

# **SACRAMENTO COUNTY**

Audit Report

## **ANIMAL ADOPTION PROGRAM**

Chapter 752, Statutes of 1998,  
and Chapter 313, Statutes of 2004

*July 1, 2001, through June 30, 2007,  
Excluding July 1, 2003, through June 30, 2004*



**JOHN CHIANG**  
California State Controller

September 2011



**JOHN CHIANG**  
**California State Controller**

September 30, 2011

The Honorable Roberta MacGlashan  
Chairperson  
Board of Supervisors,  
Sacramento County  
700 H Street, Suite 1450  
Sacramento, CA 95814

Dear Ms. MacGlashan:

The State Controller's Office audited the costs claimed by Sacramento County for the legislatively mandated Animal Adoption Program (Chapter 752, Statutes of 1998, and Chapter 313, Statutes of 2004) for the period of July 1, 2001, through June 30, 2007, excluding July 1, 2003, through June 30, 2004.

The county claimed \$2,580,831 (\$2,582,831 less a \$2,000 penalty for filing late claims) for the mandated program. Our audit disclosed that \$1,523,312 is allowable and \$1,057,519 is unallowable. The costs are unallowable because the county overstated and understated allowable costs; claimed unallowable costs and unsupported costs; claimed misclassified costs, ineligible employees, and ineligible animals; misstated animal census data and indirect cost rates; and overstated offsetting revenues. The State paid the county \$1,562,484. The State will offset \$39,172 from other mandated program payments due the county. Alternatively, the county may remit this amount to the State.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). 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 the CSM's Web site at [www.csm.ca.gov/docs/IRCForm.pdf](http://www.csm.ca.gov/docs/IRCForm.pdf).

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

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

JVB/sk

cc: Julie Valverde, Director of Finance  
Sacramento County  
Tara Diller, Division Manager  
Sacramento County Animal Care and Regulation  
Dave Dickinson, Animal Care Kennel Supervisor  
Sacramento County Animal Care and Regulation  
Jeff Carosone, Principal Program Budget Analyst  
Cor-Gen Unit, Department of Finance  
Jay Lal, Manager  
Division of Accounting and Reporting  
State Controller's Office

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# Audit Report

## Summary

The State Controller's Office audited the costs claimed by Sacramento County for the legislatively mandated Animal Adoption Program (Chapter 752, Statutes of 1998, and Chapter 313, Statutes of 2004) for the period of July 1, 2001, through June 30, 2007, excluding July 1, 2003, through June 30, 2004.

The county claimed \$2,580,831 (\$2,582,831 less a \$2,000 penalty for filing late claims) for the mandated program. Our audit disclosed that \$1,523,312 is allowable and \$1,057,519 is unallowable. The costs are unallowable because the county overstated and understated allowable costs; claimed unallowable costs and unsupported costs; claimed misclassified costs, ineligible employees, and ineligible animals; misstated animal census data and indirect cost rates; and overstated offsetting revenues. The State paid the county \$1,562,484. The State will offset \$39,172 from other mandated program payments due the county. Alternatively, the county may remit this amount to the State.

## Background

Food and Agriculture Code sections 31108, 31752-31753, 32001, and 32003 (added and amended by Chapter 752, Statutes of 1998) attempted to end the euthanasia of adoptable and treatable animals. It expressly identifies the state policy that "no adoptable animal should be euthanized if it can be adopted into a suitable home" and that "no treatable animal should be euthanized." The legislation increases the holding period for stray and abandoned dogs, cats, and other specified animals. It also requires public or private shelters to:

- Verify the temperament of feral cats;
- Post lost-and-found lists;
- Maintain records for impounded animals; and
- Ensure that impounded animals receive necessary and prompt veterinary care.

On January 25, 1981, the Commission on State Mandates (CSM) determined that Chapter 752, Statutes of 1998, imposed a state mandate reimbursable under Government Code section 17561.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on February 28, 2002, corrected them on March 20, 2002, and last amended them on January 26, 2006. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

For fiscal year (FY) 2003-04, the Legislature suspended the Animal Adoption Program.

## **Objective, Scope, and Methodology**

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Animal Adoption Program for the period of July 1, 2001, through June 30, 2007, excluding July 1, 2003, 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 this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the county's financial statements. We conducted the 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 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, Sacramento County claimed \$2,580,831 (\$2,582,831 less a \$2,000 penalty for filing late claims) for costs of the Animal Adoption Program. Our audit disclosed that \$1,523,312 is allowable and \$1,057,519 is unallowable.

For the fiscal year (FY) 2001-02 claim, the State made no payment to the county. The State will pay allowable costs claimed that exceed the amount paid, totaling \$334,927, contingent upon available appropriations.

For the FY 2002-03 claim, the State made no payment to the county. The State will pay allowable costs claimed that exceed the amount paid, totaling \$420,310, contingent upon available appropriations.

For the FY 2004-05 claim, the State paid the county \$528,096. Our audit disclosed that \$250,762 is allowable. The State will offset \$277,334 from other mandated program payments due the county. Alternatively, the county may remit this amount to the State.

For the FY 2005-06 claim, the State paid the county \$502,214. Our audit disclosed that \$260,969 is allowable. The State will offset \$241,245 from other mandated program payments due the county. Alternatively, the county may remit this amount to the State.

For the FY 2006-07 claim, the State paid the county \$532,174. Our audit disclosed that \$256,344 is allowable. The State will offset \$275,830 from other mandated program payments due the county. Alternatively, the county may remit this amount to the State.

**Views of  
Responsible  
Official**

We issued a draft audit report on July 22, 2011. Julie Valverde, Director of Finance, responded by letter dated September 13, 2011 (Attachment), agreeing with the audit results except for Finding 3. This final audit report includes the county's response.

**Restricted Use**

This report is solely for the information and use of Sacramento 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

September 30, 2011

**Schedule 1 -  
Summary of Program Costs  
July 1, 2001, through June 30, 2007, excluding  
July 1, 2003, through June 30, 2004**

Cost Elements	Actual Costs Claimed	Allowable Per Audit	Audit Adjustments	Reference <sup>1</sup>
<u>July 1, 2001 through June 30, 2002</u>				
Direct costs:				
Policies and procedures	\$ 2,046	\$ 2,046	\$ -	
Care and maintenance of dogs and cats <sup>2</sup>	129,002	71,020	(57,982)	Finding 3
Care and maintenance of other animals <sup>2</sup>	11,528	2,141	(9,387)	Finding 3
Increased holding period	4,506	87,477	82,971	Finding 4
Feral Cats	97	3,835	3,738	Finding 5
Lost-and-found lists	470	2,100	1,630	Finding 6
Non-medical records	3,033	26,507	23,474	Finding 7
Veterinary Care	-	18,543	18,543	Finding 8
Procuring equipment	282,417	-	(282,417)	Finding 9
Total direct costs	433,099	213,669	(219,430)	
Indirect costs	13,643	121,258	107,615	Finding 10
Total program costs	<u>\$ 446,742</u>	334,927	<u>\$ (111,815)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 334,927</u>		
<u>July 1, 2002 through June 30, 2003</u>				
Direct costs:				
Computer software	\$ 61,597	\$ 92,395	\$ 30,798	Finding 2
Care and maintenance of dogs and cats <sup>2</sup>	96,293	61,714	(34,579)	Finding 3
Care and maintenance of other animals <sup>2</sup>	8,456	1,860	(6,596)	Finding 3
Increased holding period	231,414	93,494	(137,920)	Finding 4
Feral Cats	21,809	3,875	(17,934)	Finding 5
Lost-and-found lists	745	2,167	1,422	Finding 6
Non-medical records	152,291	27,279	(125,012)	Finding 7
Veterinary Care	-	18,737	18,737	Finding 8
Total direct costs	572,605	301,521	(271,084)	
Indirect costs	-	119,789	119,789	Finding 10
Total direct and indirect costs	572,605	421,310	(151,295)	
Less offsetting savings/reimbursements <sup>3</sup>	-	-	-	Finding 11
Less late claim penalty	(1,000)	(1,000)	-	
Total program costs <sup>3</sup>	<u>\$ 571,605</u>	420,310	<u>\$ (151,295)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 420,310</u>		

## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable Per Audit	Audit Adjustments	Reference <sup>1</sup>
<u>July 1, 2004 through June 30, 2005</u>				
Direct costs:				
Training	\$ 993	\$ 993	\$ -	
Computer software	12,458	-	(12,458)	Findings 2,7
Care and maintenance of dogs and cats <sup>2</sup>	188,872	64,580	(124,292)	Finding 3
Care and maintenance of other animals <sup>2</sup>	22,853	1,946	(20,907)	Finding 3
Increased holding period	151,686	65,300	(86,386)	Finding 4
Feral Cats	14,104	3,620	(10,484)	Finding 5
Lost-and-found lists	607	2,290	1,683	Finding 6
Non-medical records	81,787	46,931	(34,856)	Findings 2,7
Veterinary Care	-	18,650	18,650	Finding 8
Total direct costs	473,360	204,310	(269,050)	
Indirect costs	147,014	66,218	(80,796)	Finding 10
Total direct and indirect costs	620,374	270,528	(349,846)	
Less offsetting savings/reimbursements	(91,278)	(18,766)	72,512	Finding 11
Less late claim penalty	(1,000)	(1,000)	-	
Total program costs	<u>\$ 528,096</u>	250,762	<u>\$ (277,334)</u>	
Less amount paid by the State		(528,096)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (277,334)</u>		
<u>July 1, 2005 through June 30, 2006</u>				
Direct costs:				
Training	\$ 9,838	\$ 5,772	\$ (4,066)	Findings 1,2
Computer software	11,167	30,125	18,958	Findings 1,2
Care and maintenance of dogs and cats <sup>2</sup>	154,516	54,201	(100,315)	Finding 3
Care and maintenance of other animals <sup>2</sup>	7,497	2,361	(5,136)	Finding 3
Increased holding period	159,512	67,130	(92,382)	Finding 4
Feral Cats	11,246	3,854	(7,392)	Finding 5
Lost-and-found lists	633	2,400	1,767	Finding 6
Non-medical records	64,645	29,630	(35,015)	Finding 7
Veterinary care	-	20,544	20,544	Finding 8
Total direct costs	419,054	216,017	(203,037)	
Indirect costs	138,292	69,897	(68,395)	Finding 10
Total direct and indirect costs	557,346	285,914	(271,432)	
Less offsetting savings/reimbursements	(55,132)	(24,945)	30,187	Finding 11
Total program costs	<u>\$ 502,214</u>	260,969	<u>\$ (241,245)</u>	
Less amount paid by the State		(502,214)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (241,245)</u>		

## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable Per Audit	Audit Adjustments	Reference <sup>1</sup>
<u>July 1, 2006 through June 30, 2007</u>				
Direct costs:				
Training	\$ 8,236	\$ 537	\$ (7,699)	Finding 1
Computer software	9,042	10,830	1,788	Findings 2,7
Care and maintenance of dogs and cats <sup>2</sup>	179,275	57,356	(121,919)	Finding 3
Care and maintenance of other animals <sup>2</sup>	7,384	808	(6,576)	Finding 3
Increased holding period	152,675	58,360	(94,315)	Finding 4
Feral Cats	12,038	4,258	(7,780)	Finding 5
Lost-and-found lists	664	2,524	1,860	Finding 6
Non-medical records	66,411	50,959	(15,452)	Findings 2,7
Veterinary care	-	19,669	19,669	Finding 8
Total direct costs	435,725	205,301	(230,424)	
Indirect costs	142,334	69,729	(72,605)	Finding 10
Total direct and indirect costs	578,059	275,030	(303,029)	
Less offsetting savings/reimbursements	(45,885)	(18,686)	27,199	Finding 11
Total program costs	<u>\$ 532,174</u>	256,344	<u>\$ (275,830)</u>	
Less amount paid by the State		<u>(532,174)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (275,830)</u>		

## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable Per Audit	Audit Adjustments	Reference <sup>1</sup>
<u>Summary: July 1, 2001, through June 30, 2007</u>				
Direct costs:				
Policies and procedures	\$ 2,046	\$ 2,046	\$ -	
Training	19,067	7,302	(11,765)	
Computer software	94,264	133,350	39,086	
Care and maintenance of dogs and cats <sup>2</sup>	747,958	308,871	(439,087)	
Care and maintenance of other animals <sup>2</sup>	57,718	9,116	(48,602)	
Increased holding period	699,793	371,761	(328,032)	
Feral Cats	59,294	19,442	(39,852)	
Lost-and-found lists	3,119	11,481	8,362	
Non-medical records	368,167	181,306	(186,861)	
Veterinary care	-	96,143	96,143	
Procuring equipment	282,417	-	(282,417)	
Total direct costs	2,333,843	1,140,818	(1,193,025)	
Indirect costs	441,283	446,891	5,608	
Total direct and indirect costs	2,775,126	1,587,709	(1,187,417)	
Less offsetting savings/reimbursements <sup>3</sup>	(192,295)	(62,397)	129,898	
Less late claim penalty	(2,000)	(2,000)	-	
Total program costs <sup>3</sup>	<u>\$ 2,580,831</u>	1,523,312	<u>\$ (1,057,519)</u>	
Less amount paid by the State		(1,562,484)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (39,172)</u>		
<u>Recap by Object Account</u>				
Salaries and benefits	\$ 744,552	\$ 927,731	\$ 183,179	
Materials and supplies <sup>4</sup>	1,568,407	148,012	(1,420,395)	
Contract services	20,884	65,075	44,191	
Total direct costs	2,333,843	1,140,818	(1,193,025)	
Indirect costs	441,283	446,891	5,608	
Total direct and indirect costs	2,775,126	1,587,709	(1,187,417)	
Less offsetting savings/reimbursements <sup>3</sup>	(192,295)	(62,397)	129,898	
Less late claim penalty	(2,000)	(2,000)	-	
Total program costs	<u>\$ 2,580,831</u>	<u>\$ 1,523,312</u>	<u>\$ (1,057,519)</u>	

<sup>1</sup> See the Findings and Recommendations section.

<sup>2</sup> See Schedule 2—Summary of Care and Maintenance Calculations.

<sup>3</sup> Revenue offsets of \$63,802 were netted from total direct and indirect costs claimed for FY 2002-03 (see Finding 11).

<sup>4</sup> The county's claim for FY 2002-03 was claimed entirely under materials and supplies.

**Schedule 2 -  
Summary of Care and Maintenance Costs  
July 1, 2001, through June 30, 2007,  
excluding July 1, 2003, through June 30, 2004**

Category	Actual Costs Claimed	Allowable per Audit		Total Allowable Costs	Audit Adjustments
		Salaries and Benefits <sup>1</sup>	Materials and Supplies		
<u>July 1, 2001 through June 30, 2002</u>					
Care and maintenance of dogs and cats:					
Total care and maintenance costs	\$ 864,121	\$ 484,082	\$ 81,206		
Percentage of dogs and cats to total animals	x 100%	x 92.37%	x 92.37%		
Total care and maintenance costs for dogs and cats	864,121	447,147	75,010		
Total dog and cat kennel days	÷ 115,295	÷ 98,016	÷ 98,016		
Cost per dog and cat per day	7.495	4.562	0.765		
Number of eligible dogs and cats	x 8,606	x 4,444	x 4,444		
Number or reimbursable days	x 2	x 3	x 3		
Total care and maintenance costs for dogs and cats	<u>\$ 129,002</u>	<u>\$ 60,821</u>	<u>\$ 10,199</u>	\$ 71,020	\$ (57,982)
Care and maintenance of other "eligible" animals:					
Total care and maintenance costs	\$ 75,141	\$ 484,082	\$ 81,206		
Percentage of other "eligible" animals to total animals	x 100%	x 7.63%	x 7.63%		
Total care and maintenance costs for other "eligible" animals	75,141	36,935	6,196		
Total other "eligible" animal kennel days	÷ 10,950	÷ 8,100	÷ 8,100		
Cost per other "eligible" animal per day	6.862	4.560	0.765		
Number of eligible other "eligible" animals	x 336	x 67	x 67		
Number or reimbursable days	x 5	x 6	x 6		
Total care and maintenance costs for other "eligible" animals	<u>11,528</u>	<u>1,833</u>	<u>308</u>	2,141	(9,387)
Total care and maintenance costs	<u>\$ 140,530</u>	<u>\$ 62,654</u>	<u>\$ 10,507</u>	<u>\$ 73,161</u>	<u>\$ (67,369)</u>
<u>July 1, 2002 through June 30, 2003</u>					
Care and maintenance of dogs and cats:					
Total care and maintenance costs <sup>2</sup>	\$ 911,643	\$ 438,174	\$ 53,058		
Percentage of dogs and cats to total animals	x 100%	x 92.37%	x 92.37%		
Total care and maintenance costs for dogs and cats	911,643	404,741	49,010		
Total dog and cat kennel days <sup>3</sup>	÷ 116,435	÷ 98,016	÷ 98,016		
Cost per dog and cat per day	7.830	4.129	0.500		
Number of eligible dogs and cats	x 6,970	x 4,444	x 4,444		
Number or reimbursable days	x 2	x 3	x 3		
Subtotal care and maintenance costs for dogs and cats	109,145	55,048	6,666		
Less contracting cities' costs	(12,852)	-	-		
Total care and maintenance for dogs and cats	<u>\$ 96,293</u>	<u>\$ 55,048</u>	<u>\$ 6,666</u>	\$ 61,714	\$ (34,579)
Care and maintenance of other "eligible" animals:					
Total care and maintenance costs <sup>2</sup>	\$ 911,643	\$ 438,174	\$ 53,058		
Percentage of other "eligible" animals to total animals	x 100%	x 7.63%	x 7.63%		
Total care and maintenance costs for other "eligible" animals	911,643	33,433	4,048		
Total other "eligible" animal kennel days <sup>3</sup>	÷ 116,435	÷ 8,100	÷ 8,100		
Cost per other "eligible" animal per day	7.830	4.128	0.500		
Number of eligible other "eligible" animals	x 270	x 67	x 67		
Number or reimbursable days	x 4	x 6	x 6		
Total care and maintenance costs for other "eligible" animals	<u>8,456</u>	<u>1,659</u>	<u>201</u>	1,860	(6,596)
Total care and maintenance costs	<u>\$ 104,749</u>	<u>\$ 56,707</u>	<u>\$ 6,867</u>	<u>\$ 63,574</u>	<u>\$ (41,175)</u>

## Schedule 2 (continued)

Category	Actual Costs Claimed	Allowable per Audit		Total Allowable Costs	Audit Adjustments
		Salaries and Benefits <sup>1</sup>	Materials and Supplies		
<u>July 1, 2004 through June 30, 2005</u>					
Care and maintenance of dogs and cats:					
Total care and maintenance costs	\$ 1,077,043	\$ 452,584	\$ 61,489		
Percentage of dogs and cats to total animals	x 100%	x 92.37%	x 92.37%		
Total care and maintenance costs for dogs and cats	1,077,043	418,052	56,797		
Total dog and cat kennel days	÷ 88,286	÷ 98,016	÷ 98,016		
Cost per dog and cat per day	12.199	4.265	0.579		
Number of eligible dogs and cats	x 7,741	x 4,444	x 4,444		
Number or reimbursable days	x 2	x 3	x 3		
Total care and maintenance costs for dogs and cats	<u>\$ 188,872</u>	<u>\$ 56,861</u>	<u>\$ 7,719</u>	\$ 64,580	\$ (124,292)
Care and maintenance of other "eligible" animals:					
Total care and maintenance costs	\$ 81,691	\$ 452,584	\$ 61,489		
Percentage of other "eligible" animals to total animals	x 100%	x 7.63%	x 7.63%		
Total care and maintenance costs for other "eligible" animals	81,691	34,532	4,692		
Total other "eligible" animal kennel days	÷ 5,362	÷ 8,100	÷ 8,100		
Cost per other "eligible" animal per day	15.235	4.260	0.580		
Number of eligible other "eligible" animals	x 375	x 67	x 67		
Number or reimbursable days	x 4	x 6	x 6		
Total care and maintenance costs for other "eligible" animals	<u>22,853</u>	<u>\$ 1,713</u>	<u>\$ 233</u>	1,946	(20,907)
Total care and maintenance costs	<u>\$ 211,725</u>	<u>\$ 58,574</u>	<u>\$ 7,952</u>	<u>\$ 66,526</u>	<u>\$ (145,199)</u>
<u>July 1, 2005 through June 30, 2006</u>					
Care and maintenance of dogs and cats:					
Total care and maintenance costs	\$ 962,567	\$ 401,277	\$ 35,713		
Percentage of dogs and cats to total animals	x 100%	x 93.02%	x 93.02%		
Total care and maintenance costs for dogs and cats	962,567	373,268	33,220		
Total dog and cat kennel days	÷ 66,725	÷ 107,355	÷ 107,355		
Cost per dog and cat per day	14.430	3.477	0.309		
Number of eligible dogs and cats	x 5,354	x 4,772	x 4,772		
Number or reimbursable days	x 2	x 3	x 3		
Total care and maintenance costs for dogs and cats	<u>\$ 154,516</u>	<u>\$ 49,777</u>	<u>\$ 4,424</u>	\$ 54,201	\$ (100,315)
Care and maintenance of other "eligible" animals:					
Total care and maintenance costs	\$ 67,688	\$ 401,277	\$ 35,713		
Percentage of other "eligible" animals to total animals	x 100%	x 6.98%	x 6.98%		
Total care and maintenance costs for other "eligible" animals	67,688	28,009	2,493		
Total other "eligible" animal kennel days	÷ 3,756	÷ 8,059	÷ 8,059		
Cost per other "eligible" animal per day	18.021	3.475	0.309		
Number of eligible other "eligible" animals	x 104	x 104	x 104		
Number or reimbursable days	x 4	x 6	x 6		
Total care and maintenance costs for other "eligible" animals	<u>7,497</u>	<u>\$ 2,168</u>	<u>\$ 193</u>	2,361	(5,136)
Total care and maintenance costs	<u>\$ 162,013</u>	<u>\$ 51,945</u>	<u>\$ 4,617</u>	<u>\$ 56,562</u>	<u>\$ (105,451)</u>

## Schedule 2 (continued)

Category	Actual Costs Claimed	Allowable per Audit		Total Allowable Costs	Audit Adjustments
		Salaries and Benefits <sup>1</sup>	Materials and Supplies		
<u>July 1, 2006 through June 30, 2007</u>					
Care and maintenance of dogs and cats:					
Total care and maintenance costs <sup>2</sup>	\$ 1,209,634	\$ 395,712	\$ 54,003		
Percentage of dogs and cats to total animals	x 100%	x 91.59%	x 91.59%		
Total care and maintenance costs for dogs and cats	1,209,634	362,433	49,461		
Total dog and cat kennel days <sup>3</sup>	÷ 68,160	÷ 88,677	÷ 88,677		
Cost per dog and cat per day	17.750	4.087	0.558		
Number of eligible dogs and cats	x 5,050	x 4,116	x 4,116		
Number or reimbursable days	x 2	x 3	x 3		
Total care and maintenance costs for dogs and cats	<u>\$ 179,275</u>	<u>\$ 50,466</u>	<u>\$ 6,890</u>	\$ 57,356	\$ (121,919)
Care and maintenance of other "eligible" animals:					
Total care and maintenance costs <sup>2</sup>	\$ 1,209,634	\$ 395,712	\$ 54,003		
Percentage of other "eligible" animals to total animals	x 100%	x 8.41%	x 8.41%		
Total care and maintenance costs for other "eligible" animals	1,209,634	33,279	4,542		
Total other "eligible" animal kennel days <sup>3</sup>	÷ 68,160	÷ 8,140	÷ 8,140		
Cost per other "eligible" animal per day	17.750	4.088	0.558		
Number of eligible other "eligible" animals	x 104	x 29	x 29		
Number or reimbursable days	x 4	x 6	x 6		
Total care and maintenance costs for other "eligible" animals	<u>7,384</u>	<u>\$ 711</u>	<u>\$ 97</u>	808	(6,576)
Total care and maintenance costs	<u>\$ 186,659</u>	<u>\$ 51,177</u>	<u>\$ 6,987</u>	<u>\$ 58,164</u>	<u>\$ (128,495)</u>
<u>Summary: July 1, 2001, through June 30, 2007</u>					
<u>excluding July 1, 2003 through June 30, 2004</u>					
Care and maintenance of dogs and cats	\$ 747,958	\$ 272,973	\$ 35,898	\$ 308,871	\$ (439,087)
Care and maintenance of other "eligible" animals	<u>57,718</u>	<u>8,084</u>	<u>1,032</u>	<u>9,116</u>	<u>(48,602)</u>
Total care and maintenance costs	<u>\$ 805,676</u>	<u>\$ 281,057</u>	<u>\$ 36,930</u>	<u>\$ 317,987</u>	<u>\$ (487,689)</u>

<sup>1</sup> Includes related indirect costs.

<sup>2</sup> The county combined total care and maintenance costs for both eligible dogs and cats with eligible "other" animals when calculating actual costs claimed.

<sup>3</sup> The county combined dog and cat kennel days with other "eligible" animal kennel days when calculating actual costs claimed.

# Findings and Recommendations

## **FINDING 1— Overstated training costs**

The county claimed costs totaling \$19,067 during the audit period (\$18,392 in salaries and benefits and \$675 for contract services) under this cost component. We determined that the net amount of \$7,302 is allowable and \$11,765 is unallowable (overstated by \$15,365 and understated by \$3,600). The unallowable costs occurred because the county was unable to document which county employees received training on the use of its Chameleon database system, when training sessions took place, or how long the training sessions lasted. The understated costs occurred because the county claimed only 25% of allowable contract services costs incurred for training. During the course of the audit, we determined that the correct pro-rata portion should be 75%. Allowable salary and benefit costs were for two hours spent to train all shelter employees in fiscal year (FY) 2004-05 and all new employees in the subsequent fiscal years on the requirements of the Hayden Bill.

The following table summarizes the claimed, allowable, and unallowable costs by fiscal year:

Fiscal Year	Amount Claimed	Amount Allowable	Audit Adjustment
2004-05	\$ 993	\$ 993	\$ —
2005-06	9,838	5,772	(4,066)
2006-07	8,236	537	(7,699)
Totals	<u>\$ 19,067</u>	<u>\$ 7,302</u>	<u>\$ (11,765)</u>

### **Salaries and Benefits**

The county provided a sample of new employee training checklists to illustrate the multitude of tasks covered during the training process. We determined that costs totaling \$1,902 for two hours of training on the requirements of the Hayden Bill for new employees is allowable (\$993 for FY 2004-05, \$372 for FY 2005-06, and \$537 for FY 2006-07).

The county also claimed salaries and benefits totaling \$8,513 for 320 hours of Chameleon system training for 16 employees (20 hours per employee) in FY 2005-06 and \$7,699 for 260 hours of Chameleon system training for 13 employees (20 hours per employee) in FY 2006-07. However, the county did not provide any information relating to when these training sessions occurred and how long they lasted, which employees attended, or the topics covered. In the absence of any corroborating documentation supporting the time spent, these costs are unallowable.

We also noted \$278 in the county's claim for FY 2005-06 that appears to be a mathematical error made when the claim was prepared. The county's claim did not include a Form AA-2 detailing the specifics of the training costs claimed, so we were unable to determine why the error occurred. The costs were claimed as salaries (\$183) and benefits (\$95). Accordingly, this cost is also unallowable.

## Contract Services

The county claimed contract services costs totaling \$675 for Chameleon system training provided by the software vendor during FY 2005-06. The claimed amount represented 25% of \$2,700 incurred for onsite training. During the course of the audit, we determined that the correct pro-rata percentage should have been 75%. Therefore, costs incurred totaling \$2,025 are allowable.

In addition, the county claimed \$1,125 (25% of \$4,500) for onsite Chameleon software training in FY 2005-06 under the Computer Software component. We reclassified these costs under the Training cost component and determined that \$3,375 is allowable (75% of \$4,500).

The program's parameters and guidelines (Section IV.A.2–One Time Activities) identify the following one-time reimbursable activity:

Train staff on the reimbursable activities listed in Section IV (B) of these parameters and guidelines. (One-time per employee.)

The parameters and guidelines (Section IV–Reimbursable Activities) state that:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the mandated activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

### Recommendation

We recommend that the county establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

### County's Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

**FINDING 2—  
Misstated and  
misclassified computer  
software costs**

The county claimed \$94,264 during the audit period for costs incurred to develop and procure software for the maintenance of animal records. We determined that \$133,350 is allowable, and that the county understated allowable costs by \$39,086 (understated by \$58,909 and misclassified by \$19,823). The misclassified costs were associated with license renewal fees for the county's SCRAMP and Chameleon software systems. These costs were re-classified and analyzed in the Non-Medical Records cost component.

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

<u>Category</u> <u>Fiscal Year</u>	<u>Amount</u> <u>Claimed</u>	<u>Amount</u> <u>Allowable</u>	<u>Audit</u> <u>Adjustment</u>
Materials and supplies:			
2002-03	\$ 61,597	\$ 92,395	\$ 30,798
2004-05	12,458	-	(12,458)
Total materials and supplies	<u>74,055</u>	<u>92,395</u>	<u>18,340</u>
Contract services:			
2005-06	11,167	30,125	18,958
2006-07	9,042	10,830	1,788
Total contract services	<u>20,209</u>	<u>40,955</u>	<u>20,746</u>
Total	<u>\$ 94,264</u>	<u>\$ 133,350</u>	<u>\$ 39,086</u>

**Pro-Rata Percentages**

The county claimed software development and acquisition costs for two different software programs used for mandated activities, SCRAMP and Chameleon. The county claimed 50% of costs incurred for the SCRAMP system for FY 2002-03 and FY 2004-05, and 25% of costs incurred for Chameleon for FY 2005-06 and FY 2006-07. We asked the county to recalculate the applicable percentage that its software is used for mandated activities, and it determined that 75% represents a more realistic pro-rata percentage. Accordingly, we applied the 75% allocation factor to calculate allowable costs for the audit period.

**Misstated Materials and Supplies**

For FY 2002-03, the county incurred software development charges totaling \$123,193 for its SCRAMP system and claimed \$61,597 (50% of \$123,193). Based on the pro-rata percentages noted above, we determined that \$92,395 is allowable (75% of \$123,193).

For FY 2004-05, the county incurred costs totaling \$24,916 for SCRAMP license renewal fees and claimed \$12,458 (50% of \$24,916). However, the amount claimed for license renewal fees should have been claimed under the Non-Medical Records component. We reclassified these costs under Non-Medical Records (see Finding 7—Misstated non-medical records costs).

For FY 2005-06, the county incurred costs totaling \$44,667; \$40,167 for software acquisition costs related to the Chameleon system and \$4,500 for onsite training. The county claimed \$11,167 (25% of \$44,667). We determined that \$30,125 is allowable (75% of \$40,167) and \$4,500 should be reclassified and analyzed as training costs (see Finding 1–Overstated training costs).

For FY 2006-07, the county incurred costs totaling \$36,166—\$24,960 for Chameleon license renewal fees and \$11,206 for initial website set-up fees. We determined that \$8,405 is allowable (75% of \$11,206) and \$24,960 should be reclassified and analyzed under the Non-Medical Records component (see Finding 7–Misstated non-medical records costs). During the audit, the county provided an additional invoice totaling \$3,233 for web-licensing modifications that was not included in the county’s claim. We determined that \$2,425 is allowable (75% of \$3,233).

The parameters and guidelines (Section IV.A.3–One Time Activities) identify the following reimbursable activity:

Develop or procure computer software for the maintenance of records on animals specified in Section IV (B) (8). If the computer software is utilized in some way that is not directly related to the maintenance of records specified in Section IV (B) (8), only the pro rata portion of the activity that is used for compliance with Section IV (B) (8) is reimbursable.

#### Recommendation

We recommend that the county establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

#### County’s Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

**FINDING 3—  
Overstated care and  
maintenance costs**

The county claimed \$805,676 (\$747,958 for dogs and cats and \$57,718 for other animals) for care and maintenance during the audit period. We determined that \$317,987 is allowable and \$487,689 is unallowable (\$439,087 for dogs and cats and \$48,602 for other animals).

The unallowable costs occurred because the county claimed expenditures that were not attributed to the care and maintenance function, misstated the yearly census of dogs and cats and other animals, and subsequently overstated the claimed costs per animal per day in each fiscal period. We recalculated the number of eligible stray dogs and cats and other animals that died during the increased holding period or were ultimately euthanized and the number of reimbursable days for this component.

The following table summarizes the claimed, allowable, and unallowable care and maintenance costs for the audit period separately for dogs and cats and other animals by fiscal year. The detailed care and maintenance formula calculations of claimed, allowable, and unallowable costs by fiscal year are presented in Schedule 2—Summary of Care and Maintenance Costs.

Fiscal Year	Amount Claimed			Amount Allowable			Audit Adjustment
	Dogs/Cats	Other Animals	Total Claimed	Dogs/Cats	Other Animals	Total Allowable	
2001-02	\$ 129,002	\$ 11,528	\$ 140,530	\$ 71,020	\$ 2,141	\$ 73,161	\$ (67,369)
2002-03	96,293	8,456	104,749	61,714	1,860	63,574	(41,175)
2004-05	188,872	22,853	211,725	64,580	1,946	66,526	(145,199)
2005-06	154,516	7,497	162,013	54,201	2,361	56,562	(105,451)
2006-07	179,275	7,384	186,659	57,356	808	58,164	(128,495)
<b>Total</b>	<b>\$ 747,958</b>	<b>\$ 57,718</b>	<b>\$ 805,676</b>	<b>\$ 308,871</b>	<b>\$ 9,116</b>	<b>\$ 317,987</b>	<b>\$ (487,689)</b>

The following table summarizes the combined claimed, allowable, and unallowable costs for the Care and Maintenance cost component for the audit period:

Fiscal Year	Combined Dogs, Cats, and Other Animals		
	Amount Claimed	Amount Allowable	Audit Adjustment
2001-02	\$ 140,530	\$ 73,161	\$ (67,369)
2002-03	104,749	63,574	(41,175)
2004-05	211,725	66,526	(145,199)
2005-06	162,013	56,562	(105,451)
2006-07	186,659	58,164	(128,495)
<b>Total</b>	<b>\$ 805,676</b>	<b>\$ 317,987</b>	<b>\$ (487,689)</b>

The parameters and guidelines (section IV.B.3—Care and Maintenance for Impounded Stray or Abandoned Dogs and Cats that Die During the Increased Holding Period or Are Ultimately Euthanized) identify the following reimbursable activities:

- Beginning July 1, 1999 – Providing care and maintenance during the increased holding period for impounded stray or abandoned dogs and cats that die during the increased holding period or are ultimately

euthanized. The increased holding period shall be measured by calculating the difference between three days from the day of capture and four or six business days from the day after impoundment.

The parameters and guidelines (section IV.B.4 - Care and Maintenance for Impounded Stray or Abandoned Animals specified in Food and Agriculture Code Section 31753 that Die During the Increased Holding Period or Are Ultimately Euthanized) also state:

Beginning January 1, 1999 – For providing care and maintenance for. . . stray or abandoned rabbits, guinea pigs, hamsters, pot-bellied pigs, birds, lizards, snakes, turtles, and tortoises legally allowed as personal property that die during the increased holding period or are ultimately euthanized.

Eligible claimants are *not* entitled to reimbursement for the care and maintenance of the following population of dogs and cats and other animals:

- Stray or abandoned dogs, cats, and other animals that are irremediably suffering from a serious illness or severe injury,
- Newborn stray or abandoned dogs, cats, and other animals that need maternal care and have been impounded without their mothers,
- Stray or abandoned dogs, cats and other animals too severely injured to move or when a veterinarian is not available and it would be more humane to dispose of the animal,
- Owner-relinquished dogs, cats, and other animals, and
- Stray or abandoned dogs, cats, and other animals that are ultimately redeemed, adopted, or released to a nonprofit animal rescue or adoption organization.

The parameters and guidelines state that claimants may elect to use either the Actual Cost Method or the Time Study Method to claim costs for the care and maintenance of impounded stray or abandoned dogs, cats and other animals that die during the increased holding period or are ultimately euthanized. The county elected to use the actual cost method to claim these costs.

The parameters and guidelines specify the following steps for claiming costs using the Actual Cost Method:

Actual Cost Method – Under the actual cost method, actual reimbursable care and maintenance costs per animal per day are computed for an annual claim period, as follows:

- a) Determine the total annual cost of care and maintenance for all dogs, cats and other animals impounded at a facility. Total cost of care and maintenance includes labor, materials, supplies, indirect costs, and contract services.
- b) Determine the average daily census of all dogs, cats and other animals. For purposes of claiming reimbursement under IV.B.3, average daily census is defined as the average number of all dogs and cats at a facility housed on any given day, in 365-day period

and the average number of all other animals at a facility housed on any given day, in a 365-day period.

- c) Multiply the average daily census of dogs, cats and other animals by 365 = the yearly census of dogs and cats and the yearly census of other animals.
- d) Divide the total annual cost of care by the yearly census of dogs and cats to calculate the cost per dog and cat per day and by the yearly census of other animals to calculate the cost per other animal per day.
- e) Multiply the cost per animal per day by the number of impounded stay or abandoned dogs, cats and other animals that die during the increased holding period or are ultimately euthanized by each reimbursable day.

Reimbursable days for cats and dogs is the difference between three days from the day of capture, and four or six business days from the day after impoundment. The reimbursable days for other animals are four or six days from the day after impoundment.

### **Care and Maintenance Formula**

The county elected to use the Actual Cost method to claim costs; the parameters and guidelines provide for a formula-driven methodology to determine allowable mandated costs for the care and maintenance of dogs and cats and other animals. The use of this method requires claimants to calculate the total amount of eligible costs incurred to provide care and maintenance for the animals housed in its shelter. This total is divided by the annual census of animals housed in the shelter to determine a cost per animal per day.

The next element of the formula is adding the number of stray and abandoned animals that died of natural causes during the holding period plus those animals that were euthanized after the required holding period. This total number of animals is then multiplied by the cost per animal per day. The resulting amount represents allowable costs for providing care and maintenance. Our calculation took into consideration that the required holding period does not include Saturday as a business day. This is consistent with an Appellate Court decision dated March 26, 2010.

The mandate reimburses claimants for costs associated with animals that were not relinquished, redeemed, adopted, or released to nonprofit agency—and animals for which the local agency was unable to assess fees to recover such costs.

Costs incurred by the county for care and maintenance consisted of salaries and benefits, materials and supplies, and related indirect costs. We made adjustments to the costs incurred by the county and to the animal data that was used to claim costs. As a result, we adjusted the costs per animal per day.

Schedule 2 (Summary of Care and Maintenance Costs) summarizes the adjustments that we made to claimed costs for animal care and maintenance. These adjustments consisted of changes to total annual costs incurred by the county for animal care and maintenance (salaries,

benefits, indirect costs, and services and supplies) and animal census data used to determine the cost per animal per day. The table also shows the changes to the number of eligible animals and the number of reimbursable days that we used to determine reimbursable costs for each year of the audit period.

*Labor - Salaries, Benefits, and Related Indirect Costs*

During the course of the audit, we requested that the county provide the actual salary amounts paid to those employee classifications directly involved with the care and maintenance function. We also requested the duty statements for such classifications to assist in determining the percentage of the daily workload that was devoted to caring for and maintaining animals. Animal shelter management provided a list of personnel who participate in the care and maintenance functions. Management also provided information relating to the level of involvement of each classification and submitted job duty statements that supported the department's proposed pro-rated percentages.

For salaries and benefits, the county claimed a pro-rated percentage of various employee classifications. The county provided job descriptions for the employee classifications claimed.

For FY 2001-02 and FY 2002-03, the county claimed various pro-rated percentages for an Account Clerk III, Administrative Services Officer I & III, Director of Animal Care and Regulation, Executive Secretary, Animal Control Officer (ACO), Senior ACO, and Supervising ACO. We reviewed the various employee job descriptions provided and determined that the employee classifications of Account Clerk III, Administrative Services Officer I & III, Director of Animal Care and Regulation, and Executive Secretary were not involved in the care and maintenance of animals. Therefore, costs claimed for these employees are unallowable.

We also determined that the employee classification of ACO is not currently involved with the care and maintenance of animals. However, as the employee classification of Animal Care Attendant (ACA) had not yet been created, ACOs performed care and maintenance activities during these two fiscal years. Based on input from animal shelter management, we determined a reimbursable percentage of 25% for a Senior ACO, 10% for a Supervising ACO, and 75% for an ACO.

For FY 2004-05 through FY 2006-07, the county claimed 100% for an Office Assistant II (OA II), Senior ACO, Supervising ACO, and an ACA to perform care and maintenance activities. We reviewed the employee job descriptions and determined that costs for an OA II are unallowable because this classification is not involved in the care and maintenance of animals. Based on input from animal shelter management, we determined reimbursable percentages of 25% for a Senior ACO, 10% for a Supervising ACO, and 75% for an ACA.

### *Materials and Supplies*

The county claimed costs for drugs and pharmacy supplies, medical services, non-medical lab costs, custodial supplies, food, and medical supplies during the audit period under the cost component of Care and Maintenance. During the course of the audit, the county revised this methodology by taking out claimed costs for pharmacy supplies, medical services, and medical supplies, as these costs are not part of the Care and Maintenance cost component.

In its revised calculations, the county added in expenditures for laundry and dry cleaning services for kennel attendants' uniforms, and certain expenditures within the expenditure account "Other Operating Expenses." The county stated that these expenditure accounts contained expenses specific to the kennel for care and maintenance. We determined allowable materials and supplies costs for non-medical lab, laundry and dry cleaning, custodial supplies, food, and a portion of other operating expenses.

The following table summarizes the claimed, revised, allowable, and audit adjustment amounts for materials and supplies costs by fiscal year:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Revised Amount</u>	<u>Amount Allowable</u>	<u>Audit Adjustment</u>
2001-02	\$ 195,606	\$ 44,595	\$ 81,206	\$ (114,400)
2002-03	133,510	78,264	53,508	(80,002)
2004-05	275,201	22,938	61,489	(213,712)
2005-06	245,097	14,007	35,713	(209,384)
2006-07	195,951	56,671	54,003	(141,948)
Total	<u>\$ 1,045,365</u>	<u>\$ 216,475</u>	<u>\$ 285,919</u>	<u>\$ (759,446)</u>

### *Animal Census Data*

The yearly census refers to the total number of days that all animals were housed in the county's shelter. The actual cost formula requires the eligible cost of care to be divided by the yearly census to arrive at an average cost per animal per day. The cost per animal per day is then multiplied by the number of eligible animals and the number of increased days.

Our review of the Chameleon database revealed that the county overstated eligible animal populations in each fiscal period. The county was able to provide the actual animal census information from its Chameleon database system for FY 2005-06 through FY 2006-07. Animal database information was no longer available for the earlier three years. We used average data from animal statistics available for FY 2005-06 and FY 2006-07.

The following table summarizes the claimed, allowable, and revised animal census information by fiscal year:

Fiscal Year	Animal Census Claimed			Animal Census Allowable		
	Dogs/Cats	Other Animals	Total Claimed	Dogs/Cats	Other Animals	Total Allowable
2001-02	115,295	10,950	126,245	98,016	8,100	106,116
2002-03	-	-	116,435	98,016	8,100	106,116
2004-05	88,286	5,362	93,648	98,016	8,100	106,116
2005-06	66,725	3,756	70,481	107,355	8,059	115,414
2006-07	-	-	68,160	88,677	8,140	96,817
Total	<u>270,306</u>	<u>20,068</u>	<u>474,969</u>	<u>490,080</u>	<u>40,499</u>	<u>530,579</u>

### *Eligible Animals*

We determined the eligible number of animals to apply to the actual cost formula for all years of the audit period. We consistently applied the exclusions per the parameters and guidelines to the raw animal data provided by the animal shelter. As a result, we made adjustments to the number of eligible animals used in the Actual Cost Formula.

The following table summarizes the claimed, allowable, and unallowable eligible animals used in the care and maintenance formula for the audit period by fiscal year:

Fiscal Year	Animals Claimed			Animals Allowable			Audit Adjustment
	Dogs & Cats	Other Animals	Total Claimed	Dogs & Cats	Other Animals	Total Allowable	
2001-02	8,606	336	8,942	4,444	67	4,511	(4,431)
2002-03	6,970	270	7,240	4,444	67	4,511	(2,729)
2004-05	7,741	375	8,116	4,444	67	4,511	(3,605)
2005-06	5,354	104	5,458	4,772	104	4,876	(582)
2006-07	5,050	104	5,154	4,116	29	4,145	(1,009)
Total	<u>33,721</u>	<u>1,189</u>	<u>34,910</u>	<u>22,220</u>	<u>334</u>	<u>22,554</u>	<u>(12,356)</u>

### *Reimbursable Days*

The parameters and guidelines identify the number of reimbursable days for dogs and cats to be the difference between three days from the day of capture and four business days from the day after impoundment. For other animals, the parameters and guidelines identify the number of reimbursable days to be four business days from the day after impoundment.

Determining the exact number of reimbursable days is often difficult. Depending on the impound day, each animal will have a different holding period requirement. For example, for a dog impounded at noon on Monday, the “old” law (prior to 1999) requires the county to hold the dog until noon on Thursday (72 hours); the current law requires the county to hold the dog until closing on Friday (which is 4 business days following impoundment). Under the current law, the holding period was

increased by 1 day and 5 hours (or 29 hours). However, for the dog impounded at noon on Friday, the “old” law requires the county to hold the dog until noon on Monday (72 hours); and the current law requires the county to hold the dog until closing on Friday (which is 4 business days following impoundment). Under the current law, the holding period was increased by 4 days and 5 hours (or 101 hours).

Initially, we applied costs per animal per day to the eligible number of dogs and cats impounded at the county’s shelter for the two additional days required by the mandated program. We also applied costs per animal per day to the eligible number of other animals for all five days of the required holding period.

*Increased Holding Period*

A recent Appellate Court ruling in the case of *Purifoy et al. v. Howell* determined that Saturday is *not* considered a business day for the purposes of the mandated program. Therefore, we determined that the increased holding period changed from two days to three days for dogs and cats and the increased holding period increased from five days to six days for other animals.

*Cost Per Animal per Day*

The actual cost formula requires the eligible annual cost of care to be divided by the yearly census to arrive at an average cost per animal per day. The cost per animal per day is then multiplied by the eligible number of animals and the number of increased holding period days. We used the audited annual expenditures and animal census information to calculate the allowable cost per animal per day. We concluded that the county overstated the cost per animal per day in each fiscal period.

The following table summarizes the claimed and allowable cost per animal per day amounts for dogs and cats and other animals by fiscal year:

Fiscal Year	Claimed Costs		Allowable Costs	
	Cats and Dogs	Other Animals	Cats and Dogs	Other Animals
2001-02	\$ 7.495	\$ 6.862	\$ 5.327	\$ 5.325
2002-03	7.830	7.830	4.629	4.628
2004-05	12.199	15.235	4.844	4.840
2005-06	14.430	18.021	3.786	3.784

**Analysis of Allowable Costs by Fiscal Year**

Fiscal Year 2001-02

The county claimed \$129,002 for the care and maintenance of dogs and cats; we determined that \$71,020 is allowable. The county claimed \$11,528 for other animals; we determined that \$2,141 is allowable. The adjustments occurred for the reasons stated below.

- The county included \$743,656 for salaries and benefits in the actual cost formula. This calculation included 18% of salary and benefit costs incurred for an Account Clerk III, 25% for one Supervising ACO, 35% for Administrative Services Officer I and III, the Director of Animal Care and Regulation, and the Executive Secretary, and 100% for a Senior ACO and 11 ACAs. Based on the analysis of allowable pro-rata percentages described previously, we determined allowable salaries and benefits to be \$259,840. The related allowable indirect costs totaled \$224,242.
- The county included \$195,606 for materials and supplies in its actual cost formula. The county had incorrectly included costs for drugs/pharmacy supplies and medical services under this component. Also, the amounts used for custodial supplies and other operating expenses were already included in the county's indirect cost pool. Subsequently, the county requested that we re-allocate these costs as direct costs and remove them from the indirect cost pool. During audit fieldwork, the county revised the materials and supplies amount downward to \$44,595. We continued working with animal shelter management and ultimately determined that allowable materials and supplies costs totaled \$81,206.
- The county understated the allowable number of days in its care and maintenance formula for other animals. While the required holding period for these animals is five days, costs were calculated using four days. As noted previously, the county overstated the number of dogs, cats, and other animals that are eligible for reimbursement.

#### Fiscal Year 2002-03

The county claimed \$96,293 for the care and maintenance of dogs and cats; we determined that \$61,714 is allowable. The county claimed \$8,456 for the care and maintenance of other animals; we determined that \$1,860 is allowable. The adjustments occurred for the reasons stated below.

- The county included \$778,133 for salaries and benefits in the actual cost formula. This calculation included 18% of salaries and benefits for an Account Clerk III, 25% for two Supervising ACO's, 35% for Administrative Services Officers I and III, the Director of Animal Care and Regulation, and the Executive Secretary, 50% for two Senior ACOs, and 100% for twelve ACAs. Based on the analysis of pro-rata percentages described previously, we determined allowable salaries and benefits to be \$240,359. The related allowable indirect costs totaled 197,815.
- The county included \$133,510 for materials and supplies in the actual cost formula. However, the county incorrectly included amounts for drugs/pharmacy supplies and medical services. The county subsequently revised the amount downward to \$78,264. We continued working with animal shelter management and ultimately determined that allowable materials and supplies costs totaled \$53,058.

- The county understated the allowable number of days for care and maintenance of other animals. While the required holding period for these animals is five days, costs were calculated using four days. As noted previously, the county overstated the number of dogs, cats, and other animals that are eligible for reimbursement.

#### Fiscal Year 2004-05

The county claimed \$188,872 for care and maintenance of dogs and cats; we determined that \$64,580 is allowable. The county claimed \$22,853 for care and maintenance of other animals; we determined that \$1,946 is allowable. The adjustments occurred for the reasons stated below.

- The county included \$502,019 for salaries and benefits in its actual cost formula. The county claimed 100% of salaries and benefits for one Office Assistant II, two ACOs, and eight ACAs. Based on the analysis of pro-rata percentages described previously, we determined allowable salaries and benefits to be \$290,864. The related allowable indirect costs totaled \$161,720.
- The county included \$275,201 for materials and supplies in its actual cost formula. However, the county incorrectly included amounts for drugs/pharmacy supplies and medical services. The county subsequently revised the amount downward to \$22,938. We continued working with animal shelter management and ultimately determined that allowable materials and supplies costs totaled \$61,489.
- The county understated the allowable number of days for care and maintenance of other animals. While the required holding period for these animals is five days, costs were calculated using four days. As noted previously, the county overstated the number of dogs, cats, and other animals that are eligible for reimbursement.

#### Fiscal Year 2005-06

The county claimed \$154,516 for the care and maintenance of dogs and cats; we determined that \$54,201 is allowable. The county claimed \$7,497 for other animals; we determined that \$2,361 is allowable. The adjustments occurred for the reasons stated below.

- The county included \$502,019 for salaries and benefits in its actual cost formula. The county claimed 100% of salaries and benefits for two Senior ACOs, a Supervising ACO, and seven ACAs. Based on the analysis of pro-rata percentages described previously, we determined allowable salaries and benefits to be \$256,571. The related allowable indirect costs totaled \$144,936.
- The county included \$245,097 for materials and supplies in its actual cost formula. However, the county incorrectly included amounts for drugs/pharmacy supplies and medical services. The county subsequently revised the amount downward to \$14,007. We continued working with animal shelter management and ultimately determined that allowable materials and supplies costs totaled \$35,713.

- The county understated the allowable number of days for care and maintenance of other animals. While the required holding period for these animals is five days, costs were calculated using four days. As noted previously, the county overstated the number of dogs and cats that are eligible for reimbursement.

#### Fiscal Year 2006-07

The county claimed \$179,275 for the care and maintenance of dogs and cats; we determined that \$57,356 is allowable. The county claimed \$7,384 for other animals; we determined that \$808 is allowable. The adjustments occurred for the reasons stated below.

- The county included \$636,336 for salaries and benefits in its actual cost formula. The county claimed 100% of salaries and benefits for one Office Assistant II, two Senior ACOs, one Supervising ACO, and six ACAs. Based on the analysis of pro-rata percentages described previously, we determined allowable salaries and benefits to be \$256,571. The related allowable indirect costs totaled \$147,305.
- The county included \$195,951 for materials and supplies in its actual cost formula. However, the county incorrectly included amounts for drugs/pharmacy supplies, medical services, and medical supplies. Subsequently, the county revised the amount downward to \$56,671. We continued working with animal shelter management and ultimately determined that allowable materials and supplies costs totaled \$54,003.
- The county underclaimed the allowable number of days for care and maintenance of other animals. While the required holding period for these animals is five days, costs were calculated using four days. As noted previously, the county overstated the number of dogs, cats, and other animals that are eligible for reimbursement.

#### Recommendation

We recommend that the county ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

#### County's Response

Finding 3. The retroactive application of a purported change in law the State Controller's Office is improper.

During the pendency of the instant audit, a decision came down from the First District Court of Appeal in the matter of *Purifoy v. Howell* (2010)183 Cal.App.4<sup>th</sup> 166. At issue before the court was the definition of a business day for purposes of the animal holding period under the Hayden Bill. This holding period forms the basis for reimbursable activities under the Animal Adoption mandate. The Commission on State Mandates was silent as to the definition of business day. The court held that although the Hayden Bill requires animal shelters to hold animals longer or be open for business on a weekday evening or Saturday, Saturday is not a business day for the purposes of calculating how long to hold an animal before it can be released for adoption or disposal. While the decision, published on March 26, 2010, is likely

applicable to all future claims, the State Controller's Office (SCO) in seeking to apply the court's holding to audits overlooks whether such application is proper. The County argues that it is not.

First, the SCO is jumping the gun. *Purifoy* is not a decision of the Commission nor is it a decision to which the Commission was a party. There has been no change to the Commission's Statement of Decision or Parameters and Guidelines (Ps & Gs) in the Animal Adoption mandate nor has there been any proposed amendment to the Ps & Gs or request for a new test claim decision, under the new test claim process. Thus, the effect of this decision on the Ps & Gs has not been addressed by the Commission and until that is the case, the 2006 Ps & Gs remain in full force and effect. Moreover, were such a request brought before the Commission and the decision found applicable, the effective date of any change to the Ps and Gs or Statement of Decision would be the filing date of the request which would, in any case, not be retroactive back to 1998 as the SCO is now attempting.

Second, neither the Commission nor the courts would support retroactivity of *Purifoy*. In 1989, the California Supreme Court set forth the rule for retroactive application of judicial decisions in *Newman v. Emerson Radio Corp.* (1989) 48 Cal.3d 973, 978, which states: "The general rule that judicial decisions are given retroactive effect is basic in our legal tradition." The Court explains that the historic rationale for retroactivity lies in "the idea adhered to by Blackstone that 'judges do not 'create,' but instead 'find' the law. A decision interpreting the law, therefore, does not more than declare what the law had always been."

This rule, however, has exceptions which favor prospective application and which reflect considerations of "fairness", "Public policy"<sup>1</sup>, and "hardship"<sup>2</sup> to the parties. As the Court defined a few years later:

Several factors are relevant in determining whether an exception to the general rule of retroactivity is warranted, including: "the reasonableness of the parties' reliance on the former rule, the nature of the change as substantive or procedural, retroactivity's effect on the administration of justice, and the purposes to be served by the new rule."<sup>3</sup> (Citations omitted.)

The SCO appears to have relied upon the general rule that *Purifoy* should be applied retroactively to the audit. The County argues it falls within the state exceptions.

The parties' reliance on the old rule was reasonable: The purpose of the Hayden Bill was, in part, to ensure that shelters were open for business outside of normal working hours to allow owners to retrieve their pets. To that end, the Bill required shelters to remain open either later on a weekday or on Saturday. Thus as the shelter was open to transact business, it was reasonable to assume Saturday was a business day. Local governments filed claims for reimbursement based upon this reliance. The Commission on State Mandates saw no issue with the term "business day", the trial court found Saturday was a business day and SCO had presumed as much when beginning its audits. Moreover, trying to recreate what would have happened years ago if the current law had been in existence during the time the claim was filed will cause undue hardship on the claimants who relied upon the old rule for calculating the date upon which an animal could be euthanized. Reliance on the old rule and the unforeseeability of change support prospective application.

The change is procedural: This new rule changes the manner in which shelters will do business by altering holding periods. Generally, substantive changes are applied retroactively while procedural changes are applied prospectively. This is due in part because procedural changes can determine the rights of the parties, especially in setting a statute of limitations.<sup>4</sup> Although the change is substantive on its face, in this case, the retroactive application of the law will affect the rights of claimants as reimbursement can only be had for those animals euthanized after the holding period. Extending the holding period years later means that reimbursement will be unavailable to claimants complying with the law as it was understood at the time. Ensuring recovery to claimants in procedural compliance with a mandate program supports prospective application.

Retroactive application will produce unjust results: Judicial decisions are routinely applied retroactively so as to resolve pending cases where the parties are similarly situated and all unfiled cases. In this instance, however, the decision is being applied retroactively to audits of claims which may date back over a decade. The new rule will not be dispositive as to all claimants and will ensure unequal application of the rule to only those who are being audited. The administration of justice in a consistent manner supports prospective application.

The new rule will extend holding periods: The purpose of the new rule set forth in *Purifoy* is to clarify statutory provisions to ensure that the spirit of the Hayden Bill, adequate time for owner retrieval of pets, is promoted. This objective is not compromised by prospective application of the new rule.<sup>5</sup> The retroactive application will not increase the holding period for animals long ago retrieved.

Although the general rule is a judicial decision is given retroactive effect, the weighting of relevant factors balances in favor of an exception to the general rule and supports a prospective application of the *Purifoy* decision.

Were the above-stated analysis not enough to support the County's position, the Legislature has recently concurred through the enactment of AB 222 which provides the following addition to Food and Agriculture Code section 31108:

(d) As used in this division, a "business day" includes any day that a public or private shelter is open to the public for at least four hours, excluding state holidays.

Although it may be argued that this addition arose from circumstances other than as a response to the faulty interpretation of "business day" in *Purifoy*, the facts demonstrate that that cannot be the case.

In 2009, the Legislature failed to fund the Animal Adoption mandate thus suspending the program as a matter of law pursuant to Government Code section 17581. Then the Legislature enacted AB 12 of the 4<sup>th</sup> extraordinary session, to ensure that local agencies hold dogs and cats for 72 hours which was the law prior to the Hayden Bill. As a result, the requirement of the Hayden Bill that animals be held longer than 72 hours is no longer the law of the land. For what reason would the Legislature alter statutory language that is no longer enforceable than to correct a misinterpretation of a court? The County points to the only reasonable conclusion: The Legislature stepped in to correct the current retroactive application of *Purifoy* to audits.

The County submits that the above-stated argument provides sufficient reason for the SCO to reverse itself as to the retroactive application of the *Purifoy* case to the instant audit. Therefore, the County requests that the SCO considers the above and, in response, reimburses any and all attendant costs.

<sup>1</sup> *Id.* At p. 983-984

<sup>2</sup> *Moradi-Shalal v. Fireman's Fund Ins. Companies* (1988) 46 Cal.3d 287, 305, [250 Cal.Rptr. 116].

<sup>3</sup> *Camper v. Workers' Comp. Appeals Bd.* (1992) 3 Cal.4<sup>th</sup> 679, 688, [12 Cal.Rptr. 101]. See also, *Gentis v. Safeguard Business Systems, Inc.* (1998) 60 Cal.App.4<sup>th</sup> 1294, [71 Cal.Rptr.2d 122], *Rose v. Hudson* (2007) 153 Cal.App.4<sup>th</sup> 641, [63 Cal.Rptr.3d 248].

<sup>4</sup> *Id.* At 689. See also, *Woods v. Young* (1991) 53 Cal.3d 315 [279 Cal.Rptr. 613].

<sup>5</sup> *Woods v. Young* (1991) 53 Cal.3d 315, 331.

### SCO's Comment

The findings and recommendation remain unchanged.

The county disagrees with our retroactive application of the Appellate Court decision in the case of *Purifoy et al. v. Howell*. In that case, Saturday was determined *not* to be a business day for the purposes of determining the required holding period for dogs. For the purposes of our audit, this affected only the allowable cost calculations for unallowable care and maintenance costs (Finding 3). The county also contends that enactment of Assembly Bill (AB) 222 (Saturday business day issue) and AB 12 of the 4<sup>th</sup> extraordinary session (suspension of the mandated program issue) support its position. We will address our comments in the same order that they were presented by the county.

### **Appellate Court Decision in *Purifoy et al. v. Howell***

The county's response cited the following reasons why the SCO should not apply the court's decision retroactively:

- The Commission on State Mandates (CSM) was not a party to the decision and there has been no change to the CSM's statement of decision or parameters and guidelines.
- While retroactive application of judicial decisions is the general rule, prospective application is warranted in this instance because the nature of the decision qualifies as an exception to the general rule.
- Claimants' assumption that Saturday was to be treated as a business day was reasonable in light of the requirements of the Hayden Bill.
- The court decision provides for a procedural change in law rather than a substantive change and procedural changes are applied prospectively.

- Retroactive application is unjust because it will only be applied to claims audited by the SCO.
- Retroactive application will not increase the holding period for animals long ago retrieved.

We believe that the court decision clarified the legal definition of a business day for the required holding period as of the date that the applicable statute was enacted in 1998.

A considerable amount of public record is related to this mandated program, including, but not limited to, the initial test claim, statement of decision, adopted parameters and guidelines, CSM draft staff analyses, and comments made by various local agencies and other interested parties. These documents did not define what specific days of the week were considered to be business days.

Therefore, we followed the decision of the Appellate Court that opined that Saturday is *not* to be treated as a business day for the purposes of determining the required holding period.

The county is correct in stating that the CSM was not a party to the *Purifoy et al. v. Howell* court case nor has there been a change to the CSM's adopted statement of decision or the parameters and guidelines. However, a proposed amendment to the statement of decision or the parameters and guidelines would not be warranted in this instance. The court decision did not make changes to the test claim statutes on which the mandated program is based. The court case clarified what the statutes mean. Therefore, the clarification would apply to all of the county's Animal Adoption claims within the audit period.

We acknowledge that most animal shelters were operating under the assumption that they could count Saturday as a business day to calculate the holding period of an animal. However, the court's decision declared that this assumption was incorrect. The court's opinion stated in part:

In short, if the Legislature, having provided an incentive for shelters to remain open on weekend days, had also intended to permit shelters to count Saturdays as "business days" (thus further shortening the total number of calendar days in the holding period), we would expect a clearer expression of such an intention in the statute. More broadly, a construction of "business days" that includes Saturdays would both (1) shorten the holding period, and (2) reduce the opportunities for redemption and adoption. It thus would fail to achieve the dual purposes reflected in the legislative findings.

Accordingly, in the absence of a clear expression of legislative intent to treat Saturdays as "business days," and in light of our obligation to choose a construction that most closely comports with the Legislature's intent and promotes, rather than defeats, the statute's general purposes (see *Smith, supra*, 39 Cal.4th at p. 83; *California Highway Patrol, supra*, 135 Cal.App.4th at pp. 496-497), we conclude that "business days" in section 31108(a) means Monday through Friday, the meaning most commonly used in ordinary discourse.

The county also states that retroactive application is unjust because it will only be applied to claims audited by the SCO. However, we are not precluded from taking audit findings in those claims that are audited just because we do not audit all claims filed under the mandated program.

### AB 222

AB 222 (Chapter 97, Statutes of 2011) was enacted on July 25, 2011, and takes effect January 1, 2012. This bill states that a “business day” includes any day that a public or private animal shelter is open to the public for at least four hours, excluding state holidays.

We believe that the legislature acknowledged the Appellate Court’s interpretation of Food and Agriculture Code section 31108, subdivision (a), and made the necessary changes in AB 222 to provide ongoing clarity for animal shelters statewide.

### AB 12, 4<sup>th</sup> Extraordinary Session

This bill was enacted on July 28, 2009, as an urgency measure and took effect immediately as of that date. We believe that the Legislature adopted this bill to clarify the applicable holding period for animals in light of the suspension of the Animal Adoption mandate. As the bill was enacted on July 28, 2009, we believe that it impacts only Animal Adoption Program claims for FY 2009-10 and beyond. Therefore, this bill does not apply to any of the years included in our audit period.

### Effect on Claimed Costs

The county’s comments are based on an assumption that allowable costs decreased because we determined that Saturday was *not* to be treated as a business day at any time during the audit period. We performed an alternate analysis to determine the effect on the county’s allowable costs for care and maintenance, had we considered Saturday as a business day. The results of this analysis revealed that allowable costs would decrease by \$75,377 for the audit period if we included Saturday as a business day.

For the purposes of this revised calculation, we reinstated all animals that were euthanized on day 6 of the holding period as “eligible animals” and reduced the number of reimbursable days from 6 days to 5 days for “other animals” and from 3 days to 2 days for dogs and cats.

The following table summarizes the differences in allowable costs by fiscal year:

	Fiscal Year					Total
	2001-02	2002-03	2004-05	2005-06	2006-07	
Revised allowable costs	\$ 55,832	\$ 48,516	\$ 50,768	\$ 43,478	\$ 44,016	\$ 242,610
Allowable costs per draft	(73,161)	(63,574)	(66,526)	(56,562)	(58,164)	(317,987)
Difference	<u>\$ (17,329)</u>	<u>\$ (15,058)</u>	<u>\$ (15,758)</u>	<u>\$ (13,084)</u>	<u>\$ (14,148)</u>	<u>\$ (75,377)</u>

The primary reason that allowable costs would go down is because the county's animal shelter did not typically euthanize animals on day 6 of the required holding period. This means that the loss of one additional reimbursable day for the remaining population of animals outweighed the reinstatement of the animals euthanized on day 6 of the holding period as "eligible animals."

**FINDING 4—  
Misstated increased  
holding period costs**

The county claimed salaries and benefits totaling \$699,793 for the Holding Period cost component during the audit period. We determined that \$371,761 is allowable and the net amount of \$328,032 is unallowable (understated by \$82,971 and overstated by \$411,003). The misstated costs occurred because the county understated allowable hours and the number of allowable employee positions for FY 2001-02, and overstated allowable hours and the number of allowable employee positions for FY 2002-03 and FY 2004-05 through FY 2006-07.

The following table summarizes the claimed, allowable, and unallowable holding period costs for salaries and benefits for the audit period by fiscal year:

Fiscal Year	Amount Claimed	Amount Allowable	Audit Adjustment
2001-02	\$ 4,506	\$ 87,477	\$ 82,971
2002-03	231,414	93,494	(137,920)
2004-05	151,686	65,300	(86,386)
2005-06	159,512	67,130	(92,382)
2006-07	152,675	58,360	(94,315)
Total	\$ 699,793	\$ 371,761	\$ (328,032)

The parameters and guidelines (section IV.B.5—Using the Holding Period of Four Business Days After the Day of Impoundment) state that the following activities are reimbursable beginning January 1, 1999, for impounded animals specified in Food and Agriculture Code section 31753 (“other animals”), and beginning July 1, 1999, for impounded dogs and cats for either:

1. Making the animal available for owner redemption on one weekday evening until at least 7:00 p.m., or one weekend day; or
2. For those local agencies with fewer than three full time employees or that are not open during all regular weekday business hours, establishing a procedure to enable owner to reclaim their animals by appointment at a mutually agreeable time when the agency would otherwise be closed.

### **Hours of Operation**

The county provided documentation identifying the hours of operation for its animal shelter. During the audit period, the shelter was open Tuesday through Friday from 8 a.m. to 5 p.m., except on Wednesdays, when the shelter was open until 7 p.m. On Saturdays, the shelter was open from 8 a.m. to 4:30 p.m. The shelter meets the requirements of the mandate by making animals available for owner redemption or adoption on the weekend day.

#### *Misstated Allowable Hours and Employee Positions*

The county claimed hours for Animal Care Technicians, Animal Control Officers, ACO Supervisors, a Senior ACO, Office Assistant IIs, Senior Office Assistants, and a Clerical Supervisor for working on weekend days. The county, however, did not take into account the difference between the regular staffing needs and the increased staffing needs to

comply with the requirement of this component. As a result, the county overstated the number of eligible employee positions and did not properly calculate the number of reimbursable hours per each position.

### Staffing Requirements

We inquired about the number of employees and classifications of staff working when the shelter is closed to the public (Mondays) and the staffing needed when the shelter is open on Saturdays. Based on information obtained from shelter management, we determined the employee classifications and the number of employees on duty to make animals available for owner redemption.

We acknowledged that additional shelter employees were on duty when the shelter was open on Saturdays. However, these additional employees performed reimbursable activities that are already included in other cost components of the county's claims (care and maintenance, feral cats, lost and found lists, non-medical records, and necessary and prompt veterinary care).

The following table shows the claimed and the allowable employee classifications determined to be the "increased" positions necessary to comply with making the animals available for owner redemption. In addition, the table summarizes the total hours claimed and the allowable hours:

Position/Hours	Fiscal Year					Totals
	2001-02	2002-03	2004-05	2005-06	2006-07	
Claimed positions:						
Office Assistant II	2	5	6	6	6	
Senior Office Assistant	1	-	1	1	1	
Clerical Supervisor	-	1	-	-	-	
Animal Control Officer	1	6	1	1	-	
Senior Animal Control Officer	-	1	-	-	-	
Supervising Animal Control Officer	-	1	-	-	-	
Animal Care Attendant	-	-	7	7	8	
Claimed hours	<u>128</u>	<u>5,824</u>	<u>6,240</u>	<u>6,240</u>	<u>3,744</u>	<u>22,176</u>
Allowable positions:						
Office Assistant II	7	7	4	4	3	
Senior Office Assistant	1	1	1	1	1	
Animal Control Officer	1	1	-	-	-	
Animal Care Attendant	-	-	1	1	1	
Allowable hours	<u>3,978</u>	<u>3,978</u>	<u>2,652</u>	<u>2,652</u>	<u>2,210</u>	<u>15,470</u>

### Recommendation

We recommend that the county ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

### County's Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

**FINDING 5—  
Overstated feral cat  
costs**

The county claimed salaries and benefits totaling \$59,294 during the audit period under this cost component. We determined that \$19,442 is allowable and the net amount of \$39,852 is unallowable (understated by \$3,738, and overstated by \$43,590). Costs are unallowable because the county misstated the number of cats that received a feral test during the audit period.

The following table summarizes the claimed, allowable, and unallowable salaries and benefits for the audit period by fiscal year:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Amount Allowable</u>	<u>Audit Adjustment</u>
2001-02	\$ 97	\$ 3,835	\$ 3,738
2002-03	21,809	3,875	(17,934)
2004-05	14,104	3,620	(10,484)
2005-06	11,246	3,854	(7,392)
2006-07	12,038	4,258	(7,780)
<b>Total</b>	<b>\$ 59,294</b>	<b>\$ 19,442</b>	<b>\$ (39,852)</b>

The county understated the number of cats that received a feral cat tests in FY 2001-02, FY 2005-06, and FY 2006-07, and overstated the number of cats that received tests in FY 2002-03 and FY 2004-05. The county was able to provide the actual animal census information from its Chameleon tracking system for FY 2005-06 through FY 2006-07. For the earlier three years, when Chameleon statistics were not available, we were able to use the average data from animal statistics available for FY 2005-06 and FY 2006-07 as a substitute for the missing information.

The following table summarizes the allowable number of cats eligible under the feral cats cost component for the audit period by fiscal year:

<u>Fiscal Year</u>	<u>Claimed Cats</u>	<u>Audited</u>			<u>Audit Adjustment</u>
		<u>First Assessment</u>	<u>Second Assessment</u>	<u>Total Allowable</u>	
2001-02	73	7,134	995	8,129	8,056
2002-03	10,376	7,134	995	8,129	(2,247)
2004-05	10,131	7,134	995	8,129	(2,002)
2005-06	7,579	7,565	749	8,314	735
2006-07	7,643	6,702	1,240	7,942	299
<b>Total</b>	<b>35,802</b>	<b>35,669</b>	<b>4,974</b>	<b>40,643</b>	<b>4,841</b>

The county provided a copy of the animal shelter’s feral cat policy. The policy states that all cats are tested, regardless of the cat’s behavior. In the first assessment, the ACO observes the cat’s behavior. If the cat doesn’t react positively to stimulus (the stimulus involves the ACO talking to the cat and watching its reaction to see if it responds to human voice), then it is held as feral. The first initial assessment takes approximately one minute. The second assessment consists of the ACO pointing a pen inside the cage to observe the cat’s reaction. If the cat swats at the pen or moves away abruptly, then the cat is held as feral. The second assessment may occur at any time during the legal holding period during the cage-cleaning process. The second assessment occurs prior to euthanasia. The approximate assessment process per feral cat takes about three minutes.

The time claimed by the county for feral cat tests is estimated and unsupported. However, we concurred with the amount of time claimed by the county to perform these tests because it is reasonable and consistent with the amount of supported time spent by other claimants to perform feral cat tests.

The following table summarizes the allowable hours for the audit period by fiscal year:

Fiscal Year	Claimed			Audited						Audit Adjust-ment	
	A	No. of Cats	Hours Worked	B	No. of Cats	Hours Worked	C	Hours Worked	Hours Worked		Total Hours
2001-02	3	73	4	1	7,134	119	2	995	33	152	148
2002-03	3	10,376	519	1	7,134	119	2	995	33	152	(367)
2004-05	3	10,131	507	1	7,134	119	2	995	33	152	(355)
2005-06	3	7,579	379	1	7,565	126	2	749	25	151	(228)
2006-07	3	7,643	382	1	6,702	112	2	1,240	41	153	(229)
<b>Total</b>		<u>35,802</u>	<u>1,791</u>		<u>35,669</u>	<u>595</u>		<u>4,974</u>	<u>165</u>	<u>760</u>	<u>(1,031)</u>

A The county claimed three minutes per cat.

B The county's policy supports one minute for the first assessment.

C The county's policy supports two additional minutes for any subsequent assessments.

*Employee Job Duties*

The county stated that the first assessments were performed by an ACO for FY 2001-02 and FY 2002-03. For the remaining fiscal years, the county estimated that ACAs performed the feral cat tests 90% of the time. The remaining assessments were either performed by an ACA, Kennel Senior, or Kennel Supervisor. While the shelter manager stated that Kennel Seniors and/or Kennel Supervisors performed some of the subsequent tests, the county has not provided any evidence supporting an allocation percentage of time spent by various employee classifications.

The county claimed three minutes per feral cat test as performed by an ACO for all fiscal years of the audit period. The county provided job descriptions for the ACO and ACA employee classifications. Based on the description of activities performed, we determined that the ACO classification would not typically be involved in feral cat testing. However, the job description for an ACA includes the following:

Monitors all animals for signs of illness or unusual behavior; makes notation and reports problems regarding health and behavior of animals.

Therefore, we calculated allowable costs for feral cat testing only for the employee classification of ACA. However, the classification for an ACA was not created until FY 2004-05. Accordingly, allowable costs for FY 2001-02 and FY 2002-03 were based on an ACO performing the activity.

The program's parameters and guidelines (Section IV.B.6–Feral Cats) identify the following reimbursable activity:

Beginning January 1, 1999, for verifying whether a cat is feral or tame by using a standardized protocol within the first three days of the required holding period, if an apparently feral cat has not been reclaimed by its owner or caretaker.

Recommendation

We recommend that the county ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

County's Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

**FINDING 6—  
Understated lost-and-found lists costs**

The county claimed salaries and benefits totaling \$3,119 during the audit period under the Lost-and-Found Lists component. We determined that \$11,481 is allowable; the county understated costs totaling \$8,362.

The following table summarizes the claimed, allowable, and audit adjustment amounts for salaries and benefits for the Lost-and-Found Lists cost component by fiscal year:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Amount Allowable</u>	<u>Audit Adjustment</u>
2001-02	\$ 470	\$ 2,100	\$ 1,630
2002-03	745	2,167	1,422
2004-05	607	2,290	1,683
2005-06	633	2,400	1,767
2006-07	664	2,524	1,860
	<u>\$ 3,119</u>	<u>\$ 11,481</u>	<u>\$ 8,362</u>

**Time Study**

The county conducted a three week time study from October 23, 2008, to November 13, 2008, to determine the amount of time that an Office Assistant II and ACO spent performing Lost-and-Found lists activities. The time study focused on the time it takes to update the lost and found list for the public.

The time study determined that shelter employees spent a total of 95 hours a year to perform mandated activities of the Lost-and-Found Lists component, as noted in the table below. These hours were applied to one employee per classification per year to determine allowable costs.

Office Assistant II	79
Animal Control Officer	<u>16</u>
Total allowable hours per year	<u>95</u>

The following table summarizes the claimed and allowable hours based on the results of the time study:

	<u>Fiscal Year</u>					<u>Totals</u>
	<u>2001-02</u>	<u>2002-03</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>	
Claimed hours	22	22	26	26	26	122
Allowable hours	<u>95</u>	<u>95</u>	<u>95</u>	<u>95</u>	<u>95</u>	<u>475</u>
Audit adjustment	<u>73</u>	<u>73</u>	<u>69</u>	<u>69</u>	<u>69</u>	<u>353</u>

The program’s parameters and guidelines allow reimbursement, beginning January 1, 1999, for providing owners of lost animals and those who find lost animals with all of the following:

1. Ability to list the animals they have lost or found on “lost-and-found” lists maintained by the local agency;
2. Referrals to animals listed that may be the animals the owner or finders have lost or found;

3. The telephone numbers and addresses of other pounds and shelters in the same vicinity;
4. Advice as to means of publishing and disseminating information regarding lost animals; and
5. The telephone numbers and addresses of volunteer groups that may be of assistance in locating lost animals.

Recommendation

We recommend that the county ensure that claimed costs include only eligible costs that are supported by source documentation and are properly calculated.

County's Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

**FINDING 7—  
Misstated non-  
medical records costs**

The county claimed \$368,167 during the audit period for the costs to maintain non-medical animal records. We determined that \$181,306 is allowable and the net amount of \$186,861 is unallowable (understated by \$60,881 and overstated by \$247,742).

The following tables summarize the claimed, allowable, and unallowable costs for salaries and benefits, materials and supplies, and contract services for the Non-Medical Records cost component by fiscal year:

Salaries and Benefits			
Fiscal Year	Claimed Amount	Audited Amount	Audit Adjustment
2001-02	\$ 3,033	\$ 26,507	\$ 23,474
2002-03	152,291	27,279	(125,012)
2004-05	81,787	28,244	(53,543)
2005-06	64,645	29,630	(35,015)
2006-07	66,411	32,239	(34,172)
Total	<u>\$ 368,167</u>	<u>\$ 143,899</u>	<u>\$ (224,268)</u>

Materials and Supplies				
Fiscal Year	Amount Claimed	Supported Costs	Pro-Rata Percentage	Allowable Costs
2004-05	<u>\$ -</u>	<u>\$ 24,916</u>	75%	<u>\$ 18,687</u>

Contract Services					
Fiscal Year	Amount Claimed	Supported Costs	Pro-rata Percentage	Allowable Costs	Audit Adjustment
2006-07	<u>\$ -</u>	<u>\$ 24,960</u>	75%	<u>\$ 18,720</u>	<u>\$ 18,720</u>

The following table summarizes the combined claimed, allowable, and unallowable costs for the Non-Medical Records cost component for the audit period by fiscal year.

Fiscal Year	Claimed Amount	Audited Amount	Audit Adjustment
2001-02	\$ 3,033	\$ 26,507	\$ 23,474
2002-03	152,291	27,279	(125,012)
2004-05	81,787	46,931	(34,856)
2005-06	64,645	29,630	(35,015)
2006-07	66,411	50,959	(15,452)
Total	<u>\$ 368,167</u>	<u>\$ 181,306</u>	<u>\$ (186,861)</u>

### Time Study

The county performed a time-study for this cost component over the one-month period of November 16, 2007, through December 15, 2007. The county studied the time required to process records for incoming animals and the final disposition of animals. These activities were performed by various employee classifications. The county's time study results showed that 2.14 minutes were spent processing incoming animal records and 2.06 minutes were spent processing records for the final disposition of animals.

### Number of Animal Records Processed

We applied the time study results to the number of animal records processed. The county was able to provide data from its Chameleon database system for FY 2005-06 and FY 2006-07. The county was unable to provide animal statistics data for FY 2001-02 through FY 2004-05. However, we acknowledged that non-medical records were maintained for animals during those years as well. Accordingly, we obtained and used an average number of animal records processed during the last two years of the audit period as a substitute for the number of animal records processed for the earlier three years.

The following table summarizes the claimed, allowable and understated records for the audit period by fiscal year:

Fiscal Year	Number of Non-Medical Records		
	Records Claimed	Records Allowable	Audit Adjustment
2001-02	765	16,474 *	15,709
2002-03	23,276	16,474 *	(6,802)
2004-05	18,996	16,474 *	(2,522)
2005-06	14,284	16,346	2,062
2006-07	13,835	16,601	2,766
Total	71,156	82,369	11,213

\* Average of last two years

### Employee Classifications

For FY 2001-02, the county estimated that ACOs and Office Assistant IIs both spent five minutes per non-medical record. For FY 2002-03 through FY 2006-07, the county estimated that Office Assistant IIs spent eight minutes per record and Animal Control Officers spent three minutes per record. The county's time study identified the involvement of various employee classifications for the processing of animal records.

The following table identifies the involvement level of employee classifications to process non-medical records based on the time study that the county conducted:

Employee Classification	Percentage Involvement	
	Incoming Records	Outgoing Records
Office Assistant II	49.02%	51.50%
Animal Control Officer	3.20%	3.89%
Animal Care Attendant	47.78%	21.56%
Senior Animal Control Officer	-	19.76%
Supervising Animal Control Officer	-	3.29%

To determine allowable salaries and benefits, we applied the results of the county's time study to the employee classifications that performed the activities. However, the employee classification of ACA did not yet exist in FY 2001-02 and FY 2002-03. We reallocated the ACAs' time from the time study proportionately to the remaining employee classifications claimed for these years.

#### **Materials and Supplies – Cost of SCRAMP license renewal**

For FY 2004-05, the county claimed license renewal fees for the SCRAMP system totaling \$12,480 (25% of \$24,916) under the cost component of Computer Software (see Finding 2). These costs were reclassified and the costs are analyzed in this component.

The county claimed a pro-rata percentage of the costs for the annual license renewal for its SCRAMP software system. The county determined that 25% of the system was used for mandated activities. We asked animal shelter management to make a determination as to the actual pro-rata percentage that the system was used for mandated activities. We accepted the county's proposal of 75% to determine allowable costs. We applied the applicable percentage of 75% and determined allowable costs to be \$18,687.

#### **Contract Services – Cost of Chameleon License Renewal**

For FY 2006-07, the county claimed costs for Chameleon system license renewal fees as contract services under the cost component of Computer Software (see Finding 2). These costs were reclassified and the costs are analyzed under this component.

The county claimed a pro-rata percentage of the costs for the annual license renewal for its Chameleon software system. The county determined that 25% of the system was used for mandated activities. We asked animal shelter management to make a determination as to the actual pro-rata percentage that the system was used for mandated activities. We accepted the county's proposal of 75% to determine allowable costs. We applied the applicable percentage of 75% and determined allowable costs to be \$18,720.

The parameters and guidelines (section IV.B.8–Maintaining Non-Medical Records) identify the following reimbursable activities:

Beginning January 1, 1999 – Maintaining non-medical records on animals that are either taken up, euthanized after the holding period, or impounded. Such records shall include the following:

- The date the animal was taken up, euthanized, or impounded;
- The circumstances under which the animal is taken up, euthanized, or impounded;
- The names of the personnel who took up, euthanized, or impounded the animal; and
- The final disposition of the animal, including the name of the person who euthanized the animal or the name and address of the adopting party.

The parameters and guidelines (section IV.B.8–Maintaining Non-Medical Records) identify the following reimbursable activity:

The cost of Software license renewal contracts, to the extent these costs are not claimed as an indirect cost under these parameters and guidelines, is eligible for reimbursement under Section V (A) (2) of the parameters and guidelines. If the computer software is utilized in some way that is not directly related to the maintenance of records specified in this section, only the pro rata portion of the software license renewal contract that is used for compliance with this section is reimbursable.

#### Recommendation

We recommend that the county establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

#### County's Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

**FINDING 8—  
Allowable necessary  
and prompt veterinary  
care costs**

The county did not claim any costs under the Necessary and Prompt Veterinary Care cost component. We determined that salaries and benefits totaling \$96,143 are allowable. The county claimed medical costs for materials and supplies under the Care and Maintenance cost component (see Finding 3). This is an incorrect application of costs under this component and the costs were unallowable as claimed. Allowable costs are based on a time study that the county conducted for the activities of providing an initial physical exam and administering wellness vaccines.

The following table summarizes the claimed, allowable, and unallowable salary and benefit costs for the Necessary and prompt Veterinary Care cost component for the audit period by fiscal year:

Fiscal Year	Salaries and Benefits		
	Amount Claimed	Amount Allowable	Audit Adjustment
2001-02	\$ -	\$ 18,543	\$ 18,543
2002-03	-	18,737	18,737
2004-05	-	18,650	18,650
2005-06	-	20,544	20,544
2006-07	-	19,669	19,669
Total	\$ -	\$ 96,143	\$ 96,143

During the course of the audit, the county submitted summarized results from a time study that it conducted for the activity of administering a wellness vaccine and advised us how many animals received the wellness vaccines. The time study was performed in July and August of 2009 (FY 2009-10); participating in the time study were the employee classifications of an ACO and an ACA. Based on the results of the time study, we determined that \$96,143 is allowable.

We inquired about materials and supplies costs incurred during the audit period for the cost of the wellness vaccines that were administered. The county provided invoices for vaccines and rabies vaccinations for costs that were incurred during FY 2008-09. The county has not yet provided any support for wellness vaccine costs that it incurred during the audit period. If the county is subsequently able to provide supporting documentation for these costs, we will revise the audit results accordingly.

The parameters and guidelines allow reimbursement, beginning January 1, 1999, for providing “necessary and prompt veterinary care” for stray and abandoned animals, other than injured cats and dogs given emergency treatment that die during the holding period or are ultimately euthanized during the holding periods specified in Statutes of 1998, Chapter 752.

Necessary and prompt veterinary care” means all reasonably necessary medical procedures performed by a veterinarian or someone under the supervision of a veterinarian to make stray or abandoned animals “adoptable.” The following veterinary procedures, if conducted, are eligible for reimbursement:

- An initial physical examination of the animal to determine the animal’s baseline health status and classification as “adoptable,” “treatable,” or “non-rehabilitatable.”
- A wellness vaccine administered to “treatable” or “adoptable” animals.
- Veterinary care to stabilize and or relieve the suffering of a “treatable” animal.
- Veterinary care intended to remedy any applicable disease, injury, or congenital or hereditary condition that adversely affects the health of a “treatable” animal or that is likely to adversely affect the animal’s health in the future, until the animal becomes “adoptable.”

Eligible claimants are *not* entitled to reimbursement for providing “necessary and prompt veterinary care” to the following population of animals:

- Animals that are irremediably suffering from a serious illness or severe injury. . . ;
- Newborn animals that need maternal care and have been impounded without their mothers. . . ;
- Animals too severely injured to move or when a veterinarian is not available and it would be more humane to dispose of the animal. . . ;
- Owner-relinquished animals; and
- Stray or abandoned animals that are ultimately redeemed, adopted, or released to a nonprofit animal rescue or adoption organization.

### Recommendation

We recommend that the county ensure that claimed costs include only eligible costs that are supported by source documentation and are properly calculated.

### County’s Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

**FINDING 9—  
Unsupported and  
unallowable procuring  
equipment costs**

The county claimed materials and supplies totaling \$282,417 for procuring equipment in FY 2001-02. The costs were for kennel and computer equipment. However, the county was unable to provide any documentation to support the costs claimed. Accordingly, the entire amount is unallowable.

The parameters and guidelines (section IV.B.10) identify the following reimbursable activity:

Beginning January 1, 1999 for procuring medical, kennel, and computer equipment necessary to comply with the reimbursable activities listed in Section IV (B) for the parameters and guidelines, to the extent these costs are not claimed as an indirect cost under Section V (B) of the parameters and guidelines. If the medical, kennel, and computer equipment is utilized in some way not directly related to the mandated program or the population of animals listed in Section IV (B), only the pro rata portion of the activity that is used for the purposes of the mandated program is reimbursable.

Recommendation

We recommend that the county ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

County's Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

**FINDING 10—  
Misstated indirect costs**

The county claimed \$441,283 for indirect costs during the audit period. We determined that \$446,891 is allowable and that costs were understated in the net amount of \$5,608 (overstated by \$289,381 and understated by \$294,989).

Indirect costs were overstated by \$217,748 as a result of the unallowable salaries and benefits identified in audit Findings 1, 4, 5, and 7. Indirect costs were also overstated by \$71,633 as a result of overstated indirect cost rates for FY 2001-02 and FY 2004-05. The county understated indirect costs totaling \$175,200 because it understated allowable salaries and benefits for FY 2001-02 and because allowable indirect costs totaling \$119,789 for FY 2002-03 were claimed as materials and supplies costs instead of indirect costs.

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

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Amount Allowable</u>	<u>Audit Adjustment</u>
2001-02	\$ 13,643	\$ 121,258	\$ 107,615
2002-03	-	119,789	119,789
2004-05	147,014	66,218	(80,796)
2005-06	138,292	69,897	(68,395)
2006-07	142,334	69,729	(72,605)
Total	<u>\$ 441,283</u>	<u>\$ 446,891</u>	<u>\$ 5,608</u>

**Understated Indirect Costs Related to Misstated Salaries and Benefits**

Indirect costs were understated by the net amount of \$64,869 during the audit period (overstated by \$217,748 and understated by \$282,617). Indirect costs were overstated as a result of the unallowable salaries and benefits identified in Findings 1, 4, 5, and 7 for FY 2004-05 through FY 2006-07. Indirect costs were understated as a result of the understated salaries and benefits costs identified in Findings 4 through 8.

The following table summarizes the audit adjustment by fiscal year:

Category	Fiscal Year					Audit Adjustment
	2001-02	2002-03	2004-05	2005-06	2006-07	
Salaries and benefits:						
Allowable	\$ 140,508	\$ 145,552	\$ 119,097	\$ 123,930	\$ 117,587	\$ 646,674
Claimed	(10,151)	-	(249,177)	(245,199)	(240,024)	(744,551)
Difference	130,357	145,552	(130,080)	(121,269)	(122,437)	<u>\$ (97,877)</u>
Indirect cost rate claimed	x 134.4%	x 73.8%	x 59.0%	x 56.4%	x 59.3%	
Audit adjustment	<u>\$ 175,200</u>	<u>\$ 107,417</u>	<u>\$ (76,747)</u>	<u>\$ (68,396)</u>	<u>\$ (72,605)</u>	<u>\$ 64,869</u>

**Indirect Costs Not Claimed**

We noted that the county’s claim for FY 2002-03 did not include an individual line item for indirect costs. Instead, all costs were claimed as materials and supplies costs, although indirect costs totaling \$172,509 were included in the materials and supplies costs claimed. We

determined that salaries and benefits totaling \$145,552 were allowable. The related allowable indirect costs, based on the claimed indirect cost rate of 73.8%, totaled \$107,417.

### Misstated Indirect Cost Rates

The county misstated its indirect cost rates for FY 2001-02, FY 2002-03, and FY 2004-05, resulting in misstated indirect costs in the net amount of \$59,261 (overstated by \$71,633 and understated by \$12,372).

The following table summarizes the audit adjustments by fiscal year:

Category	Fiscal Year			Total
	2001-02	2002-03	2004-05	
Rate allowable	86.3%	82.3%	55.6%	
Rate claimed	134.4%	73.8%	59.0%	
Difference	(48.1)%	8.5%	(3.4)%	
Allowable salaries and benefits	× \$140,508	× \$145,552	× \$119,097	
Audit adjustment	\$ (67,584)	\$ 12,372	\$ (4,049)	\$ (59,261)

For FY 2001-02, the county calculated an indirect cost rate of 134.4%. However, we determined that the rate should have been 86.3%. The difference occurred because the county included \$594,721 in the indirect cost column of its indirect cost rate proposal (ICRP) that was misclassified. The county's consultant identified indirect charges totaling \$234,013 that should have been classified as direct charges and an indirect charge of \$4,025 that should have been classified as unallowable. During the course of the audit, we identified salaries and benefits totaling \$266,270 classified as indirect for Office Assistant II positions that were included as direct costs for the Holding Period cost component. Accordingly, we reclassified these costs as direct in the county's ICRP. We also identified \$90,413 for Other Operating Expense that was classified as indirect. In an e-mail, the county stated that the amount should be classified as direct.

For FY 2002-03, the county calculated an indirect cost rate of 73.8%. However, we determined that the rate should have been 82.3%. The difference occurred because the county included \$192,134 paid for overtime and part-time wages in its direct cost base for salaries and benefits. We removed this amount from the direct cost base and recalculated the indirect cost rate.

For FY 2004-05, the county calculated an indirect cost rate of 59.0%. However, we determined that the rate should have been 55.6%. The difference occurred because charges totaling \$81,303 for food, other operating expenses, and laundry were classified as indirect when they should have been classified as direct charges. The county confirmed that these charges should have been classified as direct in its ICRP.

The parameters and guidelines (section V.B.—Indirect Costs) state that:

Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) pursuant to the Office of Management and Budget (OMB) Circular A-87.

#### Recommendation

We recommend that the county ensure that indirect cost amounts are properly classified within its Indirect Cost Rate Proposals.

#### County's Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

**FINDING 11—  
Overstated offsetting  
savings/reimbursements**

The county reported offsetting savings/reimbursement totaling \$192,295 on its mandated cost claims for FY 2004-05, FY 2005-06, and FY 2006-07. For FY 2002-03, the county’s claim included \$63,802 of offsetting reimbursements that were incorrectly subtracted from costs incurred under various cost components. We determined that the county should have offset \$62,397 on its mandated cost claims for the audit period, and that offsets were overstated by \$193,700. The difference occurred because \$107,421 was offset for contracting cities’ claims that were not filed with the State under the Animal Adoption Program, and because \$86,279 was offset for overstated costs in the Animal Adoption Program claims that were filed by the contracting cities.

The following table summarizes audit adjustments for offsetting revenues by fiscal year:

Fiscal Year	Amount Offset	Amount That Should Have Been Offset	Audit Adjustment
Offsetting savings/reimbursements			
2002-03	\$ (63,802)	\$ -	\$ 63,802
2004-05	(91,278)	(18,767)	72,511
2005-06	(55,132)	(24,945)	30,187
2006-07	(45,885)	(18,685)	27,200
Totals	<u>\$ (256,097)</u>	<u>\$ (62,397)</u>	<u>\$ 193,700</u>

The parameters and guidelines (section VII–Offsetting Savings and Other Reimbursements) state the following:

Any offsetting savings that the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. Additionally, reimbursement for this mandate received from any source shall be identified and deducted from this claim.

During the audit period, the county offset \$256,097 on its Animal Adoption claims; this amount accounts for the proportionate share of mandated costs claimed for the following six contracting cities:

- Citrus Heights
- Elk Grove
- Folsom
- Rancho Cordova
- Galt
- Isleton

To calculate the offset amounts, the county allocated the amount that it incurred for each reimbursable component of the mandated program by the percentage of animals from each city that were present in the overall population of animals impounded at the county’s animal shelter. While the county’s methodology to offset these costs is reasonable, the amount was initially overstated by \$107,421.

For FY 2002-03, the county included offsetting savings/reimbursements totaling \$63,802 in its claim. For that year, the county incorrectly claimed expenditures incurred net of offsetting revenues received instead of reporting total expenditures incurred on line 8 of claim form AA-1 followed by Other Reimbursements on line 10. However, none of the cities contracting with the county for animal control services that year filed a mandated cost claim with the State under the Animal Adoption Program. Accordingly, our audit results did not take any offsetting savings/reimbursements into account for that year. For FY 2004-05, the cities of Folsom, Galt, and Rancho Cordova did not file an Animal Adoption claim. For FY 2005-06, the City of Galt did not file an Animal Adoption claim. For FY 2006-07, the cities of Elk Grove, Galt, and Rancho Cordova did not file an Animal Adoption claim.

The following table summarizes the amounts of offsetting savings/reimbursements that appeared in the county's claims as well as the amounts claimed by these local agencies under the Animal Adoption Program. Based on this information, we initially determined that revenue offsets included in the county's claims during the audit period were overstated by \$107,421.

City	Fiscal Year					Totals
	2001-02	2002-03	2004-05	2005-06	2006-07	
Offsets claimed:						
Citrus Heights	\$ -	\$ (30,626)	\$ (25,435)	\$ (27,928)	\$ (39,128)	\$ (123,117)
Elk Grove	-	(23,214)	(32,818)	(3,593)	n/a	(59,625)
Folsom	-	(9,552)	(10,050)	(8,436)	(6,757)	(34,795)
Galt	-	(410)	(331)	(374)	-	(1,115)
Rancho Cordova	-	-	(22,644)	(14,801)	n/a	(37,445)
Totals	-	(63,802)	(91,278)	(55,132)	(45,885)	(256,097)
Claims filed:						
Citrus Heights	-	-	(20,974)	(27,928)	(39,128)	(88,030)
Elk Grove	-	-	(27,059)	(3,593)	-	(30,652)
Folsom	-	-	-	(8,436)	(6,757)	(15,193)
Galt	-	-	-	-	-	-
Rancho Cordova	-	-	-	(14,801)	-	(14,801)
Totals	-	-	(48,033)	(54,758)	(45,885)	(148,676)
Difference	\$ -	\$ 63,802	\$ 43,245	\$ 374	\$ -	\$ 107,421

The following table summarizes the amounts of offsetting savings/reimbursements that we determined for the cities that contracted with the county for animal control services during the audit period. Based on this information, we determined that the claims filed by these cities were overstated by \$86,279. As a result, revenue offsets claimed by the county were overstated by a total of \$193,700 for the audit period.

City	Fiscal Year			Totals
	2004-05	2005-06	2006-07	
Claims allowable:				
Citrus Heights	\$ 8,195	\$ 12,627	\$ 15,765	\$ 36,587
Elk Grove	10,572	1,686	n/a	12,258
Folsom	n/a	3,893	2,920	6,813
Rancho Cordova	n/a	6,739	n/a	6,739
Total Allowable	18,767	24,945	18,685	62,397
Claims filed:				
Citrus Heights	20,974	27,928	39,128	88,030
Elk Grove	27,059	3,593	n/a	30,652
Folsom	n/a	8,436	6,757	15,193
Rancho Cordova	n/a	14,801	n/a	14,801
Total Claimed	48,033	54,758	45,885	148,676
Difference	\$ (29,266)	\$ (29,813)	\$ (27,200)	\$ (86,279)

### Calculation of Allowable Percentages of the County's Claims

We used a consistent methodology to determine allowable costs for the claims filed by the cities that contracted with the county during the audit period (Citrus Heights, Elk Grove, Folsom, and Rancho Cordova).

We first reviewed the methodology that was used by the county to determine the applicable percentage of animals housed at the county's shelter that originated within the various cities for each fiscal year. We determined that the percentages used by the county in its claims were materially correct.

We then performed an analysis of the percentage of allowable costs for each component of the county's claims for FY 2004-05 through FY 2006-07. We did this by simply dividing allowable costs into claimed costs for each cost component to determine the percentage of costs claimed that were ultimately allowable. We then used these percentages to determine the extent to which the costs claimed by the various cities were also allowable.

The following table summarizes the analysis of the percentage of allowable costs by fiscal year:

Cost Component	Claimed Amount	Allowable Amount	Percentage Allowable
<u>FY 2004-05</u>			
Care & Maintenance - Dogs & Cats	\$ 188,872	\$ 64,580	34.19%
Care & Maintenance - Other Animals	22,853	1,946	8.52%
Holding Period	151,686	65,300	43.05%
Feral Cats	14,104	3,620	25.67%
Lost-and-Found Lists	607	2,290	377.27%
Non-Medical Records *	81,787	28,244	34.53%
Necessary & Prompt Veterinary Care	-	18,650	n/a

Cost Component	Claimed Amount	Allowable Amount	Percentage Allowable
<u>FY 2005-06</u>			
Care & Maintenance - Dogs & Cats	\$ 154,516	\$ 54,201	35.08%
Care & Maintenance - Other Animals	7,497	2,361	31.49%
Holding Period	159,512	67,130	42.08%
Feral Cats	11,246	3,854	34.27%
Lost-and-Found Lists	633	2,400	379.15%
Non-Medical Records	64,645	29,630	45.83%
Necessary & Prompt Veterinary Care	-	20,544	n/a
<u>FY 2006-07</u>			
Care & Maintenance - Dogs & Cats	\$ 179,275	\$ 57,356	31.99%
Care & Maintenance - Other Animals	7,384	808	10.94%
Holding Period	152,675	58,360	38.22%
Feral Cats	12,038	4,258	35.37%
Lost-and-Found Lists	664	2,524	380.12%
Non-Medical Records *	66,411	32,239	48.54%
Necessary & Prompt Veterinary Care	-	19,669	n/a

\* Note - Allowable costs include only salaries and benefits and exclude allowable Chameleon licensing fees

### Calculation of Offsetting Savings/Reimbursements for the City of Citrus Heights

For FY 2004-05, FY 2005-06, and FY 2006-07, the City of Citrus Heights contracted with Sacramento County for its animal control services and filed Animal Adoption claims with the State totaling \$88,030. We determined that the city's contract revenues funded mandate-related activities performed by the county totaling \$36,587 during the audit period.

The following table summarizes the offset by fiscal year and reimbursable component:

	Fiscal Year			Total
	2004-05	2005-06	2006-07	
Care and Maintenance of Dogs and Cats				
Dogs and Cats	\$ (2,648)	\$ (2,683)	\$ (3,544)	\$ (8,875)
Other Animals	(80)	(68)	(319)	(467)
Holding Period	(3,085)	(5,706)	(6,330)	(15,121)
Feral Cats	(171)	(328)	(462)	(961)
Lost-and-Found Lists	(109)	(205)	(274)	(588)
Medical Records	(1,337)	(2,519)	(3,497)	(7,353)
Veterinary Care	(765)	(1,118)	(1,339)	(3,222)
Total	<u>\$ (8,195)</u>	<u>\$ (12,627)</u>	<u>\$ (15,765)</u>	<u>\$ (36,587)</u>

Offsets for the cost components of Training, Computer Software, and Chameleon Fees were not included because the City of Citrus Heights' contract with the county does not include any portion of the costs incurred by the county for these items.

For all fiscal years of the audit period, allowable costs for the claims filed by the City of Citrus Heights are based primarily on the percentage of allowable costs within each cost component of the county's claims. However, there were exceptions to this methodology for Non-Medical Records and Necessary and Prompt Veterinary Care, as noted below.

### **Non-Medical Records**

For the Non-Medical Records cost component, the percentage of allowable costs is based only on the percentage of allowable salaries and benefits costs within the county's claims for FY 2004-05 and FY 2006-07. That is because total allowable costs for the county include allowable materials and supplies and contract services costs for Chameleon licensing fees. These costs are not included within the city's contract for animal services for the county. Allowable Non-Medical Records costs for FY 2005-06 did not include any licensing fees. (See Finding 7 – Misstated non-medical records costs for more information).

The following table summarizes the calculation of the allowable percentage for salaries and benefits costs within the county's claims for FY 2004-05 and FY 2006-07 for the Non-Medical Records cost component:

<u>Fiscal Year</u>	<u>Salaries and Benefits Claimed</u>	<u>Salaries and Benefits Allowable</u>	<u>Percentage Allowable</u>
2004-05	\$ 81,787	\$ 28,244	34.53%
2006-07	66,411	32,239	48.54%

### **Necessary and Prompt Veterinary Care**

The county did not claim any costs under this cost component during the audit period. However, during the audit, we determined that the county did incur allowable costs for the activity of administering wellness vaccines. (See Finding 8—Allowable necessary and prompt veterinary care for more information). For this cost component, allowable costs for the city were based strictly on the percentage of animals impounded at the county's shelter that originated from the City of Citrus Heights.

The following table summarizes the claimed, allowable, and audit adjustment amounts for the city's claims by fiscal year:

Cost Component	Claimed Amount	Percentage Allowable	Allowable Amount	Audit Adjustment
<u>FY 2004-05</u>				
Training	\$ 47	0.00%	\$ -	\$ (47)
Computer Software	511	0.00%	-	(511)
Care & Maintenance - Dogs & Cats	7,744	34.19%	2,648	(5,096)
Care & Maintenance - Other Animals	937	8.52%	80	(857)
Holding Period	7,166	43.05%	3,085	(4,081)
Feral Cats	668	25.67%	171	(497)
Lost-and-Found Lists	29	377.27%	109	80
Non-Medical Records	3,872	34.53%	1,337	(2,535)
Necessary & Prompt Veterinary Care *	-	4.10%	765	765
Totals	<u>\$ 20,974</u>		<u>\$ 8,195</u>	<u>\$ (12,779)</u>
<u>FY 2005-06</u>				
Care & Maintenance - Dogs & Cats	7,648	35.08%	2,683	(4,965)
Care & Maintenance - Other Animals	216	31.49%	68	(148)
Holding Period	13,559	42.08%	5,706	(7,853)
Feral Cats	956	34.27%	328	(628)
Lost-and-Found Lists	54	379.15%	205	151
Non-Medical Records	5,495	45.83%	2,519	(2,976)
Necessary & Prompt Veterinary Care *	-	5.44%	1,118	1,118
Totals	<u>\$ 27,928</u>		<u>\$ 12,627</u>	<u>\$ (15,301)</u>
<u>FY 2006-07</u>				
Care & Maintenance - Dogs & Cats	11,076	31.99%	3,544	(7,532)
Care & Maintenance - Other Animals	2,911	10.94%	319	(2,592)
Holding Period	16,560	38.22%	6,330	(10,230)
Feral Cats	1,306	35.37%	462	(844)
Lost-and-Found Lists	72	380.12%	274	202
Non-Medical Records	7,203	48.54%	3,497	(3,706)
Necessary & Prompt Veterinary Care *	-	6.81%	1,339	1,339
Totals	<u>\$ 39,128</u>		<u>\$ 15,765</u>	<u>\$ (23,363)</u>
Grand Totals	<u>\$ 88,030</u>		<u>\$ 36,587</u>	<u>\$ (51,443)</u>

\* The percentage shown represents the percentage of city animals impounded in the county's shelter

### Calculation of Offsetting Savings/Reimbursements for the City of Elk Grove

For FY 2004-05 and FY 2005-06, the City of Elk Grove contracted with Sacramento County for its animal control services and filed Animal Adoption claims with the State totaling \$30,030. We determined that the city's contract revenues funded mandate-related activities performed by the county totaling \$12,258 during the audit period.

The following table summarizes the offset by fiscal year and reimbursable component:

	Fiscal Year		Total
	2004-05	2005-06	
Care and Maintenance of Dogs and Cats:			
Dogs and Cats	\$ (3,416)	\$ (202)	\$ (3,618)
Other Animals	(103)	—	(103)
Holding Period	(3,980)	(858)	(4,838)
Feral Cats	(221)	(49)	(270)
Lost-and-Found Lists	(140)	(30)	(170)
Medical Records	(1,725)	(379)	(2,104)
Veterinary Care	(987)	(168)	(1,155)
Total	<u>\$ (10,572)</u>	<u>\$ (1,686)</u>	<u>\$ (12,258)</u>

Offsets for the cost components of Training, Computer Software, and Chameleon Fees were not included because the City of Elk Grove's contract with the county does not include any portion of the costs incurred by the county for these items.

For all fiscal years of the audit period, allowable costs for the claims filed by the City of Elk Grove are based primarily on the percentage of allowable costs within each cost component of the county's claims. However, there were exceptions to this methodology for Non-Medical Records and Necessary and Prompt Veterinary Care, as noted below.

### Non-Medical Records

For the Non-Medical Records cost component, the percentage of allowable costs is based only on the percentage of allowable salaries and benefits costs within the county's claim for FY 2004-05. That is because total allowable costs for the county include allowable materials and supplies costs for Chameleon licensing fees. These costs are not included within the city's contract for animal services for the county. Allowable Non-Medical Records costs for FY 2005-06 did not include any licensing fees. (See Finding 7—Misstated non-medical records costs for more information).

The following table summarizes the calculation of the allowable percentage for salaries and benefits costs within the county's claim for FY 2004-05 for the Non-Medical Records cost component:

Fiscal Year	Salaries and Benefits Claimed	Salaries and Benefits Allowable	Percentage Allowable
2004-05	\$ 81,787	\$ 28,244	34.53%

### Necessary and Prompt Veterinary Care

The county did not claim any costs under this cost component during the audit period. However, during the audit, we determined that the county did incur allowable costs for the activity of administering wellness vaccines. (See Finding 8—Allowable necessary and prompt veterinary care for more information). For this cost component, allowable costs for

the city were based strictly on the percentage of animals impounded at the county's shelter that originated from the City of Elk Grove.

The following table summarizes the claimed, allowable, and audit adjustment amounts for the city's claims by fiscal year:

Cost Component	Claimed Amount	Percentage Allowable	Allowable Amount	Audit Adjustment
<u>FY 2004-05</u>				
Training	\$ 60	0.00%	\$ -	\$ (60)
Computer Software	659	0.00%	-	(659)
Care & Maintenance - Dogs & Cats	9,991	34.19%	3,416	(6,575)
Care & Maintenance - Other Animals	1,209	8.52%	103	(1,106)
Holding Period	9,246	43.05%	3,980	(5,266)
Feral Cats	861	25.67%	221	(640)
Lost-and-Found Lists	37	377.27%	140	103
Non-Medical Records	4,996	34.53%	1,725	(3,271)
Necessary & Prompt Veterinary Care *	-	5.29%	987	987
Totals	<u>\$ 27,059</u>		<u>\$ 10,572</u>	<u>\$ (16,487)</u>
<u>FY 2005-06</u>				
Care & Maintenance - Dogs & Cats	577	35.08%	202	(375)
Care & Maintenance - Other Animals	-	31.49%	-	-
Holding Period	2,038	42.08%	858	(1,180)
Feral Cats	144	34.27%	49	(95)
Lost-and-Found Lists	8	379.15%	30	22
Non-Medical Records	826	45.83%	379	(447)
Necessary & Prompt Veterinary Care *	-	0.82%	168	168
Totals	<u>\$ 3,593</u>		<u>\$ 1,686</u>	<u>\$ (1,907)</u>
Grand Totals	<u>\$ 30,652</u>		<u>\$ 12,258</u>	<u>\$ (18,394)</u>

\* The percentage shown represents the percentage of city animals impounded in the county's shelter.

### Calculation of Offsetting Savings/Reimbursements for the City of Folsom

For the audit period, the City of Folsom filed Animal Adoption claims with the State totaling \$15,193. However, the City of Folsom does not operate an animal shelter and contracts with Sacramento County to provide animal control services. We determined that the city's contract revenues funded mandate-related activities performed by the county totaling \$6,813 during the audit period.

The following table summarizes the offset by fiscal year and reimbursable component:

	Fiscal Year		Total
	2005-06	2006-07	
Care and Maintenance of Dogs and Cats:			
Dogs and Cats	\$ (547)	\$ (477)	\$ (1,024)
Other Animals	(68)	(16)	(84)
Holding Period	(1,895)	(1,290)	(3,185)
Feral Cats	(109)	(94)	(203)
Lost-and-Found Lists	(68)	(57)	(125)
Medical Records	(836)	(713)	(1,549)
Veterinary Care	(370)	(273)	(643)
Total	<u>\$ (3,893)</u>	<u>\$ (2,920)</u>	<u>\$ (6,813)</u>

Offsets for the Chameleon Fees cost component were not included because the City of Folsom's contract with the county does not include any portion of the costs incurred by the county for these items.

For all fiscal years of the audit period, allowable costs for the claims filed by the City of Folsom are based primarily on the percentage of allowable costs within each cost component of the county's claims. However, there were exceptions to this methodology for Non-Medical Records and Necessary and Prompt Veterinary Care, as noted below.

#### **Non-Medical Records**

For the Non-Medical Records cost component, the percentage of allowable costs is based only on the percentage of allowable salaries and benefits costs within the county's claims for FY 2006-07. That is because total allowable costs for the county include allowable contract services costs for Chameleon licensing fees. These costs are not included within the city's contract for animal services for the county. Allowable Non-Medical Records costs for FY 2005-06 did not include any licensing fees. (See Finding 7—Misstated non-medical records costs for more information).

The following table summarizes the calculation of the allowable percentage for salaries and benefits costs within the county's claims for FY 2006-07 for the Non-Medical Records cost component:

Fiscal Year	Salaries and Benefits Claimed	Salaries and Benefits Allowable	Percentage Allowable
2006-07	66,411	32,239	48.54%

#### **Necessary and Prompt Veterinary Care**

The county did not claim any costs under this cost component during the audit period. However, during the audit, we determined that the county did incur allowable costs for the activity of administering wellness vaccines. (See Finding 8—Allowable necessary and prompt veterinary care for more information). For this cost component, allowable costs for the city were based strictly on the percentage of animals impounded at the county's shelter that originated from the City of Folsom.

The following table summarizes the claimed, allowable, and audit adjustment amounts for the city's claims by fiscal year:

Cost Component	Claimed Amount	Percentage Allowable	Allowable Amount	Audit Adjustment
<b><u>FY 2005-06</u></b>				
Care & Maintenance - Dogs & Cats	1,558	35.08%	547	(1,011)
Care & Maintenance - Other Animals	216	31.49%	68	(148)
Holding Period	4,502	42.08%	1,895	(2,607)
Feral Cats	317	34.27%	109	(208)
Lost-and-Found Lists	18	379.15%	68	50
Non-Medical Records	1,825	45.83%	836	(989)
Necessary & Prompt Veterinary Care *	-	1.80%	370	370
<b>Totals</b>	<b>\$ 8,436</b>		<b>\$ 3,893</b>	<b>\$ (4,543)</b>
<b><u>FY 2006-07</u></b>				
Care & Maintenance - Dogs & Cats	1,491	31.99%	477	(1,014)
Care & Maintenance - Other Animals	142	10.94%	16	(126)
Holding Period	3,375	38.22%	1,290	(2,085)
Feral Cats	266	35.37%	94	(172)
Lost-and-Found Lists	15	380.12%	57	42
Non-Medical Records	1,468	48.54%	713	(755)
Necessary & Prompt Veterinary Care *	-	1.39%	273	273
<b>Totals</b>	<b>\$ 6,757</b>		<b>\$ 2,920</b>	<b>\$ (3,837)</b>
<b>Grand Totals</b>	<b>\$ 15,193</b>		<b>\$ 6,813</b>	<b>\$ (8,380)</b>

\* The percentage shown represents the percentage of city animals impounded in the county's shelter.

### **Calculation of Offsetting Savings/Reimbursements for the City of Rancho Cordova**

For FY 2005-06, the City of Rancho Cordova contracted with the county for its animal control services and filed an Animal Adoption claim with the State totaling \$14,801. We determined that the city's contract revenues funded mandate-related activities performed by the county totaling \$6,739 during the audit period.

The following table summarizes the offset by reimbursable component:

	Fiscal Year 2005-06
Care and Maintenance of Dogs & Cats	
Dogs & Cats	\$ (1,346)
Other Animals	—
Holding Period	(3,118)
Feral Cats	(179)
Lost-and-Found Lists	(110)
Medical Records	(1,376)
Veterinary Care	(610)
<b>Total</b>	<b>\$ (6,739)</b>

The allowable costs for the claim filed by the City of Rancho Cordova are based primarily on the percentage of allowable costs within each cost component of the county's claims. However, there was an exception to this methodology for Necessary and Prompt Veterinary Care, as noted below.

### **Necessary and Prompt Veterinary Care**

The county did not claim any costs under this cost component during the audit period. However, during the audit, we determined that the county did incur allowable costs for the activity of administering wellness vaccines. (See Finding 8—Allowable necessary and prompt veterinary care for more information). For this cost component, allowable costs for the city were based strictly on the percentage of animals impounded at the county's shelter that originated from the City of Rancho Cordova.

The following table summarizes the claimed, allowable, and audit adjustment amounts for the city's claim for FY 2005-06:

Cost Component	Claimed Amount	Percentage Allowable	Allowable Amount	Audit Adjustment
Care & Maintenance - Dogs & Cats	3,838	35.08%	1,346	(2,492)
Care & Maintenance - Other Animals	-	31.49%	-	-
Holding Period	7,409	42.08%	3,118	(4,291)
Feral Cats	522	34.27%	179	(343)
Lost-and-Found Lists	29	379.15%	110	81
Non-Medical Records	3,003	45.83%	1,376	(1,627)
Necessary & Prompt Veterinary Care *	-	2.97%	610	610
<b>Totals</b>	<b>\$ 14,801</b>		<b>\$ 6,739</b>	<b>\$ (8,062)</b>

\* The percentage shown represents the percentage of city animals impounded in the county's shelter

### Recommendation

We recommend that the county offset all revenue received from the contracting cities for mandated activities on its Animal Adoption Mandated cost claims.

### County's Response

The county concurs and notes that any issues leading to this finding have been addressed and corrected.

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

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Internal Services Agency

Department of Finance

Julie Valverde,  
Director



Bradley J. Hudson,  
County Executive

David Villanueva,  
Agency Administrator

County of Sacramento

September 13, 2011

Jim L. Spano, Chief  
State Controller's Office  
Division of Audits  
Post Office Box 94850  
Sacramento, CA 94250-5874

Re: Sacramento County Draft Audit Report  
Animal Adoption Program  
July 1, 2001, through June 30, 2007, excluding July 1, 2003, through June 30, 2004

Dear Mr. Spano,

The County of Sacramento submits the following in response to the above-stated Draft Audit Report as issued July 26, 2011. As for Findings 1, 2, 4, 5, 6, 7, 8, 9, 10 and 11, the County concurs and notes that any issues leading to these findings have been addressed and corrected.

Finding 3. The retroactive application of a purported change in law the State Controller's Office is improper.

During the pendency of the instant audit, a decision came down from the First District Court of Appeal in the matter of *Purifoy v. Howell* (2010)183 Cal.App.4th 166. At issue before the court was the definition of a business day for purposes of the animal holding period under the Hayden Bill. This holding period forms the basis for reimbursable activities under the Animal Adoption mandate. The Commission on State Mandates was silent as to the definition of business day. The court held that although the Hayden Bill requires animal shelters to hold animals longer or be open for business on a weekday evening or Saturday, Saturday is not a business day for the purposes of calculating how long to hold an animal before it can be released for adoption or disposal. While the decision, published on March 26, 2010, is likely applicable to all future claims, the State Controller's Office (SCO) in seeking to apply the court's holding to audits overlooks whether such application is proper. The County argues that it is not.

First, the SCO is jumping the gun. *Purifoy* is not a decision of the Commission nor is it a decision to which the Commission was a party. There has been no change to the Commission's Statement of Decision or Parameters and Guidelines (Ps & Gs) in the Animal Adoption mandate nor has there been any proposed amendment to the Ps & Gs or request for a new test claim decision, under the new test claim process. Thus, the effect of this decision on the Ps & Gs has not been addressed by the Commission and until that is the case, the 2006 Ps & Gs remain in full force and effect. Moreover, were such a request brought before the Commission and the decision found applicable, the effective date of any change to the Ps & Gs or Statement of Decision would be the filing date of the request which would, in any case, not be retroactive back to 1998 as the SCO is now attempting.

Second, neither the Commission nor the courts would support retroactivity of *Purifoy*. In 1989, the California Supreme Court set forth the rule for retroactive application of judicial decisions in *Newman v. Emerson Radio Corp.* (1989) 48 Cal.3d 973, 978, which states: "The general rule that judicial decisions are given retroactive effect is basic in our legal tradition." The Court explains that the historic rationale for retroactivity lies in "the idea adhered to by Blackstone that

"judges do not 'create,' but instead 'find' the law. A decision interpreting the law, therefore, does no more than declare what the law had always been."

This rule, however, has exceptions which favor prospective application and which reflect considerations of "fairness", "public policy"<sup>1</sup>, and "hardship"<sup>2</sup> to the parties. As the Court defined a few years later:

Several factors are relevant in determining whether an exception to the general rule of retroactivity is warranted, including: "the reasonableness of the parties' reliance on the former rule, the nature of the change as substantive or procedural, retroactivity's effect on the administration of justice, and the purposes to be served by the new rule."<sup>3</sup> (Citations omitted.)

The SCO appears to have relied upon the general rule that *Purifoy* should be applied retroactively to the audit. The County argues it falls within the stated exceptions.

The parties' reliance on the old rule was reasonable: The purpose of the Hayden Bill was, in part, to ensure that shelters were open for business outside of normal working hours to allow owners to retrieve their pets. To that end, the Bill required shelters to remain open either later on a weekday or on Saturday. Thus as the shelter was open to transact business, it was reasonable to assume Saturday was a business day. Local governments filed claims for reimbursement based upon this reliance. The Commission on State Mandates saw no issue with the term "business day", the trial court found Saturday was a business day and SCO had presumed as much when beginning its audits. Moreover, trying to recreate what would have happened years ago if the current law had been in existence during the time the claim was filed will cause undue hardship on claimants who relied upon the old rule for calculating the date upon which an animal could be euthanized. Reliance on the old rule and the unforeseeability of change support prospective application.

The change is procedural: This new rule changes the manner in which shelters will do business by altering holding periods. Generally, substantive changes are applied retroactively while procedural changes are applied prospectively. This is due in part because procedural changes can determine the rights of the parties, especially in setting a statute of limitations.<sup>4</sup> Although the change is substantive on its face, in this case, the retroactive application of the law will affect the rights of claimants as reimbursement can only be had for those animals euthanized after the holding period. Extending the holding period years later means that reimbursement will be unavailable to claimants complying with the law as it was understood at the time. Ensuring recovery to claimants in procedural compliance with a mandate program supports prospective application.

Retroactive application will produce unjust results: Judicial decisions are routinely applied retroactively so as to resolve pending cases where the parties are similarly situated and all unfiled cases. In this instance, however, the decision is being applied retroactively to audits of claims which may date back over a decade. The new rule will not be dispositive as to all claimants and will ensure unequal application of the rule to only those who are being audited. The administration of justice in a consistent manner supports prospective application.

The new rule will extend holding periods: The purpose of the new rule set forth in *Purifoy* is to clarify statutory provisions to ensure that the spirit of the Hayden Bill, adequate time for owner retrieval of pets, is promoted. This objective is not compromised by prospective application of the new rule.<sup>5</sup> The retroactive application will not increase the holding period for animals long ago retrieved.

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<sup>1</sup> *Id.* at p. 983-984.

<sup>2</sup> *Moradi-Shalal v. Fireman's Fund Ins. Companies* (1988) 46 Cal.3d 287, 305, [250 Cal.Rptr. 116].

<sup>3</sup> *Camper v. Workers' Comp. Appeals Bd.* (1992) 3 Cal.4th 679, 688, [12 Cal.Rptr. 101]. See also, *Gentis v. Safeguard Business Systems, Inc.* (1998) 60 Cal.App.4th 1294, [71 Cal.Rptr.2d 122], *Rose v. Hudson* (2007) 153 Cal.App.4th 641, [63 Cal.Rptr.3d 248].

<sup>4</sup> *Id.* at 689. See also, *Woods v. Young* (1991) 53 Cal.3d 315 [279 Cal.Rptr. 613].

<sup>5</sup> *Woods v. Young* (1991) 53 Cal.3d 315, 331.

Although the general rule is a judicial decision is given retroactive effect, the weighing of relevant factors balances in favor of an exception to the general rule and supports a prospective application of the *Purifoy* decision.

Were the above-stated analysis not enough to support the County's position, the Legislature has recently concurred through the enactment of AB 222 which provides the following addition to Food and Agriculture Code section 31108:

(d) As used in this division, a "business day" includes any day that a public or private shelter is open to the public for at least four hours, excluding state holidays.

Although it may be argued that this addition arose from circumstances other than as a response to the faulty interpretation of "business day" in *Purifoy*, the facts demonstrate that that cannot be the case.

In 2009, the Legislature failed to fund the Animal Adoption mandate thus suspending the program as a matter of law pursuant to Government Code section 17581. Then the Legislature enacted AB 12 of the 4<sup>th</sup> extraordinary session, to ensure that local agencies hold dogs and cats for 72 hours which was the law prior to the Hayden Bill. As a result, the requirement of the Hayden Bill that animals be held longer than 72 hours is no longer the law of the land. For what reason would the Legislature alter statutory language that is no longer enforceable than to correct a misinterpretation of a court? The County points to the only reasonable conclusion: The Legislature stepped in to correct the current retroactive application of *Purifoy* to audits.

The County submits that the above-stated argument provides sufficient reason for the SCO to reverse itself as to the retroactive application of the *Purifoy* case to the instant audit. Therefore, the County requests that the SCO considers the above and, in response, reimburses any and all attendant costs.

If you have any questions, please contact  
Tara Diller at 916-875-4781 or [Dillert@saccounty.net](mailto:Dillert@saccounty.net)  
David Dickinson at 916-875-5051 or [Dickinsond@saccounty.net](mailto:Dickinsond@saccounty.net) .

Very truly yours,



Julie Valverde  
Director of Finance  
County of Sacramento

cc: Jim Venneman, SCO  
Ben Lamera, Assistant Auditor-Controller

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