

SAN DIEGO COUNTY

Audit Report

SEXUALLY VIOLENT PREDATOR PROGRAM

Chapters 762 and 763, Statutes of 1995,
and Chapter 4, Statutes of 1996

July 1, 1999, through June 30, 2002



STEVE WESTLY
California State Controller

June 2005



STEVE WESTLY
California State Controller

June 30, 2005

Tracy Sandoval
Assistant Chief Financial Officer/
Auditor and Controller
San Diego County
1600 Pacific Highway, Room 166
San Diego, CA 92101

Dear Ms. Sandoval:

The State Controller's Office audited the claims filed by San Diego County for costs of the legislatively mandated Sexually Violent Predator Program (Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996) for the period of July 1, 1999, through June 30, 2002.

The county claimed \$805,235 (\$806,235 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$738,178 is allowable and \$67,057 is unallowable. The unallowable costs occurred primarily because the county claimed costs that were ineligible and unsupported. The State paid the county \$548,554. Allowable costs claimed exceed the amount paid by \$189,624.

If you disagree with the audit findings, 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/ams

cc: (See page 2)

cc: Arlene K. Smith, Assistant Chief
 Administrative Services
 San Diego County District Attorney's Office
Steven Carroll, Public Defender
 San Diego County Public Defender's Office
Jovy M. Lomibao, Senior Accountant
 San Diego County Sheriff's Department
Gina Surgeon, Cost Analyst
 San Diego County Auditor and Controller's Department
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 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 San Diego County for costs of the legislatively mandated Sexually Violent Predator Program (Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996) for the period of July 1, 1999, through June 30, 2002. The last day of fieldwork was March 11, 2004.

The county claimed \$805,235 (\$806,235 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$738,178 is allowable and \$67,057 is unallowable. The unallowable costs occurred primarily because the county claimed costs that were ineligible and unsupported. The State paid the county \$548,554. Allowable costs claimed exceed the amount paid by \$189,624.

Background

Welfare and Institutions Code Sections 6250 and 6600 through 6608 (added by Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996) establish new civil commitment procedures for the continued detention and treatment of sexually violent offenders following their completion of a prison term for certain sex-related offenses. Before detention and treatment are imposed, the county attorney is required to file a petition for civil commitment. A trial is then conducted to determine if the inmate is a sexually violent predator beyond a reasonable doubt. If the inmate accused of being a sexually violent predator is indigent, the test claim legislation requires counties to provide the indigent with the assistance of counsel and experts necessary to prepare the defense.

On June 25, 1998, the Commission on State Mandates (COSM) determined that Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996, imposed a reimbursable state mandate under *Government Code* Section 17561.

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. COSM adopted *Parameters and Guidelines* on September 24, 1998. 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 Sexually Violent Predator Program for the period of July 1, 1999, 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 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 Findings and Recommendations section of this report.

For the audit period, San Diego County claimed \$805,235 (\$806,235 less a \$1,000 penalty for filing a late claim) for Sexually Violent Predator Program costs. Our audit disclosed that \$738,178 is allowable and \$67,057 is unallowable.

For fiscal year (FY) 1999-2000, the State paid the county \$238,825. Our audit disclosed that \$198,257 is allowable. The county should return \$40,568 to the State.

For FY 2000-01, the State paid the county \$246,969. Our audit disclosed that \$220,480 is allowable. The county should return \$26,489 to the State.

For FY 2001-02, the State paid the county \$62,760. Our audit disclosed that \$319,441 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$256,681, contingent upon available appropriations.

Views of Responsible Official

We issued a draft audit report on April 20, 2005. Tracy M. Sandoval, Assistant Chief Financial Officer/Auditor and Controller, responded by letter dated May 31, 2005 (Attachment), agreeing with the audit results. This final audit report includes the county's response. The county raised two issues in their response that are also addressed in the Findings and Recommendations section of the report.

Restricted Use

This report is solely for the information and use of San Diego 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, 1999, through June 30, 2002**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 1999, through June 30, 2000</u>				
Salaries	\$ 79,360	\$ 49,565	\$ (29,795)	Finding 1
Benefits	20,664	12,935	(7,729)	Finding 1
Services and supplies	130,800	130,800	—	
Training and travel	—	—	—	
Total direct costs	230,824	193,300	(37,524)	
Indirect costs	8,001	4,957	(3,044)	Findings 1, 2
Total claimed costs	<u>\$ 238,825</u>	198,257	<u>\$ (40,568)</u>	
Less amount paid by the State		(238,825)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (40,568)</u>		
<u>July 1, 2000, through June 30, 2001</u>				
Salaries	\$ 96,628	\$ 77,271	\$ (19,357)	Finding 1
Benefits	24,344	19,690	(4,654)	Finding 1
Services and supplies	115,239	115,239	—	
Training and travel	553	553	—	
Total direct costs	236,764	212,753	(24,011)	
Indirect costs	10,205	7,727	(2,478)	Findings 1, 2
Total claimed costs	<u>\$ 246,969</u>	220,480	<u>\$ (26,489)</u>	
Less amount paid by the State		(246,969)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (26,489)</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Salaries	\$ 36,544	\$ 44,990	\$ 8,446	Finding 1
Benefits	10,679	12,704	2,025	Finding 1
Services and supplies	268,641	268,641	—	
Training and travel	—	—	—	
Total direct costs	315,864	326,335	10,471	
Indirect costs	4,577	4,499	(78)	Findings 1, 2
Total claimed costs	320,441	330,834	10,393	
Less late penalty	(1,000)	(1,000)	—	
Subtotal	319,441	329,834	10,393	
Allowable costs in excess of amount claimed	—	(10,393)	(10,393)	
Total claimed costs	<u>\$ 319,441</u>	319,441	<u>\$ —</u>	
Less amount paid by the State		(62,760)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 256,681</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>Summary: July 1, 1999, through June 30, 2002</u>				
Salaries	\$ 212,532	\$ 171,826	\$ (40,706)	
Benefits	55,687	45,329	(10,358)	
Services and supplies	514,680	514,680	—	
Training and travel	553	553	—	
Total direct costs	783,452	732,388	(51,064)	
Indirect costs	22,783	17,183	(5,600)	
Total claimed costs	806,235	749,571	(56,664)	
Less late penalty	(1,000)	(1,000)	—	
Subtotal	805,235	748,571	(56,664)	
Allowable costs in excess of amount claimed	—	(10,393)	(10,393)	
Total claimed costs	<u>\$ 805,235</u>	738,178	<u>\$ (67,057)</u>	
Less amount paid by the State		(548,554)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 189,624</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Overstated salary and benefit costs

The county overstated Public Defender's Office salaries and benefits by \$51,064 for the audit period. The related indirect cost is \$4,070. Salaries and benefits consist of costs claimed for three departments: District Attorney, Public Defender, and Sheriff.

Following is a summary of the audit adjustment.

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Salaries	\$ (29,795)	\$ (19,357)	\$ 8,446	\$ (40,706)
Benefits	(7,729)	(4,654)	2,025	(10,358)
Total	(37,524)	(24,011)	10,471	(51,064)
Indirect costs	(2,979)	(1,936)	845	(4,070)
Audit adjustment	\$ (40,503)	\$ (25,947)	\$ 11,316	\$ (55,134)

For fiscal year (FY) 1999-2000, the county overstated salary and benefit costs by \$37,524. The county overclaimed 664.2 hours, which it did not support, for three deputy public defenders. The county also underclaimed 48.5 hours for one deputy public defender.

For FY 2000-01, the county overstated salary and benefit costs by \$23,113. The county overclaimed 445.5 hours, which it did not support, for five deputy public defenders. The county also underclaimed 74.7 hours for two deputy public defenders. In addition, the county overstated salary and benefit costs by \$898 because it overstated the productive hourly rates for six deputy public defenders.

For FY 2001-02, the county understated salary and benefit costs by \$10,471. The county underclaimed 198.9 hours for two deputy public defenders.

Parameters and Guidelines for the Sexually Violent Predator Program requires that the claimant describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, the productive hourly rate, and related fringe benefits. *Parameters and Guidelines* also states that all costs claimed are to be traceable to source documents that show evidence of the validity of such costs and their relationship to the mandated program.

Recommendation

We recommend the county establish procedures to ensure that all claimed costs are properly supported.

County's Response

The finding consists of overstated costs as a result of Public Defender hours claimed during the three-year audit period which did not have adequate supporting documentation. The Department of the Public Defender has instituted new procedures for time accounting related to

all Sexually Violent Predator (SVP) cases. Implementation of new internal controls in this area will ensure that claimed costs will have complete and valid documentation for reimbursement.

SCO's Comment

The finding remains unchanged.

**FINDING 2—
Overstated indirect
costs**

The county overstated District Attorney's Office indirect costs by \$1,530 during the audit period. The overstatement occurred because the county applied the default indirect cost rate of 10% to salaries and benefits. The default rate can be applied only to direct labor, excluding fringe benefits.

Following is a summary of the overstated indirect costs.

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Claimed salaries	\$ 79,360	\$ 96,628	\$ 36,544	\$ 212,532
Claimed indirect cost rate	× 10%	× 10%	× 10%	× 10%
Allowable costs	7,936	9,663	3,654	21,253
Claimed indirect costs	<u>(8,001)</u>	<u>(10,205)</u>	<u>(4,577)</u>	<u>(22,783)</u>
Audit adjustment	<u>\$ (65)</u>	<u>\$ (542)</u>	<u>\$ (923)</u>	<u>\$ (1,530)</u>

Parameters and Guidelines states that claimants have the option of using 10% of direct labor, excluding fringe benefits, or of preparing an indirect cost rate proposal (ICRP) for the department if the indirect cost rate exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with Office of Management and Budget (OMB) Circular A-87.

Recommendation

We recommend the county establish procedures to ensure that it applies the indirect cost rate to the correct base.

County's Response

The overstatement of indirect costs occurred because the County applied the default indirect cost rate of 10% to both salaries and benefits, however, a default rate may only be applied to direct labor. The fiscal staff in the District Attorney's Office who prepares SVP claims have been trained on the correct method of determining indirect costs. In the future, indirect cost rates will be applied to the correct base amount.

SCO's Comment

The finding remains unchanged.

OTHER ISSUES

In the county's response (Attachment), it addressed the following additional issues. The SCO's comments follow the county's responses.

Issue 1County's Response

Findings 1 and 2 in the draft audit report currently reflect audit adjustments of \$56,664, and not the \$67,057 disallowance as summarized on page 5 of the report. The difference, \$10,393, represents audit allowable costs, in excess of the County's claim for FY 2001/02, but which are not available due to the statute of limitations for filing an amended claim – one year from the date of filing having lapsed. With regard to this amount, no Finding was expressly stated in the audit report. We request that the final Audit Report expressly state a Finding 3 for this audit adjustment so that the Findings reflect the sum of all audit adjustments, or \$67,057.

SCO's Comment

For FY 2001-02, the county underclaimed \$10,393 in allowable costs when preparing the mandate claim. We limit allowable costs to amounts actually claimed in any one fiscal year. Since we did not identify any unallowable costs to include in the audit report for FY 2001-02, the underclaimed costs are not reimbursable. The county was unable to file an amended reimbursement claim because the statute of limitations to file an amended claim expired pursuant to *Government Code* Section 17568.

Issue 2County's Response

Of the total allowable costs, the County was paid \$548,544. Pursuant to the State Controller's Local Agencies Mandated Cost Mandated Cost Manual, Section 2.5 – Payment of Claims, we anticipate that the remaining balance of \$189,624 will be paid to the County with the prescribed interest.

SCO's Comment

The amount is payable contingent upon available appropriation.

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



County of San Diego

DONALD F. STEUER
CHIEF FINANCIAL OFFICER
(619) 531-5413
FAX (619) 531-5219

AUDITOR AND CONTROLLER
1600 PACIFIC HIGHWAY STE 166, SAN DIEGO, CALIFORNIA 92101-2478

TRACY M. SANDOVAL
ASST. CHIEF FINANCIAL OFFICER/
AUDITOR & CONTROLLER
(619) 531-5413
FAX (619) 531-5219

May 31, 2005

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

Dear Mr. Spano:

COUNTY OF SAN DIEGO RESPONSE TO DRAFT AUDIT REPORT OF THE SEXUALLY VIOLENT PREDATOR PROGRAM: FISCAL YEARS (FY) 1999/00 THROUGH 2001/02

Thank you for giving us the opportunity to review your draft audit report. As reported, the County claimed costs of \$805,235 (\$806,235 less \$1,000 late filing penalty for FY 2001/02) during the audit period. Of this amount, \$738,571 was found to be allowable and \$67,057 was determined to be unallowable for FY 1999/00 and FY 2000/01 due to ineligible and unsupported costs. In general, we concur with your findings. We have the following statements and corrective actions regarding each finding:

Finding 1 – Overstated salary and benefit costs:

The County overstated the Public Defender's Office salaries and benefits by \$51,064, and related indirect costs of \$4,070, for a total of \$55,134.

Response:

The finding consists of overstated costs as a result of Public Defender hours claimed during the three-year audit period which did not have adequate supporting documentation. The Department of the Public Defender has instituted new procedures for time accounting related to all Sexually Violent Predator (SVP) cases. Implementation of new internal controls in this area will ensure that claimed costs will have complete and valid documentation for reimbursement.

Finding 2 – Overstated indirect costs:

The County overstated the District Attorney's Office indirect costs by \$1,530 during the audit period.

County of San Diego Response to Draft Audit Report
of the Sexually Violent Predator Program:
Fiscal Years (FY) 1999/00 through 2001/02
Page Two
May 31, 2005

Response:

The overstatement of indirect costs occurred because the County applied the default indirect cost rate of 10% to both salaries and benefits, however, a default rate may only be applied to direct labor. The fiscal staff in the District Attorney's Office who prepares SVP claims have been trained on the correct method of determining indirect costs. In the future, indirect cost rates will be applied to the correct base amount.

Findings 1 and 2 in the draft audit report currently reflect audit adjustments of \$56,664, and not the \$67,057 disallowance as summarized on page 5 of the report. The difference, \$10,393, represents audit allowable costs, in excess of the County's claim for FY 2001/02, but which are not available due to the statute of limitations for filing an amended claim - one year from the date of filing having lapsed. With regard to this amount, no Finding was expressly stated in the audit report. We request that the final Audit Report expressly state a Finding 3 for this audit adjustment so that the Findings reflect the sum of all audit adjustments, or \$67,057.

Of the total allowable costs, the County was paid \$548,544. Pursuant to the State Controller's Local Agencies Mandated Cost Manual, Section 2.5 - Payment of Claims, we anticipate that the remaining balance of \$189,624 will be paid to the County with the prescribed interest.

If you have any questions, please contact Suzanne Haynes-Pitts, Manager of Revenue and Cost Accounting at (619) 531-5336.

Sincerely,



TRACY M. SANDOVAL
Assistant Chief Financial Officer/Auditor and Controller

RCA:SHP:lc

- c: Dorothy Thrush, Finance Director, Public Safety Group
- Steve Lujan, District Attorney's Office
- Heidi L. Atwood, Public Defender's Office
- Jovy M. Lomibao, Sheriff's Department
- Suzanne Haynes-Pitts, Auditor and Controller's Department

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