



MALIA M. COHEN
CALIFORNIA STATE CONTROLLER

February 19, 2025

Ms. Donna Apar, Finance Director
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

Dear Ms. Apar:

The State Controller's Office performed a review of costs claimed by the City of San Marcos (the city) for the legislatively mandated Racial and Identity Profiling Program (Chapter 466, Statutes of 2015; and Chapter 328, Statutes of 2017) for the period of July 1, 2018, through June 30, 2023. We conducted our review under the authority of Government Code sections 12410, 17558.5, and 17561. Our review was limited to validating the claimed contract services costs and hourly rates.

The city claimed and was paid \$121,760 for the mandated program. Our review found that \$90,909 is allowable and \$30,851 is unallowable. The costs are unallowable because the city overstated its contract hourly rates and its training costs, as described in the attached Summary of Program Costs and the Review Results.

This letter report contains an adjustment to costs claimed by the city. If you disagree with the finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (the Commission). Pursuant to Section 1185(c) of the Commission's regulations (Title 2, California Code of Regulations), an IRC challenging this adjustment must be filed with the Commission no later than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended. You may obtain IRC information on the Commission's website at www.csm.ca.gov/request-form.php

Ms. Donna Apar
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If you have any questions regarding this report, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at 916-327-3138. Thank you.

Sincerely,

Original signed by

Kimberly A. Tarvin, CPA
Chief, Division of Audits

KAT/ac

Attachments:

Attachment 1—Summary of Program Costs
Attachment 2—Review Results

RE: S24-MCC-9037

Copy: The Honorable Rebecca Jones, Mayor
City of San Marcos
Michelle Bender, City Manager
City of San Marcos
Chris Hill, Principal Program Budget Analyst
Local Government Unit, California Department of Finance
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State Controller's Office
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**Attachment 1—
Summary of Program Costs
July 1, 2018, through June 30, 2023**

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment ¹
<u>July 1, 2018, through June 30, 2019</u>			
Direct costs:			
Contract services			
Train peace officers and supervisors	\$ 12,458	\$ 6,199	\$ (6,259)
Collect and report data	31,376	23,640	(7,736)
Total program costs	<u>\$ 43,834</u>	29,839	<u>\$ (13,995)</u>
Less amount paid by the State ²		<u>(43,834)</u>	
Amount paid in excess of allowable costs claimed		<u>\$ (13,995)</u>	
<u>July 1, 2019, through June 30, 2020</u>			
Direct costs:			
Contract services			
Collect and report data	\$ 27,828	\$ 21,764	\$ (6,064)
Total program costs	<u>\$ 27,828</u>	21,764	<u>\$ (6,064)</u>
Less amount paid by the State ²		<u>27,828</u>	
Amount paid in excess of allowable costs claimed		<u>\$ (6,064)</u>	
<u>July 1, 2020, through June 30, 2021</u>			
Direct costs:			
Contract services			
Collect and report data	\$ 19,998	\$ 15,688	\$ (4,310)
Total program costs	<u>\$ 19,998</u>	15,688	<u>\$ (4,310)</u>
Less amount paid by the State ²		<u>19,998</u>	
Amount paid in excess of allowable costs claimed		<u>\$ (4,310)</u>	
<u>July 1, 2021, through June 30, 2022</u>			
Direct costs:			
Contract services			
Collect and report data	\$ 9,195	\$ 7,210	\$ (1,985)
Total program costs	<u>\$ 9,195</u>	7,210	<u>\$ (1,985)</u>
Less amount paid by the State ²		<u>9,195</u>	
Amount paid in excess of allowable costs claimed		<u>\$ (1,985)</u>	

Attachment 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Review	Review Adjustment ¹
<u>July 1, 2022, through June 30, 2023</u>			
Direct costs:			
Contract services			
Collect and report data	\$ 20,905	\$ 16,408	\$ (4,497)
Total program costs	<u>\$ 20,905</u>	16,408	<u>\$ (4,497)</u>
Less amount paid by the State ²		<u>20,905</u>	
Amount paid in excess of allowable costs claimed		<u>\$ (4,497)</u>	
<u>Summary July 1, 2018, through June 30, 2023</u>			
Direct costs:			
Contract services			
Train peace officers and supervisors	\$ 12,458	\$ 6,199	\$ (6,259)
Collect and report data	<u>109,302</u>	<u>84,710</u>	<u>(24,592)</u>
Total program costs	<u>\$ 121,760</u>	90,909	<u>\$ (30,851)</u>
Less amount paid by the State ²		<u>121,760</u>	
Amount paid in excess of allowable costs claimed		<u>\$ (30,851)</u>	

¹ See Attachment 2, Review Results.

² Payment amount current as of December 23, 2024.

Attachment 2— Review Results July 1, 2018, through June 30, 2023

BACKGROUND—

Government Code (GC) section 12525.5, as added and amended by the Statutes of 2015, Chapter 466 and Statutes of 2017, Chapter 328; and Title 11, California Code of Regulations, sections 999.224 through 999.229 established the state-mandated Racial and Identity Profiling Program.

The program requires a local law enforcement agency that employs peace officers—or that contracts for peace officers from another city or county for police protection services—to electronically report to the Attorney General, on an annual basis, data on all “stops” conducted within its jurisdiction. For purposes of the program, “peace officer” does not include probation officers and officers in custodial settings.

On May 22, 2020, the Commission on State Mandates found that GC section 12525.5 constitutes a reimbursable state-mandated program, beginning November 7, 2017, for local law enforcement agencies.

The Commission on State Mandates determined that each claimant is allowed to claim and be reimbursed for the following activities identified in the parameters and guidelines (Section IV., “Reimbursable Activities”):

A. One-Time Activities

1. One-time training per peace officer employee and supervisor assigned to perform the reimbursable activities listed in Section IV. B of these Parameters and Guidelines.
2. One-time installation and testing of software necessary to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.

B. Ongoing Activities

1. Identification of the peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number...
2. Collection and reporting data on all stops, as defined, conducted by that agency’s peace officers for the preceding calendar year in accordance with sections 999.226(a) and 999.227 of the regulations...
3. Electronic submission of data to DOJ and retention of stop data collected...
4. Audits and validation of data collected...
5. For stop data collected, ensure that the name, address, social security number, or other personally identifiable information of the individual stopped, searched, or subjected to property seizure, and the badge number or other unique identifying

information of the peace officer involved, is not transmitted to the Attorney General in an open text field...

The parameters and guidelines describe the 16 types of stop data and all applicable data elements, data fields, and narrative explanation fields that peace officers must collect for every stop.

The following stops are not reportable:

- Interactions with passengers in a stopped vehicle who have not been observed or suspected of violating the law;
- Stops made during public-safety mass evacuations;
- Stops made during active shooter incidents;
- Stops resulting from routine security screenings to enter a building or special event;
- Interactions occurring during traffic control of vehicles in response to a traffic accident or emergency, crowd control requiring pedestrians to remain in a fixed location for public-safety reasons, persons detained at residences so that officers can check for proof of age while investigating underage drinking, and checkpoints and roadblocks at which officers detain a person as the result of regulatory activity that is general and not based on individualized suspicion or personal characteristics;
- Interactions with a person who is subject to a warrant or search condition at his or her residence;
- Interactions with a person who is subject to home detention or house arrest;
- Stops in a custodial setting; and
- Stops that occur while an officer is off duty.

The program's parameters and guidelines establish the state mandate and define the reimbursement criteria. In compliance with GC section 17558, the State Controller's Office (SCO) issues the *Mandated Cost Manual for Local Agencies (Mandated Cost Manual)* to assist local agencies in claiming mandated program reimbursable costs.

**FINDING—
Overstated Racial and
Identity Profiling
Program costs**

The City of San Marcos (the city) claimed \$121,760 in contract services costs for the Racial and Identity Profiling Program. We found that \$90,909 is allowable and \$30,851 is unallowable. The costs are unallowable because the city overstated its contract hourly rates and its training costs.

We found that the city correctly classified its claimed costs as contract services costs, as it contracted with San Diego County (the county) for municipal law enforcement services provided by the San Diego County Sheriff's Department (SDCSD) during the review period. The city used the correct methodology to calculate its contract services costs: it multiplied the number of stops recorded by the time required to perform the reimbursable activities, then multiplied the total by the hourly rates

obtained from the city’s contract with the county. The county’s contracts include personnel costs for various SDCSD employee classifications, as well as additional administrative costs.

However, the city overstated its contract hourly rates by including a contract overhead amount, based on unallowable indirect costs, and understated the annual productive hours in its hourly rate calculations. The indirect costs are unallowable because they are based on salary and wage costs that the city did not incur. The SDCSD confirmed the number of productive hours spent by sworn staff working in the city during the review period. The city also claimed training costs that it did not incur.

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

Fiscal Year	Amount Claimed	Amount Allowable	Review Adjustment
2018-19	\$ 43,834	\$ 29,839	\$ (13,995)
2019-20	27,828	21,764	(6,064)
2020-21	19,998	15,688	(4,310)
2021-22	9,195	7,210	(1,985)
2022-23	20,905	16,408	(4,497)
Total	<u>\$ 121,760</u>	<u>\$ 90,909</u>	<u>\$ (30,851)</u>

Contract Services Costs

The city contracted with the county to provide all of its law enforcement services during the review period. The “Sheriff’s Department” page of the city’s website states:

The City of San Marcos contracts with the San Diego County Sheriff’s Department for law enforcement services. San Marcos historically has had one of the largest sheriff’s contracts in the county, which has ultimately resulted in a lower crime rate for the City.

These services included the reimbursable activities claimed for the mandated program. Each fiscal year, the city contracted for various SDCSD staff positions, including, but not limited to, Deputy Sheriffs, Sergeants, and Detectives. No city staff member performed any of the reimbursable activities under this program; therefore, the city did not incur salary or related indirect costs. For the review period, we recalculated allowable contract services costs based on the approved methodology.

Contract Hourly Rates

The city included copies in its claims of “Attachment B” taken from the law enforcement services contracts that it negotiated with the county for each year of the review period. Attachment B describes the level of service provided to the city, indicating the number of employees (the level of service) in various law enforcement classifications and the county’s costs for providing these employees. The county used this schedule to indicate the authorized SDCSD staffing level for each year of the review period.

Annual Productive Hours

The city computed its contract hourly rates for SDCSD sworn staff using 1,743 productive hours for all years of the review period. The Filing a Claim section of the SCO's *Mandated Cost Manual* states that claimants have the option of using actual annual productive hourly rates or weighted average annual productive hourly rates when filing claims, but must maintain documentation of how they computed the hours.

The city's contract with the SDCSD includes a page titled "Staff Equivalent for Coverage and Relief." An SDCSD representative explained that the county provided this document as a tool that its contract cities could use to determine how much staffing each city wanted to request for its law enforcement services. To determine various levels of staffing in this document, the county used 1,743 "work hours" for various levels of SDCSD staffing. However, an SDCSD representative confirmed that the "work hours" in that document are not the same thing as annual productive hours. Furthermore, the SDCSD representative advised us that contract amounts for the various classifications of sworn personnel documented in Attachment B were based solely on the cost of salaries and benefits for those personnel. The SDCSD did not use any number of productive hours to compute the contract rates.

The SDCSD provided us with annual productive hour calculations prepared by the San Diego County Auditor-Controller's Office. These calculations show that sworn SDCSD staff working in contract cities worked the following numbers of productive hours during the review period:

- Fiscal year (FY) 2018-19 – 1,850.5
- FY 2019-20 – 1,860
- FY 2020-21 – 1,860
- FY 2021-22 – 1,861
- FY 2022-23 – 1,859

Contract Hourly Rate Calculations

We used the annual productive hour calculations prepared by the San Diego County Auditor-Controller's Office and the annual salary and benefit cost information from Attachment B to determine the contract hourly billing rates for various employee classifications. We divided the total contract costs for each employee classification by the number of personnel that the SDCSD provided. For example, Attachment B to the city's contract for FY 2022-23 indicates that the following classifications were included in the city's claims:

- Deputy Patrol
- Deputy Traffic
- Deputy Motor

- Deputy SPO [special purpose officer]
- Sergeant

The following table shows the contract hourly rate calculations for the SDCSD’s various Deputy Sheriff classifications and Sergeants for FY 2022-23:

Employee Classification	Annual Cost [a]	Level of Service [b]	Cost per Employee [c] = [a] ÷ [b]	Annual Productive Hours [d]	Base Contract Hourly Rate [e] = [c] ÷ [d]
Deputy Patrol	\$ 6,996,433	32	\$ 218,639	1,859	\$ 117.61
Deputy Traffic	1,311,831	6	218,639	1,859	117.61
Deputy Motor	467,785	2	233,893	1,859	125.82
Deputy SPO	3,716,855	17	218,639	1,859	117.61
Sergeant	2,217,822	7.844	282,741	1,859	152.09

We used similar calculations for the other years of the review period to determine the contract hourly rates for the various SDCSD employee classifications included in the city’s claims.

The SCO’s *Mandated Cost Manual* also states that the cost of contract services is allowable. Costs for contract services can be claimed using an hourly billing rate. However, the SCO’s *Mandated Cost Manual* does not provide specific guidance on how to calculate an hourly billing rate. Generally speaking, an hourly rate for a specific employee classification would be determined by dividing the contract cost for an individual employee who performs reimbursable activities by annual productive hours. However, this approach does not allow claimants to recover any additional contract costs, such as administrative costs, that could be reimbursable. We concluded that it was appropriate to allow the city to claim its administrative costs as an addition to the contract hourly rate for employee classifications included in its contracts with the county.

We calculated an administrative cost percentage for each fiscal year of the review period based on the city’s contracts with the SDCSD. To calculate the percentage, we divided the cost of the following line items by the total contract cost:

- Station Staff
- Ancillary Support
- Supplies
- Vehicles
- Space
- Management Support
- Liability

The following table shows the allowable administrative cost percentage for each fiscal year of the review period:

<u>Fiscal Year</u>	<u>Allowable Administrative Percentage</u>
2018-19	31.34%
2019-20	31.37%
2020-21	30.93%
2021-22	30.93%
2022-23	30.93%

The following table shows how we calculated the administrative cost percentage for FY 2022-23:

<u>Cost Category</u>	<u>Contract Amount</u>
Station Staff	\$ 1,257,065
Ancillary Support	2,699,938
Supplies	360,668
Vehicles	1,394,032
Space	422,324
Management Support	782,775
Liability	184,552
Total administrative costs	7,101,354
Divided by total contract amount	\$ 22,956,119
Administrative cost percentage	<u>30.93%</u>

Contract hourly rates for Deputy positions and Sergeants increased as follows for FY 2022-23:

<u>Employee Classification</u>	<u>Contract Hourly Rate [a]</u>	<u>Administrative Percentage [b]</u>	<u>Revised Hourly Rate [c] = [a] × [b]</u>
Deputy Patrol	\$ 117.61	30.93%	\$ 153.99
Deputy Traffic	117.61	30.93%	153.99
Deputy Motor	125.82	30.93%	164.74
Deputy SPO	117.61	30.93%	153.99
Sergeant	152.09	30.93%	199.13

The following table shows the calculation of the review adjustment for FY 2022-23

Classification	Hours Claimed	Claimed Weighted Hourly Rate	Claimed Costs	Hours Allowable	Allowable Weighted Hourly Rate	Allowable Costs	Review Adjustment
	[a]	[b]	[c] = [a] × [b]	[d]	[e]	[f] = [d] × [e]	[g] = [f] - [c]
Deputy Patrol	54.72	\$ 196.19	\$ 10,736	54.72	\$ 153.99	\$ 8,426	\$ (2,310)
Deputy Traffic	10.26	196.19	2,013	10.26	153.99	1,580	(433)
Deputy Motor	3.42	209.87	718	3.42	164.74	563	(155)
Deputy SPO	29.07	196.19	5,703	29.07	153.99	4,477	(1,226)
Sergeant	6.84	253.71	1,735	6.84	199.13	1,362	(373)
Totals			\$ 20,905			\$ 16,408	\$ (4,497)

Training

The city’s FY 2018-19 claim included \$12,458 in contract services costs for training SDCSD staff on the requirements of the Racial and Identity Profiling Act. We found that \$6,199 is allowable and \$6,259 is unallowable. The claim included training costs for various job classifications. We confirmed with the SDCSD that the training took place during normal duty hours and the city is entitled to claim the costs of training its staff, as applicable. The SDCSD also confirmed that its officers completed two 0.33-hour Racial and Identity Profiling Act training modules for a total of 0.66 hours training time per employee. We recalculated the allowable training costs using the 0.66 hours per officer. The city claimed 68 hours to train 68 SDCSD staff. Based on 0.66 hours per officer, we found that 44.9 hours is allowable.

The following table summarizes the claimed, allowable, and review adjustments to the time claimed for training:

Employee Classification	Number of staff Trained (a)	Hours claimed per Classification (b)	Hours Claimed (c) = (a) × (b)	Allowable Hours per Classification (d)	Allowable Hours (e) = (a) × (d)
Deputy Patrol	32	1.00	32	0.66	21.1
Deputy Traffic	6	1.00	6	0.66	4.0
Deputy Motor	2	1.00	2	0.66	1.3
Deputy SPO	15	1.00	15	0.66	9.9
Detective	5	1.00	5	0.66	3.3
Sergeant	8	1.00	8	0.66	5.3
Totals			68		44.9

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

Job Classification	Hours Claimed (a)	Claimed Rate (b)	Amount Claimed (c) = (a) × (b)	Allowable Hours (d)	Allowable Rate (e)	Allowable Amount (f) = (d) × (e)	Audit Adjustment (g) = (c) - (f)
Deputy Patrol	32	\$ 176.17	\$ 5,637	21.1	\$ 132.73	\$ 2,801	\$ (2,836)
Deputy Traffic	6	176.17	1,057	4.0	132.73	531	(526)
Deputy Motor	2	188.46	377	1.3	141.99	185	(192)
Deputy SPO	15	176.17	2,642	9.9	132.73	1,314	(1,328)
Detective	5	184.36	922	3.3	138.91	458	(464)
Sergeant	8	227.82	1,823	5.3	171.64	910	(913)
Totals	68		\$ 12,458	44.9		\$ 6,199	\$ (6,259)

Contract Overhead Costs

The city’s claims included copies of its Indirect Cost Rate Proposals (ICRPs) for FY 2018-19 through FY 2022-23. The ICRPs were prepared for the City of San Marcos Sheriff, which does not exist as an entity or as a person. The city’s ICRPs used a distribution base of direct salaries and wages for SDCSD staff to calculate its indirect cost rates. However, as no city staff member performed any of the reimbursable activities, the city did not incur any salary and wage costs with which to calculate an indirect cost rate. Instead, the city incurred contract services costs. Re-classifying contract services costs as salary and benefit costs is inconsistent with generally accepted accounting principles; nor is it consistent with the guidance provided for indirect cost calculations listed in section V.B. of the parameters and guidelines or the federal cost principles contained in Title 2, Code of Federal Regulations, Part 225, Appendices A and B. Therefore, these rates are unallowable.

Criteria

Section IV.C.4, “Liability for Payment of Wages,” of the city’s contract for law enforcement services states:

CITY shall have no liability for any direct payment of salary, wages, or other compensation or benefit to persons engaged in COUNTY’S performance of this Agreement.

Section IV., “Reimbursable Activities,” of the parameters and guidelines begins:

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 reimbursable 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 sheet, invoices, and receipts. . . .

Section V.A.3., “Contracted Services,” of the parameters and guidelines states:

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

Section V.B., “Indirect Cost Rates,” of the parameters and guidelines states, in part:

Indirect costs are costs that are incurred for a common or joint purpose, benefitting more than one program, and are not directly assigned to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement in accordance with the Office of Management and Budget Circular 2 [Code of Federal Regulations], Chapter I and Chapter II, Part 200 et al. Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an [ICRP] if the indirect cost rate exceeds 10 percent. . . .

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution. . . .

Recommendation

We recommend the city:

- Adhere to the Racial and Identity Profiling Program’s parameters and guidelines and the SCO’s *Mandated Cost Manual* when claiming reimbursement for mandated costs; and
- Ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.