

# **CITY OF CATHEDRAL CITY**

Audit Report

## **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

*July 1, 2003, through June 30, 2006*



**JOHN CHIANG**  
California State Controller

June 2008



**JOHN CHIANG**  
*California State Controller*

June 18, 2008

The Honorable Kathy DeRosa  
Mayor of the City of Cathedral City  
68700 Avenida Lalo Guerrero  
Cathedral City, CA 92234

Dear Mayor DeRosa:

The State Controller's Office audited the costs claimed by the City of Cathedral City 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, 2003, through June 30, 2006.

The city claimed \$1,248,990 (\$1,249,990 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that the entire amount is unallowable because the city claimed costs that were ineligible for reimbursement, unsupported, or not incurred by the city. The State paid the city \$25,456, which the State will offset from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

Regarding the unsupported costs, if the city subsequently provides corroborating evidence of the time it takes to perform individual reimbursable activities and the number of activities performed and/or additional documentation in support of unallowable costs, we will revise the final audit report, as appropriate.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at CSM's Web site, at [www.csm.ca.gov](http://www.csm.ca.gov) (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov).

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

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD**  
Chief, Division of Audits

JVB/sk:vb

cc: Tami Scott

Director of Administrative Services  
Finance Department  
City of Cathedral City  
Judy Williams, Administrative Secretary  
Police Department  
City of Cathedral City  
Todd Jerue, Program Budget Manager  
Corrections and General Government  
Department of Finance  
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Principal Program Budget Analyst  
Department of Finance  
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Commission on State Mandates

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by City of Cathedral City 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, 2003, through June 30, 2006.

The city claimed \$1,248,990 (\$1,249,990 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that the entire amount is unallowable because the city claimed costs that were ineligible for reimbursement, unsupported, or not incurred by the city. The State paid the city \$25,456, which the State will offset from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

## Background

Chapter 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 and school districts 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 (CSM) determined that this legislation imposed a state mandate reimbursable under Government Code section 17561 and adopted the Statement of Decision. The CSM 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 175144. The CSM further defined that activities covered by due process are not reimbursable.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on July 27, 2000, and corrected it on August 17, 2000. The parameters and guidelines categorized reimbursable activities into the four following components: Administrative Activities, Administrative

Appeal, Interrogation, and Adverse Comment. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies 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 Peace Officers Procedural Bill of Rights Program for the period of July 1, 2003, through June 30, 2006.

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

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the city's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

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

## **Conclusion**

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

For the audit period, the City of Cathedral City claimed \$1,248,990 (\$1,249,990 less a \$1,000 penalty for filing a late claim) for costs of the Police Officers Procedural Bill of Rights Program. Our audit disclosed that the entire amount is unallowable.

For the fiscal year (FY) 2003-04 and FY 2004-05 claim, the State made no payment to the city. Our audit disclosed that the claimed costs are unallowable.

For the FY 2005-06 claim, the State paid the city \$25,456. Our audit disclosed that the claimed costs are unallowable. The State will offset \$25,456 from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

Regarding the \$373,240 in unsupported costs, if the city subsequently provides corroborating evidence to support the time it takes to perform individual reimbursable activities and the number of activities performed and/or additional documentation in support of claimed costs, we will revise the final report, as appropriate.

**Views of  
Responsible  
Official**

We issued a draft audit report on April 16, 2008. Robert Pachelko, Fiscal Officer, responded by e-mail dated May 28, 2008, disagreeing with the audit results.

**Restricted Use**

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

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

June 18, 2008

**Schedule 1—  
Summary of Program Costs  
July 1, 2003, through June 30, 2006**

| Cost Elements  | Actual Costs<br>Claimed | Allowable<br>per Audit | Audit<br>Adjustment | Reference <sup>1</sup> |
|--|-------------------------|------------------------|---------------------|------------------------|
| <u>July 1, 2003, through June 30, 2004</u>                   |                         |                        |                     |                        |
| Direct costs:  |                         |                        |                     |                        |
| Salaries   | \$ 208,655              | \$ —                   | \$ (208,655)        | Finding 1              |
| Benefits   | 64,475                  | —                      | (64,475)            | Finding 1              |
| Services and supplies  | <u>446,286</u>          | <u>—</u>               | <u>(446,286)</u>    | Finding 2              |
| Total direct costs   | 719,416                 | —                      | (719,416)           |                        |
| Indirect costs   | <u>155,903</u>          | <u>—</u>               | <u>(155,903)</u>    | Finding 1              |
| Total direct and indirect costs                              | 875,319                 | —                      | (875,319)           |                        |
| Less late filing penalty                                     | <u>(1,000)</u>          | <u>—</u>               | <u>1,000</u>        |                        |
| Total program costs  | <u>\$ 874,319</u>       | <u>—</u>               | <u>\$ (874,319)</u> |                        |
| Less amount paid by the State                                |                         | <u>—</u>               |                     |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ —</u>            |                     |                        |
| <u>July 1, 2004, through June 30, 2005</u>                   |                         |                        |                     |                        |
| Direct costs:  |                         |                        |                     |                        |
| Salaries   | \$ 67,335               | \$ —                   | \$ (67,335)         | Finding 1              |
| Benefits   | 40,535                  | —                      | (40,535)            | Finding 1              |
| Services and supplies  | <u>174,017</u>          | <u>—</u>               | <u>(174,017)</u>    | Finding 2              |
| Total direct costs   | 281,887                 | —                      | (281,887)           |                        |
| Indirect costs   | <u>57,937</u>           | <u>—</u>               | <u>(57,937)</u>     | Finding 1              |
| Total program costs  | <u>\$ 339,824</u>       | <u>—</u>               | <u>\$ (339,824)</u> |                        |
| Less amount paid by the State                                |                         | <u>—</u>               |                     |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ —</u>            |                     |                        |
| <u>July 1, 2005, through June 30, 2006</u>                   |                         |                        |                     |                        |
| Direct costs:  |                         |                        |                     |                        |
| Salaries   | \$ 13,746               | \$ —                   | \$ (13,746)         | Finding 1              |
| Benefits   | <u>8,963</u>            | <u>—</u>               | <u>(8,963)</u>      | Finding 1              |
| Total direct costs   | 22,709                  | —                      | (22,709)            |                        |
| Indirect costs   | <u>12,138</u>           | <u>—</u>               | <u>(12,138)</u>     | Finding 1              |
| Total program costs  | <u>\$ 34,847</u>        | <u>—</u>               | <u>\$ (34,847)</u>  |                        |
| Less amount paid by the State                                |                         | <u>(25,456)</u>        |                     |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ (25,456)</u>     |                     |                        |



## Schedule 1 (continued)

| Cost Elements  | Actual Costs<br>Claimed | Allowable<br>per Audit | Audit<br>Adjustment  | Reference <sup>1</sup> |
|--|-------------------------|------------------------|----------------------|------------------------|
| <u>Summary: July 1, 2003, through June 30, 2006</u>          |                         |                        |                      |                        |
| Direct costs:  |                         |                        |                      |                        |
| Salaries   | \$ 289,736              | \$ —                   | \$ (289,736)         |                        |
| Benefits   | 113,973                 | —                      | (113,973)            |                        |
| Services and supplies  | 620,303                 | —                      | (620,303)            |                        |
| Total direct costs   | 1,024,012               | —                      | (1,024,012)          |                        |
| Indirect costs   | 225,978                 | —                      | (225,978)            |                        |
| Total direct and indirect costs                              | 1,249,990               | —                      | (1,249,990)          |                        |
| Less late filing penalty                                     | (1,000)                 | —                      | 1,000                |                        |
| Total program costs  | <u>\$ 1,248,990</u>     | —                      | <u>\$(1,248,990)</u> |                        |
| Less amount paid by the State                                |                         | <u>(25,456)</u>        |                      |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ (25,456)</u>     |                      |                        |
| <u>Recap by Cost Component</u>                               |                         |                        |                      |                        |
| Administrative appeals                                       | \$ 1,120,259            | \$ —                   | \$ (1,120,259)       |                        |
| Interrogations   | 129,731                 | —                      | (129,731)            |                        |
| Total direct and indirect costs                              | 1,249,990               | —                      | (1,249,990)          |                        |
| Less late penalty  | (1,000)                 | —                      | 1,000                |                        |
| Total program costs  | <u>\$ 1,248,990</u>     | <u>\$ —</u>            | <u>\$(1,248,990)</u> |                        |

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

# Findings and Recommendations

**FINDING 1—  
Overstated salaries  
and benefits**

The city claimed \$403,709 in salaries and benefits and \$225,978 in related indirect costs for the audit period. We determined that the entire amount is unallowable because the city claimed \$92,346 for activities not identified in the parameters and guidelines as reimbursable costs, and \$311,362 for costs that were insufficiently supported.

The following table summarizes the claimed, allowable, and unallowable salaries and benefits for the audit period by individual cost component:

| <u>Cost Component</u>       | <u>Claimed<br/>Costs</u> | <u>Allowable<br/>Costs</u> | <u>Audit<br/>Adjustment</u> |
|-----------------------------|--------------------------|----------------------------|-----------------------------|
| Salaries and benefits:      |                          |                            |                             |
| Administrative Appeals      | \$ 320,049               | \$ —                       | \$ (320,049)                |
| Interrogations              | 83,660                   | —                          | (83,660)                    |
| Total salaries and benefits | 403,709                  | —                          | (403,709)                   |
| Indirect costs              | 225,978                  | —                          | (225,978)                   |
| Total                       | <u>\$ 629,687</u>        | <u>\$ —</u>                | <u>\$ (629,687)</u>         |

**Administrative Appeals**

For the Administrative Appeals cost component, the city claimed \$320,049 in salaries and benefits for the audit period. These costs were incorrectly included as Interrogation costs on the city’s Claim Summary Form (Form PPBR-1) for all three years of the audit period. The audit determined that none of the costs claimed are allowable. The unallowable costs occurred because the city claimed \$92,346 for activities not identified in the parameters and guidelines as reimbursable and \$227,703 for costs that were insufficiently supported.

The parameters and guidelines state that claimants will be reimbursed for providing the opportunity for, and the conduct of, an administrative appeal for permanent peace officer employees and the Chief of Police for the following disciplinary actions:

- Dismissal, demotion, suspension, salary reduction, or written reprimand received by the Chief of Police whose liberty interest is not affected (i.e.: the charges supporting a dismissal do not harm the employee’s reputation or ability to find future employment);
- Transfer of permanent employees for purposes of punishment;
- Denial of promotion for permanent employees for reasons other than merit; and
- Other actions against permanent employees or the Chief of Police that result in disadvantage, harm, loss, or hardship and impact the career opportunities of the employee

The Police Department included \$66,604 for exonerated cases and \$25,742 for unfounded cases. If a case was either exonerated (the alleged act occurred but was justified, legal, and proper) or unfounded (the alleged act did not occur), the peace officer was, most likely, not disciplined and, therefore, would not file an administrative appeal. The city did not provide sufficient information to indicate that peace officers actually filed administrative appeal actions for these cases.

The Police Department claimed \$227,703 for insufficiently supported cases. The parameters and guidelines state that all the costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. However, the city did not provide sufficient source documents, such as timesheets or sign-in logs, to verify that the hours claimed related to an applicable case. In addition, it provided neither the employee's classification nor the disciplinary action imposed that resulted in the peace officer filing an administrative appeal.

### **Interrogations**

For the Interrogations cost component, the city claimed \$83,660 in salaries and benefits for the audit period. These costs were incorrectly included as administrative appeal costs on the city's Claim Summary Form (Form PPBR-1) for all three years of the audit period. The audit determined that none of the costs claimed are allowable. The unallowable costs occurred because \$83,660 was insufficiently supported.

The parameters and guidelines allow for reimbursement of only five specific activities under the Interrogations cost component: (1) off-duty interrogations; (2) notification of interrogations; (3) tape recording of interrogations (provided that the peace officer records the interrogation); (4) providing the subject access to the taped interrogation; and (5) producing transcribed copies of notes when requested by the subject.

The city stated that it did perform the allowable activities of interrogating peace officers and witnessing peace officers during off-duty time and tape recording interrogations; however, the city did not record the length of the interrogations in their case files, the times that the interrogations began and ended, the costs incurred to tape record the interrogations, nor the amount of overtime incurred.

The following table summarizes the overstated salaries and benefits and related indirect costs by fiscal year:

| Cost Category          | Fiscal Year         |                     |                    | Total              |
|------------------------|---------------------|---------------------|--------------------|--------------------|
|                        | 2003-04             | 2004-05             | 2005-06            |                    |
| Salaries and benefits: |                     |                     |                    |                    |
| Police Department      | \$ (273,130)        | \$ (107,870)        | \$ (22,709)        | \$(403,709)        |
| Related indirect costs | (155,903)           | (57,937)            | (12,138)           | (225,978)          |
| Audit adjustment       | <u>\$ (429,033)</u> | <u>\$ (165,807)</u> | <u>\$ (34,847)</u> | <u>\$(629,687)</u> |

The parameters and guidelines, adopted by the Commission on State Mandates on July 27, 2000, define the criteria for procedural protections for the city's peace officers.

The parameters and guidelines, Section IV (Reimbursable Activities) outline specific tasks that are deemed above the due process clause. The Statement of Decision, on which the parameters and guidelines was based, noted that due process activities were not reimbursable.

The parameters and guidelines, Section VA1 (Salaries and Benefits) require that the claimants identify the employees and/or show the classification of the employees involved, describe the reimbursable activities performed, and specify the actual time devoted to each reimbursable activity by each employee.

The parameters and guidelines, Section VI (Supporting Data) require that all costs be traceable to source documents showing evidence of the validity of such costs and their relationship to the state-mandated program.

#### Recommendation

We recommend that the city ensure that claimed costs include only eligible costs, are based on actual costs and are properly supported by appropriate source documentation. Documentation should identify the mandated functions performed and support the actual number of hours devoted to each function.

#### City's Response

The city disagreed with the finding.

#### SCO's Comments

The finding and recommendation remain unchanged. The city did not provide any additional documentation or information in support of claimed costs.

## **FINDING 2— Unallowable services and supplies**

The city claimed unallowable costs for attorney services totaling \$620,303 for fiscal year (FY) 2003-04 and FY 2004-05. The city claimed \$446,286 for costs that were not paid by the city, \$112,139 for costs related to activities not reimbursable per the program's parameters and guidelines, and \$61,878 for costs that were not supported.

The city claimed the entire services and supplies amount under the Administrative Appeals cost component.

#### **Administrative Appeals**

The city claimed costs for individual invoices totaling \$446,286 but no corresponding payments were recorded in the city's accounting system. Specifically, the review of the city's Invoices Paid Reports disclosed that the city did not make any payments to the specified vendors for certain

invoices claimed for reimbursement. Based on discussions with city staff and a review of documentation from the city’s risk management insurance provider, we determined that the invoices in question had previously been forwarded to the city’s risk management insurance provider, who subsequently paid the invoices on behalf of the city. As the city did not submit payment for these invoices, the associated costs were not incurred by the city and are not claimable.

The city claimed costs totaling \$112,139 for activities that are not identified as reimbursable in the parameters and guidelines. As noted above in Finding 1, reimbursement for Administrative Appeals activities is provided under limited circumstances. However, we found that certain invoices provided by the city in support of costs claimed either lacked evidence that the costs applied to a specific POBOR case and/or lacked evidence that the services provided related to mandated activities.

In addition, the city claimed costs totaling \$61,878 for costs that were not adequately supported by invoices, purchase orders, receipts, or other appropriate documentation.

The following table summarizes the unallowable services and supplies by fiscal year:

| Audit Finding               | Fiscal Year  |              | Total        |
|-----------------------------|--------------|--------------|--------------|
|                             | 2003-04      | 2004-05      |              |
| Costs not incurred          | \$ (446,286) | \$ —         | \$ (446,286) |
| Costs not supported         | —            | (61,878)     | (61,878)     |
| Non-reimbursable activities | —            | (112,139)    | (112,139)    |
| Audit adjustment            | \$ (446,286) | \$ (174,017) | \$ (620,303) |

The parameters and guidelines, section III (Period of Reimbursement), states that **actual costs** [emphasis added] for one fiscal year shall be included in each claim.

The parameters and guidelines, Section V(3) (Supporting Documentation Contract Services) states that claimed costs shall be supported by the following cost element information for Contract Services:

...provide the name(s) of the contractor(s) who performed the services, including any fixed contracts for services. Describe the reimbursable activity(ies) performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services.

The parameters and guidelines, Section VI (Supporting Data) states that “costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program.”

Recommendation

We recommend that the city ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

City's Response

The city disagreed with the finding.

SCO's Response

The finding and recommendation remain unchanged. The city did not provide any additional documentation or information in support of claimed costs.

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

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