



BETTY T. YEE
California State Controller

March 6, 2015

Larry Walker, Auditor-Controller
San Bernardino County
222 W. Hospitality Lane, 4th Floor
San Bernardino, CA 92415

Dear Mr. Walker:

The State Controller's Office performed a desk review of costs claimed by San Bernardino County 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, 2007, through June 30, 2013. We conducted our review under the authority of Government Code sections 12410, 17558.5, and 17561. Our review was limited to ensuring that the county properly reported the number of full-time sworn peace officers.

The county claimed \$649,556 for the mandated program. Our review found that \$436,826 is allowable and \$212,730 is unallowable. The costs are unallowable because the county overstated the number of full-time sworn peace officers, as described in the attached Summary of Program Costs and the Review Results. The State made no payments to the county. The State will pay \$436,826, contingent upon available appropriations.

We informed Jai Prasad, Supervising Accountant III, of the review finding via email on December 19, 2014, and discussed it with him during a telephone conversation on January 13, 2015. On January 27, 2015, Mr. Prasad left a voicemail message, informing our office to issue this report using the number of sworn officers reported to the Department of Justice.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

Attachments

RE: S15-MCC-9007

cc: Jason Redden, Management Services Manager
San Bernardino County
Jai Prasad, Supervising Accountant III
San Bernardino County
Evelyn Suess, Principal Program Budget Analyst
Mandates Unit, California Department of Finance
Jay Lal, Manager
Division of Accounting and Reporting
State Controller's Office

**Attachment 1—
Summary of Program Costs
July 1, 2007, through June 30, 2013**

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment ¹
<u>July 1, 2007, through June 30, 2008</u>			
Unit cost per full-time sworn peace officer	\$ 39.31	\$ 39.31	\$ 39.31
Number of full-time sworn peace officers	2,732	1,783	(949)
Total program costs	<u>\$ 107,395</u>	70,090	<u>\$ (37,305)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 70,090</u>	
<u>July 1, 2008, through June 30, 2009</u>			
Unit cost per full-time sworn peace officer	\$ 40.50	\$ 40.50	\$ 40.50
Number of full-time sworn peace officers	2,659	1,764	(895)
Total program costs	<u>\$ 107,690</u>	71,442	<u>\$ (36,248)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 71,442</u>	
<u>July 1, 2009, through June 30, 2010</u>			
Unit cost per full-time sworn peace officer	\$ 40.69	\$ 40.69	\$ 40.69
Number of full-time sworn peace officers	2,658	1,790	(868)
Total program costs	<u>\$ 108,154</u>	72,835	<u>\$ (35,319)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 72,835</u>	
<u>July 1, 2010, through June 30, 2011</u>			
Unit cost per full-time sworn peace officer	\$ 41.64	\$ 41.64	\$ 41.64
Number of full-time sworn peace officers	2,519	1,767	(752)
Total program costs	<u>\$ 104,891</u>	73,578	<u>\$ (31,313)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 73,578</u>	
<u>July 1, 2011, through June 30, 2012</u>			
Unit cost per full-time sworn peace officer	\$ 43.04	\$ 43.04	\$ 43.04
Number of full-time sworn peace officers	2,517	1,706	(811)
Total program costs	<u>\$ 108,332</u>	73,426	<u>\$ (34,906)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 73,426</u>	

Attachment 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment ¹
<u>July 1, 2012, through June 30, 2013</u>			
Unit cost per full-time sworn peace officer	\$ 43.92	\$ 43.92	\$ 43.92
Number of full-time sworn peace officers	<u>2,575</u>	<u>1,718</u>	<u>(857)</u>
Total program costs	<u>\$ 113,094</u>	75,455	<u>\$ (37,639)</u>
Less amount paid by the State		<u>—</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 75,455</u>	
<u>Summary: July 1, 2007, through June 30, 2013</u>			
Total program costs	<u>\$ 649,556</u>	\$ 436,826	<u>\$ (212,730)</u>
Less amount paid by the State		<u>—</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 436,826</u>	

¹ See Attachment 2, Review Results.

Attachment 2— Review Results July 1, 2007, through June 30, 2013

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 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 (Commission) determined that this legislation imposed a state mandate reimbursable under Government Code section 17561 and adopted the Statement of Decision. The Commission 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 17514. The Commission further defined that activities covered by due process are not reimbursable.

The program’s parameters and guidelines establish the State mandate and define the reimbursement criteria. The Commission adopted the parameters and guidelines on July 27, 2000, and corrected it on August 17, 2000. The parameters and guidelines categorize reimbursable activities into the four following components: Administrative Activities, Administrative Appeal, Interrogations, and Adverse Comments. In compliance with Government Code section 17558, the State Controller’s Office (SCO) issues claiming instructions to assist local agencies, school districts, and community college districts in claiming mandated program reimbursable costs.

On March 28, 2008, the parameters and guidelines were amended to provide claimants an opportunity to claim reimbursement for the activities by using either the reasonable reimbursement methodology (RRM) or by filing an actual cost claim. The RRM allows each eligible

claimant to be reimbursed at a rate of \$37.25 per full-time sworn peace officer employed by the agency and reported to the Department of Justice (DOJ) for all direct and indirect costs of performing the activities. The rate per full-time sworn peace officer is adjusted each year by the Implicit Price Deflator referenced in Government Code section 17523.

**FINDING—
Overstated number of
full-time sworn peace
officers**

The county overstated the number of full-time sworn peace officers on its mandated cost claims for fiscal year (FY) 2007-08 through FY 2012-13. For the fiscal years in the review period, the county claimed \$649,556. We found that \$436,826 is allowable and \$212,730 is unallowable.

For FY 2007-08 through FY 2012-13, San Bernardino County claimed reimbursement using the Commission-adopted RRM. In reviewing the POBOR mandated cost claims, we found that the number of full-time sworn peace officers claimed by the county for each fiscal year was overstated.

The parameters and guidelines (section V. Claim Preparation and Submission, subsection A. 2. Formula) state:

Reimbursement is determined by multiplying the rate per full time sworn peace officer for the appropriate fiscal year by the number of full time sworn peace officers employed by the agency and reported to the Department of Justice.

Each October 31, the county reports to the DOJ the number of full-time law enforcement employees, both officers and civilians. Law enforcement officers are defined as individuals who ordinarily carry a firearm and a badge, have full arrest powers, and are paid from governmental funds set aside specifically to pay sworn law enforcement officers.

Reimbursement for POBOR activities is limited to sworn peace officers and does not include civilians. Civilian employees are not trained as peace officers. They do not carry guns nor do they have arrest powers. Civilian employees include full-time personnel such as radio dispatchers and meter attendants.

The following table summarizes the adjustment calculation for the review period:

	Fiscal Year						Total
	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	
No. of full-time sworn officers claimed	2,732	2,659	2,658	2,519	2,517	2,575	
No. of full-time sworn officers reported to DOJ	1,783	1,764	1,790	1,767	1,706	1,718	
Difference	(949)	(895)	(868)	(752)	(811)	(857)	
Unit cost per full-time sworn officer	\$ 39.31	\$ 40.50	\$ 40.69	\$ 41.64	\$ 43.04	\$ 43.92	
Review adjustment	<u>\$ (37,305)</u>	<u>\$ (36,248)</u>	<u>\$ (35,319)</u>	<u>\$ (31,313)</u>	<u>\$ (34,906)</u>	<u>\$ (37,639)</u>	<u>\$ (212,730)</u>

Recommendation

We recommend that, if the county continues to claim reimbursement using the RRM, it ensure that the same number of full-time sworn peace officers reported to the DOJ is reported on its mandated cost claim.