

# **CITY OF GLENDALE**

Audit Report

## **PEACE OFFICER'S 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, 2002, through June 30, 2005*



**JOHN CHIANG**  
California State Controller

March 2008



**JOHN CHIANG**  
California State Controller

March 21, 2008

Ron Ahlers  
Acting Director of Finance  
Administrative Services  
City of Glendale  
141 N. Glendale Avenue, Suite 346  
Glendale, CA 91206

Dear Mr. Ahlers:

The State Controller's Office audited the costs claimed by the City of Glendale for the legislatively mandated Peace Officer's 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, 2002, through June 30, 2005.

The city claimed \$459,272 for the mandated program. Our audit disclosed that the entire amount is unallowable because the city claimed costs that were ineligible for reimbursement and claimed allowable hours spent on mandated activities that were not supported by employee productive hourly rate information. The State paid the city \$1, which the State will offset from other mandated program payments due the city. Alternatively, the city may remit this amount to the State. If the city subsequently provides the necessary productive hourly rate information, we will revise the final audit report as appropriate.

If you disagree with the audit finding, 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/vb

cc: Paul Kiehl, Senior Administrative Analyst  
Administrative Services, City of Glendale  
Todd Jerue, Program Budget Manager  
Corrections and General Government  
Department of Finance  
Carla Castaneda  
Principal Program Budget Analyst  
Department of Finance  
Paula Higashi, Executive Director  
Commission on State Mandates

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Glendale 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, 2002, through June 30, 2005.

The city claimed \$459,272 for the mandated program. Our audit disclosed that the entire amount is unallowable because the city claimed costs that were ineligible for reimbursement and claimed allowable hours spent on mandated activities that were not supported by employee productive hourly rate information. The State paid the city \$1, 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 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. CSM determined that the peace officer rights law constitutes a partially reimbursable state mandated program within the meaning of the California Constitution, Article XIII B, section 6, and Government Code section 17514. 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. CSM adopted the parameters and guidelines on July 27, 2000, and corrected them 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 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 Peace Officers Procedural Bill of Rights Program for the period of July 1, 2002, through June 30, 2005.

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.

We asked the city's representative to submit a written representation letter regarding the city's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Government Auditing Standards*. However, the city did not submit a representation letter.

## **Conclusion**

Our audit disclosed an instance of noncompliance with the requirements outlined above. This instance is described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, the City of Glendale claimed \$459,272 for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that the entire amount is unallowable.

For the fiscal year (FY) 2002-03 claim, the State paid the city \$1. Our audit disclosed that none of the costs claimed are allowable. The State will offset \$1 from other mandated program payments due the city.

For the FY 2003-04 claim, the State made no payments to the city. Our audit disclosed that none of the costs claimed is allowable.

For the FY 2004-05 claim, the State made no payments to the city. Our audit disclosed that none of the costs claimed is allowable.

**Views of  
Responsible  
Officials**

We issued a draft audit report on November 30, 2007. We contacted Paul Kiehl, Administrative Analyst, by e-mail on January 8, 2008. Mr. Kiehl declined to respond to the draft report.

We received a phone call from Zinda Jimenez, Senior Accountant, on January 28, 2008, inquiring about the productive hourly rate information that we need in order to calculate allowable costs. We sent Ms. Jimenez a listing of city employees who had allowable hours during the audit period on January 28, 2008. We also noted that the needed information was available on the city's "employee earnings history report." However, the city did not run the employee earnings reports necessary to calculate the allowable costs.

**Restricted Use**

This report is solely for the information and use of the City of Glendale 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

March 21, 2008

**Schedule 1—  
Summary of Program Costs  
July 1, 2002, through June 30, 2005**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>
<u>July 1, 2002, through June 30, 2003</u>			
Salaries	\$ 26,873	\$ —	\$ 26,873
Benefits	5,883	—	5,883
Subtotals	32,756	—	32,756
Indirect costs	13,846	—	13,846
Total direct and indirect costs	46,602	—	46,602
Less offsetting savings/reimbursements	(730)	—	(730)
Total program costs	<u>\$ 45,872</u>	—	<u>\$ 45,872</u>
Less amount paid by the State		(1)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (1)</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Salaries	\$ 107,775	\$ —	\$ 107,775
Benefits	23,592	—	23,592
Subtotals	131,367	—	131,367
Indirect costs	50,156	—	50,156
Total direct and indirect costs	181,523	—	181,523
Less offsetting savings/reimbursements	(730)	—	(730)
Total program costs	<u>\$ 180,793</u>	—	<u>\$ 180,793</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Salaries	\$ 110,055	\$ —	\$ 110,055
Benefits	41,315	—	41,315
Subtotals	151,370	—	151,370
Indirect costs	81,967	—	81,967
Total direct and indirect costs	233,337	—	233,337
Less offsetting savings/reimbursements	(730)	—	(730)
Total program costs	<u>\$ 232,607</u>	—	<u>\$ 232,607</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	

## Schedule 1 (continued)

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment <sup>1</sup></u>
<u>Summary: July 1, 2002, through June 30, 2005</u>			
Salaries	\$ 244,703	\$ —	\$ 244,703
Benefits	70,790	—	70,790
Total direct costs	315,493	—	315,493
Indirect costs	145,969	—	145,969
Total direct and indirect costs	461,462	—	461,462
Less offsetting savings/reimbursements	(2,190)	—	(2,190)
Total program costs	<u>\$ 459,272</u>	—	<u>\$ 459,272</u>
Less amount paid by the State		<u>(1)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (1)</u>	
<u>Recap by Components</u>			
Administrative activities	\$ 45,811	\$ —	\$ (45,811)
Administrative appeals	39,076	—	(39,076)
Interrogations	234,292	—	(234,292)
Adverse comment	142,283	—	(142,283)
Total Component Costs	461,462	—	(461,462)
Less offsetting savings/reimbursements	(2,190)	—	2,190
Total program costs	<u>\$ (459,272)</u>	<u>\$ —</u>	<u>\$ (459,272)</u>

<sup>1</sup> See the Finding and Recommendation section.

# Finding and Recommendation

**FINDING—  
Unallowable salaries  
and benefits, and  
related indirect costs**

The city claimed unallowable salaries and benefits totaling \$315,493 for the audit period, less offsetting reimbursements of \$2,190. Related indirect costs totaled \$145,969. The costs were unallowable because the activities claimed were not identified in the program's parameters and guidelines as reimbursable costs. In addition, all costs claimed were based on estimates and were not supported by actual time records or other corroborating documentation. However, we did note allowable hours spent by city staff under the Administrative Activities, Interrogation, and Adverse Comment cost components that were not included in the city's original claims. While these hours were adequately supported, the city did not provide the employee productive hourly rate information needed to calculate the allowable costs.

The following table summarizes the unallowable costs:

	Claimed Costs	Allowable Costs	Audit Adjustment
Administrative activities	\$ 31,185	\$ —	\$ (31,185)
Administrative appeals	25,349	—	(25,349)
Interrogation	159,037	—	(159,037)
Adverse comments	99,922	—	(99,922)
Subtotal	315,493	—	(315,493)
Related indirect costs	145,969	—	(145,969)
Less offsetting reimbursements	(2,190)	—	2,190
Total	<u>\$ 459,272</u>	<u>\$ —</u>	<u>\$ (459,272)</u>

**Administrative Activities**

For Administrative Activities, the city claimed \$31,185 in salaries and benefits. We determined that the cost were unallowable because the activities claimed were not identified in the parameters and guidelines as reimbursable costs and because the costs claimed were based entirely on estimates that were not supported by actual time records or other corroborating documentation.

The parameters and guidelines allow the following ongoing activities:

1. Developing or updating internal policies, procedures, manual and other materials pertaining to the conduct of the mandated activities;
2. Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate; and
3. Updating the status of the POBOR cases.

The city claimed the following activities that are not reimbursable:

- Initial case reviews;
- Research and document collection by the Investigating Sergeant;
- Case conference to discuss direction of the case;
- Time associated with review by Captain and Commander;
- Preparing case summaries; and
- Skelly-related training.

We noted that the city performed the reimbursable activity of updating the status of POBOR cases during the audit period. Police Department staff stated that they spent about 30 minutes per month to prepare this report. We have copies of the monthly report that have been prepared and the same city employee has been preparing the report each month. Based on this corroborating evidence, we will allow the costs for preparing the status update report each month. However, the city must provide productive hourly rate information for the employee(s) involved during the audit period in order for us to calculate allowable costs. That information has not yet been provided.

### **Administrative Appeal**

For Administrative Appeal, the city claimed unallowable salaries and benefits totaling \$25,349 in fiscal year 2004-05 of the audit period. We determined that amount was unallowable because the activities claimed were not identified in the parameters and guidelines as reimbursable costs and because the costs claimed were based entirely on estimates. In addition, all costs claimed were based entirely on estimates that were not supported by actual time records or other corroborating documentation.

The city's staff believed that reimbursable costs under the cost component of administrative appeal included Skelly hearings. The CSM noted in its statement of decision for this mandated program that Skelly hearings are a due process activity that predates the test claim legislation that is the basis for this mandated program. Due-process activities include an administrative appeal when:

- A permanent employee is dismissed, demoted, suspended, receives a reduction in pay or a written reprimand; or
- A probationary or at-will employee is dismissed and the employee's reputation to obtain future employment is harmed by the dismissal.

Administrative Appeal activities are reimbursable under the following circumstances:

- Dismissal, demotion, suspension, salary reduction or written reprimand are received by probationary and at-will employees whose liberty interest *are not* affected (i.e., the charges do not harm the employee's reputation or ability to find future employment);
- Transfer of permanent, probationary, and at-will employees for purposes of punishment;

- Denial of promotion for permanent, probationary, and at-will employees for reasons other than merit; and
- Other actions against permanent, probationary, and at-will employees that result in disadvantage, harm, loss, or hardship and impact the career opportunities of the employee.

City staff believed they might be able to determine some allowable costs within the Police Department's data system relating to allowable attorney fees. However, upon further review, city staff determined that the cases and related costs fell outside of the audit period.

### **Interrogation**

For Interrogation, the city claimed unallowable salary and benefit costs totaling \$159,037 during the audit period. We determined that amount was unallowable because the activities claimed were not identified in the parameters and guidelines as reimbursable costs and that the costs claimed were based entirely on estimates. In addition, all costs claimed were based entirely on estimates that were not supported by actual time records or other corroborating documentation.

Based on discussions with city staff, activities reimbursable under the cost component of Interrogation were understood to include all activities leading up to and including the interrogation.

The parameters and guidelines state that specific identified Interrogation activities are reimbursable when a peace officer is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the commanding officer, or any other member of the employing public safety department during off-duty time, if the interrogation could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. Section IV(C), Interrogation, identifies reimbursable activities under compensation and timing of an interrogation, interrogation notice, tape recording of an interrogation, and documents provided to the employee.

The parameters and guidelines, section IV(C), state that claimants are not eligible for Interrogation activities when an interrogation of a peace officer is in the normal course of duty. They further state:

When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures.

In reference to compensation and timing of the interrogation pursuant to Government Code section 3303, subdivision (a), the CSM Final Staff Analysis to the adopted parameters and guidelines states:

It does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review the responses given by the officers and/or witnesses, as implied by the claimant's proposed language. Certainly, local agencies were performing these investigative activities before POBAR was enacted.

The parameters and guidelines, section IV(C), also state that the following activity is reimbursable.

Tape recording the interrogation when the peace officer employee records the interrogation.

The city claimed the following activities that are not reimbursable:

- Interrogator's time to conduct interviews;
- Question preparation; and
- Review of the interrogation questions.

After reviewing the parameters and guidelines with city staff, we noted that there was an activity performed that might be reimbursable, but that the activity was not tracked and, therefore, could not be properly supported. The SCO auditor suggested that the city might consider performing a time study. However, city staff expressed their belief that it may not be cost beneficial for the city to conduct a time study considering the amount of potentially allowable costs.

The Police Department staff performed the allowable activity of preparing the notice of interrogation. Staff believes that it took approximately 10 minutes per case. We have reviewed copies of the interrogation notices prepared by city staff and noted that the same employee prepared them during the audit period. Based upon this corroborating evidence, we will allow the costs of preparing the notice of interrogation. However, the city must provide productive hourly rate information for the employee(s) involved in order for us to calculate allowable costs. That information has not yet been provided.

### **Adverse Comment**

For Adverse Comment, the city claimed unallowable salary and benefit costs totaling \$99,922 during the audit period. We determined that amount was unallowable because the activities claimed were not identified in the parameters and guidelines as reimbursable costs and because the costs claimed were based entirely on estimates. In addition, all costs claimed were based entirely on estimates that were not supported by actual time records or other corroborating documentation.

Depending on the circumstances surrounding an Adverse Comment, the parameters and guidelines allow some or all of the following four activities upon receipt of an Adverse Comment:

- Providing notice of the adverse comment;
- Providing an opportunity to review and sign the adverse comment;
- Providing an opportunity to respond to the adverse comment within 30 days; and
- Noting on the document the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

Included in the foregoing are review of circumstances or documentation leading to Adverse Comment by supervisor, command staff, human resources staff, or counsel, including determination of whether same constitutes an Adverse Comment, preparation of comment for review and accuracy, notification and presentation of adverse comment to officer and notification of rights regarding same, review of response to Adverse Comment, attaching same to Adverse Comment and filing.

City staff believed that reimbursable activities under the Adverse Comment cost component included all activities leading up to and including the receipt of an Adverse Comment. The city claimed the following activities that are not reimbursable:

- Staff time for filing the case;
- Setting up the case file;
- Tracking the case;
- Write-ups pertaining to all aspects of the case; and
- Any follow-up on the case starting from the beginning of the case to the closing of the case

The city performed the allowable activities of preparing the notice of Adverse Comment, reviewing the notice of Adverse Comment, and presenting the notice of Adverse Comment to the police officer. Actual time records support the time spent by city staff to perform these activities. However, the city must provide productive hourly rate information for the employees involved during the audit period in order for us to calculate allowable costs. That information has not yet been provided.

The parameters and guidelines, section (V)(A), state that costs claimed for salaries and benefits must identify the employee(s), and/or show the classification of the employee(s) involved, describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, the productive hourly rate, and related employee benefits.

The parameters and guidelines, section (VI) (Supporting Data), state that for audit purposes, all 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 establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

#### City's Response

The city did not respond to the audit finding.

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