimbursable incident reports - only one party interviewed and factors not considered	-	-	1	1
Allowable uniform time allowance (hours)	x 0.14	x 0.14	x 0.14	
Subtotal	<u>-</u>	<u>-</u>	<u>0.14</u>	
Total reimbursable hours for sampled reports	53.00	52.48	55.66	
Statistical sample size	÷ 144	÷ 145	÷ 144	
Reimbursable hours per report	0.3681	0.3619	0.3865	
Audited population of domestic violence incident	x 3,729	x 3,964	x 3,870	
Total reimbursable hours	1,373	1,435	1,496	
Claimed hours attributable to audited population	<u>(1,790)</u>	<u>(1,903)</u>	<u>(1,858)</u>	
Unallowable hours	<u>(417)</u>	<u>(468)</u>	<u>(362)</u>	

The following table summarizes the unallowable costs based on the unallowable hours identified from the statistical samples:

	Fiscal Year			Total
	2007-08	2008-09	2009-10	
Unallowable hours	(417)	(468)	(362)	
Claimed average productive hourly rate, salaries and benefits ¹	x \$ 61.52	x \$ 89.12	x \$ 93.27	
Unallowable salaries and benefits (A)	<u>\$ (25,654)</u>	<u>\$ (41,708)</u>	<u>\$ (33,764)</u>	\$ (101,126)
Indirect cost rate	x 45.29%	x 24.66%	x 33.78%	
Related indirect costs (B)	<u>(11,619)</u>	<u>(10,285)</u>	<u>(11,405)</u>	<u>(33,309)</u>
Audit adjustment ((A) + (B))	<u>\$ (37,273)</u>	<u>\$ (51,993)</u>	<u>\$ (45,169)</u>	<u>\$ (134,434)</u>

¹ For FY 2007-08, the city's claim identified a productive hourly rate of \$36.26 for salaries and a benefit rate of 69.67%.

The parameters and guidelines state:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities.

The parameters and guidelines allow a total uniform time allowance of 29 minutes (0.48 hours) for responding officers to interview both parties (17 minutes) and consider various specified factors (12 minutes) in a domestic violence incident.

Recommendation

We recommend that the city claim costs for only those reports that are related to domestic violence incidents. In addition, we recommend that the city claim the portion of the uniform time allowance that is attributable to the mandated activities actually performed.

City's Response

Based on the various documents produced related to a finding of mandate for this program, and discussions with the test claimant, Los Angeles County, the City believes the State Controller inappropriately bifurcated the 29 minute unit time related to each Domestic Violence case. The parameters and guidelines were written to allow a one [sic] uniform time allowance of 29 minutes (0.48 hours) for responding officers to interview both parties. Two components that adopted Ps and Gs included for purposes of description that the SCO chose to break out were the 17 minutes for responding officers to interview both parties, and 12 minutes for the officers to consider various specified factors in a domestic violence incident. Neither the test claimant, nor the Commission on State Mandates ever anticipated that the 29 minute claiming unit rate would be broken apart. The action of the SCO violates the entire reason for having a negotiated unit rate in the first place.

The City contends that many Domestic Violence cases take at least two police officers and the actual time spent far exceeds the 29 minutes per case.

It is understood by most involved with this process that unit claiming times are fundamentally different than actual cost claiming. The City agrees that only eligible cases should be claimed for reimbursement, but the City further contends that if a Domestic Violence case fits the definition found in the penal code, the City is entitled to the full 29 minutes for each case.

The State Controller has misinterpreted the basic premise contained in the program's Ps & Gs, as well as its own claiming instructions. If the SCO desires to audit each expository aspect of this program, the 29 minutes that was negotiated in good faith between the State and locals is no longer valid. The City of Oakland should be able to claim its actual time for every aspect of performing this state mandate if the SCO will not honor the 29 minute unit rate as it was written in the Commission on State Mandates decision and associated Ps and Gs.

SCO's Comment

Our finding and recommendation are unchanged. The city places incorrect emphasis on the *total* reimbursable unit time allowance. The parameters and guidelines clearly identify two separate, distinct activities required to complete Component D, Implementation of the New Domestic Violence Arrest Policies to Identify the Primary Aggressor. Further, the parameters and guidelines identify the unit time allowance attributable to each of the two activities. The total unit time allowance of 29 minutes is simply a total.

The city states that the parameters and guidelines allow a uniform time allowance of 29 minutes “for responding officers to interview both parties.” We disagree. The parameters and guidelines allow a *total* uniform time allowance of 29 minutes for responding officers to interview both parties *and* consider various specified factors.

The city states, “Neither the test claimant, nor the Commission on State Mandates ever anticipated that the 29 minute claiming unit rate would be broken apart.” We disagree. As noted in the parameters and guidelines, the test claimant (Los Angeles County) provided the basis for the uniform time allowance. In a declaration dated July 14, 1998, a county representative separately identified the time attributable to interviewing both parties (17 minutes) and the time attributable to considering various specified factors (12 minutes). Similarly, the Commission on State Mandates adopted parameters and guidelines that separately identified the uniform time allowances attributable to each activity, rather than solely identifying a total uniform time allowance for Component D.

The city contends that many domestic violence incidents “take at least two police officers and the actual time spent far exceeds the 29 minutes per case.” The city’s contention is irrelevant to the factual accuracy of the audit finding. The parameters and guidelines allow a total uniform time allowance of 29 minutes to perform the mandated activities specified in Component D.

The city further contends “if a Domestic Violence case fits the definition found in the penal code, the City is entitled to the full 29 minutes for each case.” We disagree. The city implies that by simply identifying an incident that meets the definition of domestic violence provided in Penal Code section 13700, the city is entitled to mandated program reimbursement. The city’s statement disregards the requirement to actually perform the mandated activities.

The city states, “The City of Oakland should be able to claim its actual time. . . . if the SCO will not honor the 29 minute unit rate as it was written in the [parameters and guidelines].” We disagree. The parameters and guidelines do not provide claimants an option to claim actual time for performing the activities specified in Component D.

Further, the audit adjustment is unrelated to the SCO “not honoring” the total uniform time allowance specified in the parameters and guidelines. The city’s response fails to acknowledge that the city did not perform all mandated activities for the 195 incidents identified in the audit finding. For 194 of the 195 incidents identified, the city provided documentation showing that responding officers interviewed only one of the involved parties. As a result, the city did not complete the mandated activity. The parameters and guidelines allow a uniform time allowance of 17 minutes to interview *both* parties. Because responding officers did interview one party, the SCO concluded that it is reasonable for the city to be reimbursed 50% of the uniform time allowance attributable to interviewing both parties. Our conclusion is consistent with Government Code 17561, subdivision (d)(2)(B), which states, “The Controller may reduce any claim that the Controller determines is excessive or unreasonable.

**FINDING 3—
Understated and
overstated average
productive hourly
rates**

For each fiscal year, the city understated or overstated the average productive hourly rates that it used to claim mandate-related costs. As a result, the city understated or overstated salaries and benefits, and related indirect costs, for each fiscal year. For the audit period, the city overstated salaries and benefits by \$3,909 and understated the related indirect costs by \$2,453.

FY 2007-08

The city understated the average productive hourly rate for FY 2007-08. The city claimed an average productive hourly salary rate of \$36.26 and a benefit rate of 69.67%. The city's consultant stated that he calculated the hourly salary rate using the city's salary ordinance and the middle step of a five-step salary range for police officers. The consultant did not specify the salary ordinance used or the actual employee classification used.

A city representative provided the applicable salary ordinance dated July 9, 2007. The city representative also identified PS 168 as the employee classification for police officers who performed the mandated activities. The salary ordinance identified a six-step salary range for employee classification PS 168. We calculated the allowable average productive hourly rate by averaging the six pay rates for employee classification PS 168 and applying the benefit rate for police officers that is identified in the city's annual fringe benefit rate schedule.

FY 2008-09 and FY 2009-10

The city overstated the average productive hourly rates for FY 2008-09 and FY 2009-10. The city claimed average productive hourly rates that included both salaries and benefits. The city's consultant stated that he calculated the average productive hourly rate by using the middle step of employee classification PS 189 and the city's benefit schedule. We recalculated the average productive hourly rate using the parameters identified by the consultant; however, the rates we calculated did not agree with the rates claimed. In addition, a city representative advised us that employee classification PS 189 is not the correct classification for employees who performed the mandated activities. The city representative stated that the correct employee classification is PS 168. We calculated allowable average productive hourly rates by averaging the pay rates for employee classification PS 168 and applying the benefit rates for police officers that are identified in the city's annual fringe benefit rate schedules.

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	2007-08	2008-09	2009-10	
Allowable average productive hourly rate	\$78.79	\$81.15	\$82.45	
Less claimed average productive hourly rate ¹	<u>(\$61.52)</u>	<u>(\$89.12)</u>	<u>(\$93.27)</u>	
Understated/(overstated) average productive hourly rate	\$17.27	(\$7.97)	(\$10.82)	
Total reimbursable hours (from Finding 2)	x 1,373	x 1,435	x 1,496	
Understated/(overstated) salaries and benefits ² (A)	\$ 23,715	\$ (11,437)	\$ (16,187)	\$ (3,909)
Indirect cost rate claimed	x 45.29%	x 24.66%	x 33.78%	
Related indirect costs (B)	<u>10,741</u>	<u>(2,820)</u>	<u>(5,468)</u>	<u>2,453</u>
Audit adjustment ((A) + (B))	<u>\$ 34,456</u>	<u>\$ (14,257)</u>	<u>\$ (21,655)</u>	<u>\$ (1,456)</u>

¹ For FY 2007-08, the city's claim identified a productive hourly rate of \$36.26 for salaries and a benefit rate of 69.67%.

² Calculation differences due to rounding.

The program's parameters and guidelines state:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities.

Recommendation

We recommend that the city calculate the average productive hourly rate based on the actual salaries and benefits attributable to those officers who respond to domestic violence incidents.

City's Response

The city agreed with the audit finding.

**FINDING 4—
Overstated indirect
cost rates**

The city claimed indirect costs based on indirect cost rate proposals (ICRPs) prepared for the city's police department. The city overstated its indirect cost rate for each fiscal year. As a result, the city overstated indirect costs claimed by \$34,591 for the audit period. The indirect cost rates were overstated because of the following reasons:

FY 2007-08

- The city provided an ICRP that simply summarized the costs included to calculate its indirect cost rate. The city provided an expense allocation report to support the ICRP; however, we were unable to reconcile the expense allocation report to the city's expenditure ledger. As a result, we used the expenditure ledger to

identify total costs, allocate costs as direct and indirect, and calculate an allowable indirect cost rate.

- The city's ICRP included central services costs allocated as indirect costs. The city used a cost allocation plan that was developed from FY 2001-02 actual costs for use in FY 2003-04. A city representative stated that the city used the FY 2003-04 cost allocation plan data for its FY 2007-08 ICRP because the city's cognizant agency, the U.S. Department of Housing and Urban Development (HUD), did not require the city to submit an annual cost allocation plan. However, a letter from HUD dated August 13, 2003, states, "The plan should be submitted for approval only upon our request. *The City only needs to have its plans prepared and updated annually and be available for review* [emphasis added]. . . ." The city did not provide a FY 2007-08 cost allocation plan prepared from FY 2005-06 actual costs. Therefore, the central services costs included in the FY 2007-08 ICRP are unallowable.

FY 2008-09

- The city's ICRP excluded salaries and benefits attributable to grant programs (e.g., Department of Justice, Alameda County Vehicle Abatement, Traffic Safety, and Measure Y: Public Safety). Title 2, *Code of Federal Regulations*, Part 225 (*Office of Management and Budget (OMB) Circular A-87*), Appendix A, Part C, subdivision 3.b. states, "All activities which benefit from the governmental unit's indirect cost . . . will receive an appropriate allocation of indirect costs." We adjusted direct salaries and benefits to include the grant program costs.
- The city incorrectly allocated leave burden recoveries attributable to the police department's Bureau of Administration. The city's ICRP identified these costs as services and supplies, and allocated the costs as unallowable. However, the city's mandated cost consultant confirmed that leave burden recoveries should be allocated consistent with the Bureau of Administration's salaries and benefits. The city allocated the Bureau of Administration's salaries and benefits as indirect costs; therefore, we adjusted indirect costs to include the leave burden recoveries.
- The city's ICRP included central services costs allocated as indirect costs. The city used a cost allocation plan that was developed in March 2009 based on FY 2007-08 actual costs. Consistent with the city's FY 2003-04 cost allocation plan discussed above, the city's cost allocation plans are prepared on a two-year roll-forward basis. The cost allocation plan prepared from FY 2007-08 actual costs is allowable for use in the city's FY 2009-10 ICRP. The city did not provide a FY 2008-09 cost allocation plan prepared from FY 2006-07 actual costs. Therefore, the central services costs included in the FY 2008-09 ICRP are unallowable.

FY 2009-10

- The indirect cost rate identified in the city's ICRP did not agree with the indirect cost rate that the city used to claim indirect costs. We found that the city's ICRP contained mathematical errors. However, after we corrected the mathematical errors, the revised indirect cost rate still did not agree with the rate claimed.

The city did not provide documentation to support the indirect cost rate claimed. As a result, we used the expenditure ledger to identify total costs, allocate costs as direct and indirect, and calculate an allowable indirect cost rate. We allocated costs consistently with the FY 2008-09 ICRP and allowed central services costs documented by the city's cost allocation plan prepared from FY 2007-08 actual costs.

The following table summarizes the indirect cost rate audit adjustments:

Cost Component	Costs Reported	Allowable Costs	Audit Adjustment
<u>Fiscal Year 2007-08</u>			
Direct costs:			
Salaries and benefits (A)	\$ 157,766,244	\$ 168,449,623	\$ 10,683,379
Indirect Costs:			
Salaries and benefits	\$ 28,624,885	\$ 33,272,175	\$ 4,647,290
Sevices and supplies	9,700,239	14,549,749	4,849,510
Cost plan allocation	33,121,704	-	(33,121,704)
Total indirect costs (B)	\$ 71,446,828	\$ 47,821,924	\$ (23,624,904)
Allowable indirect cost rate, FY 2007-08 ((B) ÷ (A))		28.39%	
<u>Fiscal Year 2008-09</u>			
Direct costs:			
Salaries and benefits (C)	\$ 168,803,620	\$ 185,770,398	\$ 16,966,778
Indirect Costs:			
Salaries and benefits	\$ 18,619,867	\$ 18,619,867	\$ -
Sevices and supplies	8,016,920	7,457,616	(559,304)
Cost plan allocation	14,997,683	-	(14,997,683)
Total indirect costs (D)	\$ 41,634,470	\$ 26,077,483	\$ (15,556,987)
Allowable indirect cost rate, FY 2008-09 ((D) ÷ (C))		14.04%	
<u>Fiscal Year 2009-10</u>			
Direct costs:			
Salaries and benefits (E)		\$ 169,740,709	
Indirect Costs:			
Salaries and benefits		16,722,169	
Sevices and supplies		20,450,894	
Cost plan allocation		14,997,683	
Total indirect costs (F)		\$ 52,170,746	
Allowable indirect cost rate, FY 2009-10 ((F) ÷ (E))		30.74%	

The following table summarizes the audit adjustment:

	Fiscal Year			Total
	2007-08	2008-09	2009-10	
Allowable indirect cost rate	28.39%	14.04%	30.74%	
Less claimed indirect cost	(45.29)%	(24.66)%	(33.78)%	
Unallowable indirect cost rate	(16.90)%	(10.62)%	(3.04)%	
Allowable salaries and	x \$ 108,177	x \$ 118,276	x \$ 123,283	
Audit adjustment	\$ (18,282)	\$ (12,561)	\$ (3,748)	\$ (34,591)

The parameters and guidelines state, “Actual costs must be traceable and supported by source documents that show the validity of such costs. . . .” The parameters and guidelines also state that counties may claim indirect costs using the procedures provided in OMB Circular A-87.

Recommendation

We recommend that the city prepare ICRPs that are supported by its expenditure ledgers and allocate costs consistently between fiscal years in accordance with OMB Circular A-87. We also recommend that the city prepare an annual cost allocation plan to support central services costs included in its ICRPs.

City’s Response

The city agreed with the audit finding.

OTHER ISSUE— Method of payment offset

The city’s response includes comments related to mandated program payment offsets. The city’s response and SCO’s comment are as follows:

City’s Response

In past audits, the State Controller has chosen to offset audit disallowances against current year revenues. This imposes an unnecessarily onerous burden, . . . It is the City’s position that disallowances should be applied exclusively to long unpaid back year SB 90 claims first, . . .

We respectfully request that any disallowances that result from this field audit be applied first to the outstanding payment balance to back year SB 90 claimed filed by the City and approved by the SCO.

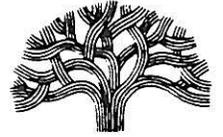
Finally, we request that the SCO provide the City with a report showing a full reconciliation of claims that have been paid, offset or otherwise resolved going back to the oldest unpaid claim. . . .

SCO’s Comment

The city’s comments do not address the factual accuracy of the audit findings. The SCO will respond to the city’s comments and requests by separate letter.

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

CITY OF OAKLAND



CITY HALL • I FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

OFFICE OF THE CITY ADMINISTRATOR
Scott P. Johnson
Assistant City Administrator

May 30, 2013

(510) 238-3301
FAX: (510) 238-2223
TDD: (510) 238-3254

Jim L. Spano, Audit Bureau Chief
State Controller's Office
Division of Audits
PO Box 942850
Sacramento, CA 94250-5874

RE: City of Oakland, Domestic Violence Arrest Policies and Standards
July 1, 2007, through June 30, 2010
S12-MCC-006

Dear Mr. Spano:

The City agrees with certain findings in the State Controller's (SCO) recent field audit referenced above, but wishes to challenge the interpretational validity one finding in the draft audit report, as well as the procedural process associated with payment offsets.

Incorrect Bifurcation of the Domestic Violence Reports Unit Rate by the SCO

The SCO stated that the City claimed ineligible costs related to implementing domestic violence arrest policies. The ineligible salaries and benefits totaled \$101,126. The related indirect costs totaled \$33,309.

The SCO selected a statistical sample from the audited population of domestic violence incident reports based on a 95% confidence level, a precision rate of +/- 8%, and an expected error rate of 50%. Statistical samples were used as a basis for projected results to the audited population of incident reports for each fiscal year. The SCO selected a of 144 incident reports each for fiscal year (FY) 2007-08 and FY 2009-10, and 145 incident reports for FY 2008-09. Sample incident reports were examined to determine whether the required mandated program activities were performed. The review found the following:

- 198 incident reports were fully reimbursable under the mandated program. These reports are reimbursable at 29 minutes (0.48 hours) per report.
- 194 incident reports were partially reimbursable because the officers did not interview both parties involved in the domestic violence incident. These reports are reimbursable at 20.5 minutes (0.34 hours) per report, based on 8.5 minutes to interview one party and 12 minutes to consider the various factors identified in the parameters and guidelines.
- One incident report was partially reimbursable because the officer did not interview both parties and the report did not provide evidence that the officer considered any of the factors specified in the parameters and guidelines. The reimbursable time for this report totals 8.5 minutes (0.14 hours), based on the allowable time to interview one party.

- 40 incident reports were not reimbursable because they were unrelated to domestic violence. The incidents involved issues such as court order violations and custody disputes.

City's response

Based on the various documents produced related to a finding of mandate for this program, and discussions with the test claimant, Los Angeles County, the City believes the State Controller inappropriately bifurcated the 29 minute unit time related to each Domestic Violence case. The parameters and guidelines were written to allow a one uniform time allowance of 29 minutes (0.48 hours) for responding officers to interview both parties. Two components that adopted Ps and Gs included for purposes of description that the SCO chose to break out were the 17 minutes for responding officers to interview both parties, and 12 minutes for the officers to consider various specified factors in a domestic violence incident. Neither the test claimant, nor the Commission on State Mandates ever anticipated that the 29 minute claiming unit rate would be broken apart. The action of the SCO violates the entire reason for having a negotiated unit rate in the first place.

The City contends that many Domestic Violence cases take at least two police officers and the actual time spent far exceeds the 29 minutes per case.

It is understood by most involved with this process that unit claiming times are fundamentally different than actual cost claiming. The City agrees that only eligible cases should be claimed for reimbursement, but the City further contends that if a Domestic Violence case fits the definition found in the penal code, the City is entitled to the full 29 minutes for each case.

The State Controller has misinterpreted the basic premise contained in the program's Ps & Gs, as well as its own claiming instructions. If the SCO desires to audit each expository aspect of this program, the 29 minutes that was negotiated in good faith between the State and locals is no longer valid. The City of Oakland should be able to claim its actual time for every aspect of performing this state mandate if the SCO will not honor the 29 minute unit rate as it was written in the Commission on State Mandates decision and associated Ps and Gs.

Method of Payment Offset

In past audits, the State Controller has chosen to offset audit disallowances against current year revenues. This imposes an unnecessarily onerous burden, especially given the massive, multi-million dollar payment balance the State already owes the City from past year claims. It is the City's position that disallowances should be applied exclusively to long unpaid back year SB 90 claims first, and that the current year's revenue only be offset after the older obligations are completely paid or offset. This interpretation is consistent with the LAO's multiple requests to the State to end, "credit card spending" as it relates to the SB 90 program.

We respectfully request that any disallowances that result from this field audit be applied first to the outstanding payment balance to back year SB 90 claims filed by the City and approved by the SCO.

Finally, we request that the SCO provide the City with a report showing a full reconciliation of claims that have been paid, offset or otherwise resolved going back to the oldest unpaid claim. It is important that the City is able to match up its accounting records related to this program with the SCO's ledger.

Thank you for your consideration of our response and request.

Sincerely,



Scott P. Johnson
Assistant City Administrator

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

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