

ALAMEDA COUNTY

Audit Report

SEARCH WARRANT: AIDS PROGRAM

Chapter 1088, Statutes of 1988

July 1, 2001, through June 30, 2004



STEVE WESTLY
California State Controller

September 2006



STEVE WESTLY
California State Controller

September 29, 2006

The Honorable Patrick O'Connell
Auditor-Controller
Alameda County
1221 Oak Street, Room 249
Oakland, CA 94612

Dear Mr. O'Connell:

The State Controller's Office audited the costs claimed by Alameda County for the legislatively mandated Search Warrant: AIDS Program (Chapter 1088, Statutes of 1988) for the period of July 1, 2001, through June 30, 2004.

The county claimed \$1,062,624 (\$1,063,624 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$960,613 is allowable and \$102,011 is unallowable. The unallowable costs occurred because the county overstated salaries, benefits, and indirect costs. The State paid the county \$178,752. The State will pay allowable costs claimed that exceed the amount paid, totaling \$781,861, contingent upon available appropriations.

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); you may 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

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: Thomas J. Orloff, District Attorney
Alameda County
Joline Owyang, Fiscal Officer
District Attorney's Office
Alameda County
Sherie Peterson, SB 90 Coordinator
Auditor-Controller's Office
Alameda County
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 costs claimed by Alameda County for the legislatively mandated Search Warrant: AIDS Program (Chapter 1088, Statutes of 1988) for the period of July 1, 2001, through June 30, 2004. The last day of fieldwork was November 30, 2005.

The county claimed \$1,062,624 (\$1,063,624 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$960,613 is allowable and \$102,011 is unallowable. The unallowable costs occurred because the county overstated salaries, benefits, and indirect costs. The State paid the county \$178,752. The State will pay allowable costs claimed that exceed the amount paid, totaling \$781,861, contingent upon available appropriations.

Background

Chapter 1088, Statutes of 1988, added and amended *Penal Code* Section 1524.1 by allowing a crime victim the right to request AIDS testing on persons charged with a crime. Any victim may request the court to issue a search warrant to test the blood of a person charged with a crime for HIV when there has been a transfer of blood, semen, or any other body fluid identified by the Department of Health Services as capable of transmitting the AIDS virus to another individual. This applies to all crime victims, and includes sexual assault crimes, nonsexual crimes, and crimes in which peace officers are victims. It applies to both adults and minors charged with crimes. The District Attorney's Office (DAO) is mandated by law to notify all crime victims falling within these provisions of their right to request a search warrant.

By law, a search warrant must be signed by a magistrate before any blood of the person charged with a crime can be drawn. *Penal Code* Section 1524.1 allows the victim to request the court to issue a search warrant to require HIV testing of the accused and the DAO prepares the search warrant. The local health officer is mandated to assist the victim in determining whether to request a search warrant for HIV testing and/or to request a test for him or herself. The local health officer is required to administer the HIV test and to confirm and keep confidential the results. The local health officer is also required to offer professional counsel to the victim and the offender, as specified.

On August 22, 1991, the Commission on State Mandates (COSM) determined that Chapter 1088, Statutes of 1988, resulted in state-mandated costs that are reimbursable pursuant to *Government Code* Section 17561.

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. COSM adopted *Parameters and Guidelines* on August 22, 1991. 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 Search Warrant: AIDS Program for the period of July 1, 2001, through June 30, 2004.

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 county'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 county'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 Finding and Recommendation section of this report.

For the audit period, Alameda County claimed \$1,062,624 (\$1,063,624 less a \$1,000 penalty for filing a late claim) for costs of the Search Warrant: AIDS Program. Our audit disclosed that \$960,613 is allowable and \$102,011 is unallowable.

For fiscal year (FY) 2001-02, the State paid the county \$178,447. Our audit disclosed that \$302,130 is allowable. The state will pay allowable costs claimed that exceed the amount paid, totaling \$123,683, contingent upon available appropriations.

For FY 2002-03, the State paid the county \$305. Our audit disclosed that \$357,504 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$357,199, contingent upon available appropriations.

For FY 2003-04, the State made no payments to the county. Our audit disclosed that \$300,979 is allowable. The State will pay that amount, contingent upon available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on May 5, 2006. David C. Budde, Director of Administration in the county District Attorney's Office, responded by letter dated June 13, 2006. Mr. Budde stated that the county did not dispute the audit results. The county's response is included as an attachment to this final audit report.

Restricted Use

This report is solely for the information and use of Alameda County, 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

**Schedule 1—
Summary of Program Costs
July 1, 2001, through June 30, 2004**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2001, through June 30, 2002</u>			
Salaries	\$ 185,252	\$ 183,428	\$ (1,824)
Benefits	54,232	53,351	(881)
Indirect costs	<u>79,269</u>	<u>65,351</u>	<u>(13,918)</u>
Total costs	318,753	302,130	(16,623)
Less late filing penalty	—	—	—
Total reimbursable costs	<u>\$ 318,753</u>	302,130	<u>\$ (16,623)</u>
Less amount paid by the State		<u>(178,447)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 123,683</u>	
<u>July 1, 2002, through June 30, 2003</u>			
Salaries	\$ 222,762	\$ 204,065	\$ (18,697)
Benefits	64,846	58,768	(6,078)
Indirect costs	<u>111,304</u>	<u>95,671</u>	<u>(15,633)</u>
Total costs	398,912	358,504	(40,408)
Less late filing penalty	<u>(1,000)</u>	<u>(1,000)</u>	—
Total reimbursable costs	<u>\$ 397,912</u>	357,504	<u>\$ (40,408)</u>
Less amount paid by the State		<u>(305)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 357,199</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Salaries	\$ 184,794	\$ 167,854	\$ (16,940)
Benefits	62,670	56,584	(6,086)
Indirect costs	<u>98,495</u>	<u>76,541</u>	<u>(21,954)</u>
Total costs	345,959	300,979	(44,980)
Less late filing penalty	—	—	—
Total reimbursable costs	<u>\$ 345,959</u>	300,979	<u>\$ (44,980)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 300,979</u>	
<u>Summary: July 1, 2001, through June 30, 2004</u>			
Salaries	\$ 592,808	\$ 555,347	\$ (37,461)
Benefits	181,748	168,703	(13,045)
Indirect costs	<u>289,068</u>	<u>237,563</u>	<u>(51,505)</u>
Total costs	1,063,624	961,613	(102,011)
Less late filing penalty	<u>(1,000)</u>	<u>(1,000)</u>	—
Total reimbursable costs	<u>\$ 1,062,624</u>	960,613	<u>\$ (102,011)</u>
Less amount paid by the State		<u>(178,752)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 781,861</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

FINDING— Salaries, benefits, and indirect costs overstated

The county claimed salary and fringe benefit costs that were misstated as follows.

- The county claimed labor costs for individual employees in the District Attorney’s Office using incorrect salary and benefit costs. Also, some of these labor costs were claimed both as direct costs to the mandate and as indirect costs.
- The county claimed a portion of its District Attorney labor costs based on the number of court petitions filed for the mandate. However, the number of such petitions was overstated or understated each fiscal year.
- The county claimed labor costs for training District Attorney employees about the mandate. We determined these costs to be ineligible.

Parameters and Guidelines for the program specifies that only actual increased costs that are incurred in the performance of the mandated activities and that are adequately documented are reimbursable. Further, it specifies that costs incurred to develop training materials used to conduct training sessions for various county personnel is allowable, but does not include the cost of providing such training to county personnel as a reimbursable component of the mandate.

As a result, we adjusted claimed salary and benefit costs as indicated below. Also, because the county claimed indirect costs as a percentage of labor costs, we adjusted claimed indirect costs for the overstated salaries and benefits, after recomputing the indirect cost rates to eliminate the costs already claimed as direct costs.

	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Salaries	\$ (1,824)	\$ (18,697)	\$ (16,940)	\$ (37,461)
Benefits	(881)	(6,078)	(6,086)	(13,045)
Indirect costs	<u>(13,918)</u>	<u>(15,633)</u>	<u>(21,954)</u>	<u>(51,505)</u>
Audit adjustment	<u>\$ (16,623)</u>	<u>\$ (40,408)</u>	<u>\$ (44,980)</u>	<u>\$ (102,011)</u>

Recommendation

We recommend that the county ensure that costs claimed are eligible increased costs incurred as a result of the mandate and that they are supported by appropriate documentation.

County’s Response

The county did not dispute the finding.

SCO’s Comment

The finding and recommendation remain unchanged.

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



Alameda County
District Attorney's Office
THOMAS J. ORLOFF, District Attorney

Jeffrey V. Brownfield
Chief, Division of Audits
California State Controller
P.O. Box 942850
Sacramento, CA 94250-5874

Dear Mr. Brownfield:

We reviewed the draft audit report dated May 5, 2006 of the your audit of Alameda County's legislatively mandated Search Warrant: AIDS Program (Chapter 1088, Statutes of 1988) for the period of July 1, 2001 through June 30, 2004.

It remains the position of this office that all claims as submitted reflect a full and "good faith" representation of the District Attorney's actual expenses incurred on behalf of the mandate. Never the less, we elect to defer to the State Controller's Office for it's findings regarding certain disallowances and technical adjustments.

If you have any questions, please call or email Joline Owyang (510) 272-6217, Joline.owyang@acgov.org.

Sincerely,

David C. Buide
Director of Administration

cc: Sherie Peterson

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

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