

CITY OF STOCKTON

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, 1994, through June 30, 2002



STEVE WESTLY
California State Controller

March 2005



STEVE WESTLY
California State Controller

March 30, 2005

Mr. Mark Moses
Director of Administrative Services
City of Stockton
425 North El Dorado Street
Stockton, CA 95202

Dear Mr. Moses:

The State Controller's Office audited the claims filed by the City of Stockton for costs of 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, 1994, through June 30, 2002.

The city claimed \$2,344,211 for the mandated program. Our audit disclosed that \$681,799 is allowable and \$1,662,412 is unallowable. The unallowable costs occurred primarily because the city claimed unsupported and ineligible costs. The State paid the city \$728,310. The amount paid exceeds allowable costs claimed by \$46,511.

If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). 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 COSM's Web site at www.csm.ca.gov (Guidebook link), and obtain IRC forms by telephone at (916) 323-3562 or by e-mail at csminfo@csm.ca.gov.

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

Sincerely,

Original Signed By:

VINCENT P. BROWN
Chief Operating Officer

VPB:JVB/kmm

cc: (See page 2)

cc: Mark Herder

Chief of Police
City of Stockton

Joe Maestretti

Budget Analyst, Fiscal Affairs
City of Stockton Police Department

James Tilton, Program Budget Manager
Corrections and General Government
Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the claims filed by the City of Stockton for costs of 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, 1994, through June 30, 2002. The last day of fieldwork was December 15, 2004.

The city claimed \$2,344,211 for the mandated program. The audit disclosed that \$681,799 is allowable and \$1,662,412 is unallowable. The unallowable costs occurred primarily because the city claimed unsupported and ineligible costs. The State paid the city \$728,310. The amount paid exceeds allowable costs claimed by \$46,511.

Background

Government Code Sections 3300 through 3310, known as the Peace Officers Procedural Bill of Rights (added and amended by 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) were 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 (COSM) determined that this legislation imposed a state mandate reimbursable under *Government Code* Section 17561.

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. COSM adopted *Parameters and Guidelines* on July 27, 2000, and updated it on August 17, 2000. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies in claiming 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, 1994, through June 30, 2002.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, not funded by another source, and 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* Section 17558.5. We did not audit the city's financial statements. Our scope was limited 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

The 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 Stockton claimed \$2,344,211 for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that \$681,799 is allowable and \$1,662,412 is unallowable.

For fiscal year (FY) 1994-95, the State paid the city \$151,864. Our audit disclosed that \$106,245 is allowable. The city should return \$45,619 to the State.

For FY 1995-96, the State paid the city \$121,132. Our audit disclosed that \$100,617 is allowable. The city should return \$20,515 to the State.

For FY 1996-97, the State paid the city \$106,988. The audit disclosed that \$104,863 is allowable. The city should return \$2,125 to the State.

For FY 1997-98, the State paid the city \$86,583. Our audit disclosed that \$98,043 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$11,460, contingent upon available appropriations.

For FY 1998-99, the State paid the city \$117,269. Our audit disclosed that \$27,359 is allowable. The city should return \$89,910 to the State.

For FY 1999-2000, the State paid the city \$123,518. Our audit disclosed that \$86,733 is allowable. The city should return \$36,785 to the State.

For FY 2000-01, the State paid the city \$20,956. Our audit disclosed that \$88,684 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$67,728, contingent upon available appropriations.

For FY 2001-02, the State made no payment to the city. Our audit disclosed that \$69,255 is allowable. The State will pay allowable costs claimed, contingent upon available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on February 4, 2005. Mark Moses, Director of Administrative Services, responded by letter dated February 23, 2005 (Attachment), disagreeing with part of Finding 1. The final audit report includes the city's response.

Restricted Use

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

**Schedule 1—
Summary of Program Costs
July 1, 1994, through June 30, 2002**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments ¹
<u>July 1, 1994, through June 30, 1995</u>			
Salaries	\$ 173,573	\$ 38,977	\$ (134,596)
Benefits	86,266	14,544	(71,722)
Services and supplies	—	40,689	40,689
Total increased indirect costs	259,839	94,210	(165,629)
Indirect costs	102,506	12,035	(90,471)
Total costs	362,345	106,245	(256,100)
Less reimbursements	—	—	—
Amount claimed	<u>\$ 362,345</u>	106,245	<u>\$ (256,100)</u>
Less amount paid by the State		(151,864)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (45,619)</u>	
<u>July 1, 1995, through June 30, 1996</u>			
Salaries	\$ 166,112	\$ 32,906	\$ (133,206)
Benefits	43,687	11,870	(31,817)
Services and supplies	—	43,990	43,990
Total increased indirect costs	209,799	88,766	(121,033)
Indirect costs	79,220	11,851	(67,369)
Total costs	289,019	100,617	(188,402)
Less reimbursements	—	—	—
Amount claimed	<u>\$ 289,019</u>	100,617	<u>\$ (188,402)</u>
Less amount paid by the State		(121,132)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (20,515)</u>	
<u>July 1, 1996, through June 30, 1997</u>			
Salaries	\$ 105,370	\$ 35,027	\$ (70,343)
Benefits	61,431	13,369	(48,062)
Services and supplies	—	43,653	43,653
Total increased indirect costs	166,801	92,049	(74,752)
Indirect costs	88,471	12,814	(75,657)
Total costs	255,272	104,863	(150,409)
Less reimbursements	—	—	—
Amount claimed	<u>\$ 255,272</u>	104,863	<u>\$ (150,409)</u>
Less amount paid by the State		(106,988)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (2,125)</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments ¹
<u>July 1, 1997, through June 30, 1998</u>			
Salaries	\$ 103,501	\$ 27,729	\$ (75,772)
Benefits	53,407	10,822	(42,585)
Services and supplies	—	46,478	46,478
Total increased indirect costs	156,908	85,029	(71,879)
Indirect costs	49,677	13,014	(36,663)
Total costs	206,585	98,043	(108,542)
Less reimbursements	—	—	—
Amount claimed	<u>\$ 206,585</u>	98,043	<u>\$ (108,542)</u>
Less amount paid by the State		(86,583)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (11,460)</u>	
<u>July 1, 1998, through June 30, 1999</u>			
Salaries	\$ 129,401	\$ 14,430	\$ (114,971)
Benefits	74,017	5,656	(68,361)
Services and supplies	—	262	262
Total increased indirect costs	203,418	20,348	(183,070)
Indirect costs	76,384	7,011	(69,373)
Total costs	279,802	27,359	(252,443)
Less reimbursements	—	—	—
Amount claimed	<u>\$ 279,802</u>	27,359	<u>\$ (252,443)</u>
Less amount paid by the State		(117,269)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (89,910)</u>	
<u>July 1, 1999, through June 30, 2000</u>			
Salaries	\$ 146,192	\$ 48,871	\$ (97,321)
Benefits	62,424	17,420	(45,004)
Services and supplies	—	230	230
Total increased indirect costs	208,616	66,521	(142,095)
Indirect costs	86,096	20,212	(65,884)
Total costs	294,712	86,733	(207,979)
Less reimbursements	—	—	—
Amount claimed	<u>\$ 294,712</u>	86,733	<u>\$ (207,979)</u>
Less amount paid by the State		(123,518)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (36,785)</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments ¹
<u>July 1, 2000, through June 30, 2001</u>			
Salaries	\$ 236,268	\$ 49,139	\$ (187,129)
Benefits	148,522	16,620	(131,902)
Services and supplies	—	194	194
Total increased indirect costs	384,790	65,953	(318,837)
Indirect costs	200,694	22,731	(177,963)
Total costs	585,484	88,684	(496,800)
Less reimbursements	—	—	—
Amount claimed	<u>\$ 585,484</u>	88,684	<u>\$ (496,800)</u>
Less amount paid by the State		(20,956)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 67,728</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Salaries	\$ 29,063	\$ 28,152	\$ (911)
Benefits	13,334	12,902	(432)
Services and supplies	16,126	16,126	—
Total increased indirect costs	58,523	57,180	(1,343)
Indirect costs	12,469	12,075	(394)
Total costs	70,992	69,255	(1,737)
Less reimbursements	—	—	—
Amount claimed	<u>\$ 70,992</u>	69,255	<u>\$ (1,737)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 69,255</u>	
<u>Summary: July 1, 1994, through June 30, 2002</u>			
Salaries	\$ 1,089,480	\$ 275,231	\$ (814,249)
Benefits	543,088	103,203	(439,885)
Services and supplies	16,126	191,622	175,496
Total increased indirect costs	1,648,694	570,056	(1,078,638)
Indirect costs	695,517	111,743	(583,774)
Total costs	2,344,211	681,799	(1,662,412)
Less reimbursements	—	—	—
Amount claimed	<u>\$ 2,344,211</u>	681,799	<u>\$ (1,662,412)</u>
Less amount paid by the State		(728,310)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (46,511)</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

FINDING— Unallowable program costs claimed

The city did not support \$1,837,908 in initial claims it filed for the Peace Officers Procedural Bill of Rights Program. The city filed the claims based on information prepared by its consultant. The audit adjustment is summarized as follows:

Fiscal Year	Salaries	Benefits	Indirect Costs	Total Costs
1994-95	\$ (134,596)	\$ (71,722)	\$ (90,471)	\$ (296,789)
1995-96	(133,206)	(31,817)	(67,369)	(232,392)
1996-97	(70,343)	(48,062)	(75,657)	(194,062)
1997-98	(75,772)	(42,585)	(36,663)	(155,020)
1998-99	(114,971)	(68,361)	(69,373)	(252,705)
1999-2000	(97,321)	(45,004)	(65,884)	(208,209)
2000-01	(187,129)	(131,902)	(177,963)	(496,994)
2001-02	(911)	(432)	(394)	(1,737)
Audit adjustment	<u>\$ (814,249)</u>	<u>\$ (439,885)</u>	<u>\$ (583,774)</u>	<u>\$ (1,837,908)</u>

For fiscal year (FY) 1994-95 through FY 1998-99, the city provided no support for claimed costs. The city staff was unable to determine the methodology used by its consultant to prepare the claims.

For FY 1999-2000, FY 2000-01, and FY 2001-02, the consultant prepared a time matrix to calculate the amount of time spent by individuals who processed personnel complaints against peace officers. The consultant identified 13 positions that he believed were eligible and interviewed the employees to obtain time estimates. He also asked the city to provide him with the number of personnel complaints for each year and to classify the complaints into three categories: minor, average, and complex. Based on the information provided, he determined the total costs to claim by multiplying the number of cases for each category by the estimated time and the average productively hourly rate.

The consultant's method of identifying reimbursable costs is inconsistent with *Parameters and Guidelines* because: (1) the time matrix was not based on actual time; (2) 5 of the 13 positions claimed performed activities that were unrelated to the mandate; (3) eligible activities were not identified under the four reimbursable components; and (4) actual hourly rates and benefit rates were not calculated. Consequently, all costs claimed were determined to be unsupported.

The city staff acknowledged that its consultant significantly overstated filed claims. At the start of the audit, the staff recalculated reimbursable costs and filed an amended claim for FY 2001-02. However, the time period to file an amended claim for FY 1994-95 through FY 2000-01 had expired. The city staff reviewed each case and identified personnel involved and time spent on reimbursable activities and provided records and worksheets to support the revised amounts. We reviewed the city's documentation supporting the revised salary, benefits, and related indirect cost amounts.

For FY 1994-95 through FY 2000-01, the city claimed no services and supplies. However, it provided a worksheet identifying services and supplies. Since the statute of limitations to file an amended claim had expired, these costs were not audited.

Parameters and Guidelines for the Peace Officers Procedural Bill of Rights Program and *Government Code* Section 17560 allow reimbursement only of actual increased costs incurred in the performance of mandated activities.

Parameters and Guidelines also states that all costs claimed must be traceable and supported by source documents that show evidence of the validity of such costs and their relationship to the state mandated program. Claims filed more than one year after the deadline, or without the requested supporting documentation, will not be accepted.

Recommendation

We recommend the city maintain time records to document actual time spent on the mandated program. We also recommend the city ensure that only eligible costs are claimed.

City's Response

The City of Stockton generally agrees with the findings, conclusions, and recommendations in the audit report although we believe allowable costs are understated by \$174,810. We believe our claims were overstated due to our reliance on a consultant that did not follow the parameters and guidelines for the POBOR mandate and our lack of review of the consultants work prior to submission of the original claims.

The City has hired a new consultant to assist us in amending and filing new claims. We have established a system for documenting actual time and costs for eligible activities as established by the parameters and guidelines for the POBOR mandate. The City of Stockton has also implemented procedures to review all State mandated cost claims prepared by the new consultant for accuracy, reasonableness, and compliance with parameters and guidelines and claiming instructions prior to submitting to the State Controller's Office.

We believe the auditors have understated allowable costs by \$174,810 by excluding eligible services costs that were not detailed on our original claims due to judgment errors made by our consultant. These are legal fees and other appeals related costs incurred by the City of Stockton between 1994 and 1998, and supported by paid invoices. The auditors indicate in their report that these costs were not audited because the statute of limitations for amending these claims has expired. We do not believe that allowing these eligible costs constitutes an amended claim anymore than the auditor's disallowance of ineligible costs claimed constitutes an amended claim. It seems unfair to the City that audit adjustments can only be made if they benefit the State. We believe eligible costs that are properly supported up to the total of claimed costs do not constitute an amended claim and therefore should be allowed as an audit adjustment.

SCO's Comment

We concur that the supported services and supplies costs are allowable costs. The finding has been updated to increase allowable services and supplies costs by \$175,496 (\$174,810 for FY 1994-95 through FY 1997-98, and \$686 for FY 1998-99 through FY 2000-01).

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



CITY OF STOCKTON

ADMINISTRATIVE SERVICES

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February 23, 2005 www.stocktongov.com

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

CITY OF STOCKTON RESPONSE TO PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) PROGRAM DRAFT AUDIT REPORT DATED FEBRUARY 2005

The City of Stockton generally agrees with the findings, conclusions, and recommendations in the audit report although we believe allowable costs are understated by \$174,810. We believe our claims were overstated due to our reliance on a consultant that did not follow the parameters and guidelines for the POBOR mandate and our lack of review of the consultants work prior to submission of the original claims.

The City has hired a new consultant to assist us in amending and filing new claims. We have established a system for documenting actual time and costs for eligible activities as established by the parameters and guidelines for the POBOR mandate. The City of Stockton has also implemented procedures to review all State mandated cost claims prepared by the new consultant for accuracy, reasonableness, and compliance with parameters and guidelines and claiming instructions prior to submitting to the State Controller's Office.

We believe the auditors have understated allowable costs by \$174,810 by excluding eligible services costs that were not detailed on our original claims due to judgment errors made by our consultant. These are legal fees and other appeals related costs incurred by the City of Stockton between 1994 and 1998, and supported by paid invoices. The auditors indicate in their report that these costs were not audited because the statute of limitations for amending these claims has expired. We do not believe that allowing these eligible costs constitutes an amended claim anymore than the auditor's disallowance of ineligible costs claimed constitutes an amended claim. It seems unfair to the City that audit adjustments can only be made if they benefit the State. We believe eligible costs that are properly supported up to the total of claimed costs do not constitute an amended claim and therefore should be allowed as an audit adjustment.



Page Two
February 23, 2005

Thank you for the opportunity to respond to your draft audit report. If you have any questions or need additional information, please contact Joe Maestretti at (209) 937-8886.



Mark Moses
Director of Administrative Services
City of Stockton

MM:JM

**State Controller's Office
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