

CITY OF FULLERTON

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; Chapter 675, Statutes of 1990

*July 1, 2011, through June 30, 2012;
and July 1, 2013, through June 30, 2015*



BETTY T. YEE
California State Controller

August 2017



BETTY T. YEE
California State Controller

August 28, 2017

The Honorable Bruce Whitaker, Mayor
City of Fullerton
303 West Commonwealth Avenue
Fullerton, CA 92832

Dear Mayor Whitaker:

The State Controller's Office (SCO) audited the costs claimed by the City of Fullerton 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; Chapter 675, Statutes of 1990) for the period of July 1, 2011, through June 30, 2012; and July 1, 2013, through June 30, 2015. We did not audit the claim filed for the period of July 1, 2012, through June 30, 2013, as the amount claimed was immaterial.

The city claimed \$891,350 for the mandated program. Our audit found that \$116,855 is allowable and \$774,495 is unallowable. The costs are unallowable because the city claimed ineligible contract service costs. The State made no payments to the city. The SCO's Local Government Programs and Services Division will send the city a separate notification letter to resolve unpaid allowable costs. The letter will be sent within 30 days from the issuance date of this report.

If you have any questions, please contact Jim L. Spano, CPA, Assistant Division Chief, by telephone at (916) 323-5849.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/as

cc: Julia James, Director of Administrative Services
City of Fullerton
Gretchen Beatty, Director of Human Resources
City of Fullerton
Tim Petropulos, Sergeant
City of Fullerton Police Department
Ramona Castaneda, Revenue Manager
City of Fullerton
Chris Hill, Principal Program Budget Analyst
Local Government Unit, California Department of Finance
Steven Pavlov, Finance Budget Analyst
Local Government Unit, California Department of Finance
Anita Dagan, Manager
Local Government Programs and Services Division
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Fullerton for the legislatively mandated Peace Officers Procedural Bill of Rights (POBOR) 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; Chapter 675, Statutes of 1990) for the period of July 1, 2011, through June 30, 2012; and July 1, 2013, through June 30, 2015. We did not audit the claim filed for the period of July 1, 2012, through June 30, 2013, as the amount claimed was immaterial.

The city claimed \$891,350 for the mandated program. Our audit found that \$116,855 is allowable and \$774,495 is unallowable. The costs are unallowable because the city claimed ineligible contract service costs. The State made no payments to the city. The SCO's Local Government Programs and Services Division will send the city a separate notification letter to resolve unpaid allowable costs. The letter will be sent within 30 days from the issuance date of this report.

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; Chapter 675, Statutes of 1990, added and amended Government Code (GC) sections 3300 through 3310. This legislation, known as the 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 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 imposes a state mandate reimbursable under GC 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 GC section 17514. The Commission further defined that activities covered by the 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 Comment. In compliance with GC section 17558, the 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 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 GC section 17523.

Objectives, Scope, and Methodology

We conducted this performance audit to determine whether costs claimed represent increased costs resulting from the POBOR Program for the period of July 1, 2011, through June 30, 2012; and July 1, 2013, through June 30, 2015.

The legal authority to conduct this audit is provided by GC sections 12410, 17558.5, and 17561. We did not audit the city's financial statements. We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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. Our audit scope did not assess the efficiency or effectiveness of program operations.

The objectives of our audit were to determine whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

To achieve our audit objectives, we:

- Reviewed the annual claims filed with the SCO to identify any mathematical errors and performed analytical procedures to determine any unusual or unexpected variances from year to year;
- Completed an internal control questionnaire and performed a walk-through of the claim preparation process to determine what information was used, who obtained it, and how it was obtained;
- Assessed whether computer-processed data provided by the city to support claimed costs was complete and accurate and could be relied upon;
- Reviewed the administrative appeal case files claimed to determine eligibility;
- Interviewed city staff to determine the employee classifications involved in the administrative appeal cases claimed; and

- Determined whether the city realized any revenues from the statutes that created the mandated program or reimbursements from any federal, state, or non-local source.

Conclusion

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

For the audit period, the city claimed \$891,350 for costs of the POBOR Program. Our audit found that \$116,855 is allowable and \$774,495 is unallowable. The State made no payments to the city. The SCO's Local Government Programs and Services Division will send the city a separate notification letter to resolve unpaid allowable costs. The letter will be sent within 30 days from the issuance date of this report.

**Views of
Responsible
Officials**

We issued a draft audit report on August 4, 2017. Julia James, Director of Administrative Services, responded by letter dated August 9, 2017 (Attachment), agreeing with the audit results. This final audit report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of Fullerton, 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, CPA
Chief, Division of Audits

August 28, 2017

Schedule—
Summary of Program Costs
July 1, 2011, through June 30, 2012;
and July 1, 2013, through June 30, 2015

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2011, through June 30, 2012</u>			
Direct costs:			
Salaries and benefits:			
Administrative activities	\$ 484	\$ 484	\$ -
Administrative appeal	387	387	-
Interrogations	4,682	4,682	-
Adverse action	10,734	10,734	-
Total, salaries and benefits	<u>16,287</u>	<u>16,287</u>	<u>-</u>
Contract services:			
Administrative appeal	66,188	-	(66,188)
Total, contract services	<u>66,188</u>	<u>-</u>	<u>(66,188)</u>
Total direct costs	82,475	16,287	(66,188)
Indirect costs	<u>3,979</u>	<u>3,979</u>	<u>-</u>
Total program costs	<u>\$ 86,454</u>	20,266	<u>\$ (66,188)</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 20,266</u>	
<u>July 1, 2013, through June 30, 2014</u>			
Direct costs:			
Salaries and benefits:			
Administrative activities	\$ 998	\$ 998	\$ -
Administrative appeal	5,033	5,033	-
Interrogations	10,659	10,659	-
Adverse action	10,453	10,453	-
Total, salaries and benefits	<u>27,143</u>	<u>27,143</u>	<u>-</u>
Contract services:			
Administrative appeal	117,536	4,156	(113,380)
Total, contract services	<u>117,536</u>	<u>4,156</u>	<u>(113,380)</u>
Total direct costs	144,679	31,299	(113,380)
Indirect costs	<u>5,667</u>	<u>5,667</u>	<u>-</u>
Total program costs	<u>\$ 150,346</u>	36,966	<u>\$ (113,380)</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 36,966</u>	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2014, through June 30, 2015</u>			
Direct costs:			
Salaries and benefits:			
Administrative appeal	\$ 4,907	\$ 4,907	\$ -
Interrogations	10,245	10,245	-
Adverse action	6,657	6,657	-
Total, salaries and benefits	<u>21,809</u>	<u>21,809</u>	<u>-</u>
Contract services:			
Administrative appeal	628,807	33,880	(594,927)
Total, contract services	<u>628,807</u>	<u>33,880</u>	<u>(594,927)</u>
Total direct costs	650,616	55,689	(594,927)
Indirect costs	3,934	3,934	-
Total program costs	<u>\$ 654,550</u>	59,623	<u>\$ (594,927)</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 59,623</u>	
<u>Summary: July 1, 2011, through June 30, 2012;</u> <u>and July 1, 2013, through June 30, 2015</u>			
Salaries and benefits	\$ 65,239	\$ 65,239	\$ -
Contract services	812,531	38,036	(774,495)
Total direct costs	877,770	103,275	(774,495)
Indirect costs	13,580	13,580	-
Total program costs	<u>\$ 891,350</u>	116,855	<u>\$ (774,495)</u>
Less amount paid by the State		<u>-</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 116,855</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

FINDING— Ineligible contract services

The city claimed \$812,531 in contract services for the Administrative Appeal cost component during the audit period. We found that \$38,036 is allowable and \$774,495 is unallowable because the city claimed ineligible costs.

The following table summarizes the claimed, allowable, and audit adjustment amounts by fiscal year:

Fiscal Year	Amount Claimed	Amount Allowable	Audit Adjustment
2011-12	\$ 66,188	\$ -	\$ (66,188)
2013-14	117,536	4,156	(113,380)
2014-15	628,807	33,880	(594,927)
Total	<u>\$ 812,531</u>	<u>\$ 38,036</u>	<u>\$ (774,495)</u>

Investigative charges

For fiscal year (FY) 2011-12, the city claimed reimbursement of investigation costs related to the force incident involving Fullerton police officers and the death of Kelly Thomas. Specifically, the city contracted the services of an independent consultant to review the case, for which the city incurred a total of \$66,188 in investigation costs. The parameters and guidelines state that “investigative charges” are not reimbursable.

Administrative appeal termination actions

The city claimed \$708,307 in costs for activities related to the termination of peace officers (\$113,380 for FY 2013-14 and \$594,927 for FY 2014-15). We found that the total amount claimed is unallowable. The parameters and guidelines allow reimbursement for “providing the opportunity for, and the conduct of an administrative appeal hearing for the removal of the chief of police under the circumstances that do not create a liberty interest.”

Through discussions with city employees, we found that none of the termination cases claimed involved administrative appeal hearings for the removal of the chief of police. As such, all costs claimed are ineligible.

Recommendation

We recommend that the city ensure that claimed costs include only eligible activities.

City’s Response

We have reviewed the report and agree with the finding. The City appreciates your examination of the costs claimed for this program and recognizes that ineligible expenses were submitted due to a misunderstanding of the eligibility rules.

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



CITY OF FULLERTON

Administrative Services Department

Administration (714) 738-6521
Fiscal Services (714) 738-6881
Information Technology (714) 738-6538
Purchasing (714) 738-6535

August 9, 2017

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

Dear Mr. Spano,

The City of Fullerton is in receipt of the State's Audit Report concerning the Peace Officers Procedural Bill of Rights Program dated August 2017. We have reviewed the report and agree with the finding. The City appreciates your examination of the costs claimed for this program and recognizes that ineligible expenses were submitted due to a misunderstanding of the eligibility rules.

Please contact me if you have any further questions at (714) 738-6521.

Sincerely,

A handwritten signature in cursive script that reads "Julia James".

Julia James
Administrative Services Director

THE EDUCATION COMMUNITY

303 West Commonwealth Avenue, Fullerton, California 92832-1775
Fax (714) 738-3168 • Web Site: www.cityoffullerton.com



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