

LOS ANGELES COUNTY

Audit Report

CUSTODY OF MINORS – CHILD ABDUCTION AND RECOVERY PROGRAM

Chapter 1399, Statutes of 1976;
Chapter 162, Statutes of 1992;
and Chapter 988, Statutes of 1996

July 1, 2017, through June 30, 2021



MALIA M. COHEN
California State Controller

May 2024



MALIA M. COHEN
CALIFORNIA STATE CONTROLLER

May 2, 2024

CERTIFIED U.S. MAIL—RETURN RECEIPT REQUESTED

Oscar Valdez, Auditor-Controller
Los Angeles County
500 West Temple Street, Suite 525
Los Angeles, CA 90012

Dear Mr. Valdez:

The State Controller's Office audited the costs claimed by Los Angeles County for the legislatively mandated Custody of Minors – Child Abduction and Recovery Program for the period of July 1, 2017, through June 30, 2021.

The county claimed \$10,292,232 for costs of the mandated program. Our audit found that none of the claimed costs are allowable, primarily because the county did not provide contemporaneous supporting documentation. The State paid the county \$10,172,773.

Following issuance of this audit report, the Local Government Programs and Services Division of the State Controller's Office will notify the county of the adjustment to its claims by a system-generated letter for each fiscal year in the audit period.

This final audit report contains an adjustment to costs claimed by the county. If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (Commission). Pursuant to the Commission's regulations, outlined in Title 2, California Code of Regulations, section 1185.1, subdivision (c), 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than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended. IRC information is available on the Commission's website at www.csm.ca.gov/forms/IRCForm.pdf.

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

Sincerely,

Original signed by

Kimberly A. Tarvin, CPA
Chief, Division of Audits

Mr. Oscar Valdez
May 2, 2024
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KAT/ac

Attachment

Copy: Rachelle Anema, Chief
Accounting Division
Los Angeles County Auditor-Controller's Office
Fernando Lemus, Principal Accountant-Auditor
Accounting Division
Los Angeles County Auditor-Controller's Office
Chris Hill, Principal Program Budget Analyst
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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Los Angeles County for the legislatively mandated Custody of Minors – Child Abduction and Recovery (CAR) Program for the period of July 1, 2017, through June 30, 2021.

The county claimed \$10,292,232 for costs of the mandated program. Our audit found that none of the claimed costs are allowable, primarily because the county did not provide contemporaneous supporting documentation. The State paid the county \$10,172,773.

Background

Chapter 1399, Statutes of 1976, established the mandated CAR Program, based on the following laws:

- Civil Code section 4600.1 (repealed and added as Family Code [FC] sections 3060 through 3064 by Chapter 162, Statutes of 1992);
- Penal Code (PC) sections 278 and 278.5 (repealed and added as PC sections 277, 278, and 278.5 by Chapter 988, Statutes of 1996); and
- Welfare and Institutions Code section 11478.5 (repealed and added as FC section 17506 by Chapter 478, Statutes of 1999; last amended by Chapter 759, Statutes of 2002).

These laws require the District Attorney's Office to assist persons having legal custody of a child in:

- Locating their children when they are unlawfully taken away;
- Gaining enforcement of custody and visitation decrees and orders to appear;
- Defraying expenses related to the return of an illegally detained, abducted, or concealed child;
- Civil court action proceedings; and
- Guaranteeing the appearance of offenders and minors in court actions.

On September 19, 1979, the State Board of Control (now the Commission on State Mandates [Commission]) determined that this legislation imposed a state mandate reimbursable under Government Code (GC) section 17561.

The parameters and guidelines establish the state mandate and define reimbursement criteria. The Commission adopted the parameters and guidelines on January 21, 1981; they were last amended on October 30, 2009. In compliance with GC section 17558, the SCO issues the *Mandated Cost Manual for Local Agencies (Mandated Cost Manual)* for mandated programs to assist local agencies in claiming reimbursable costs.

Audit Authority

We conducted this performance audit in accordance with GC sections 17558.5 and 17561, which authorize the SCO to audit the county's records to verify the actual amount of the mandated costs. In addition, GC section 12410 provides the SCO with general audit authority to audit the disbursement of state money for correctness, legality, and sufficient provisions of law for payment.

Objective, Scope, and Methodology

The objective of our audit was to determine whether claimed costs represent increased costs resulting from the legislatively mandated CAR Program. Specifically, we conducted this audit to determine whether claimed costs were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

Unreasonable and/or excessive costs include ineligible costs that are not identified in the program's parameters and guidelines as reimbursable costs.

The audit period was July 1, 2017, through June 30, 2021.

To achieve our objective, we performed the following procedures:

- We reviewed the annual mandated cost claims filed by the county for the audit period and identified the significant cost components of each claim as salaries and benefits, and indirect costs. We then determined whether there were any errors or unusual or unexpected variances from year to year. We reviewed the claimed activities to determine whether they adhered to the SCO's *Mandated Cost Manual* and the program's parameters and guidelines.
- We completed an internal control questionnaire by interviewing key county staff members. We discussed the claim preparation process with county staff members to determine what information was obtained, who obtained it, and how it was used.
- We reviewed time records, which the county called *time studies*, provided by the county for the audit period. We also reviewed payroll records for the claimed employees. We noted various issues with the time studies that we reviewed; the records provided as support for the claimed costs did not meet the requirements of the program's parameters and guidelines (see Finding).
- We reviewed the county's single audit and revenue reports to identify potential sources of offsetting revenues and reimbursements from federal or pass-through programs applicable to this mandated program. The county did not claim offsetting revenues for the audit period, and we found no instances of unreported offsetting revenue. We noted no exceptions.

We did not audit the county's financial statements.

We conducted this performance 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Conclusion

As a result of performing the audit procedures, we found an instance of noncompliance with the requirements described in our audit objective. We did not find that the county claimed costs that were funded by other sources; however, we did find that it claimed unsupported costs, as quantified in the Schedule and described in the Finding and Recommendation section. To the extent that the county claimed costs not supported by appropriate source documents, such costs are also unreasonable and/or excessive.

For the audit period, Los Angeles County claimed \$10,292,232 for costs of the legislatively mandated CAR Program. Our audit found that the entire amount is unallowable. The State paid the county \$10,172,773.

Following issuance of this audit report, the SCO's Local Government Programs and Services Division will notify the county of the adjustment to its claims via a system-generated letter for each fiscal year in the audit period.

Follow-up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report for the period of July 1, 1999, through June 30, 2002, issued on January 19, 2007.

The prior audit report was conducted under the program's previous parameters and guidelines, adopted on August 26, 1999.

Views of Responsible Officials

We issued a draft audit report on June 28, 2023. Los Angeles County's representative responded by letter dated July 27, 2023, disagreeing with the audit results. This final audit report includes the county's response as an attachment.

Restricted Use

This audit report is solely for the information and use of Los Angeles County, the 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 audit report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

Kimberly A. Tarvin, CPA
Chief, Division of Audits

May 2, 2024

Schedule—
Summary of Program Costs
July 1, 2017, through June 30, 2021

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2017, through June 30, 2018</u>			
Direct Costs:			
Salaries and benefits	\$ 2,242,310	-	\$ (2,242,310)
Total direct costs	2,242,310	-	(2,242,310)
Indirect costs	894,247	-	(894,247)
Total direct and indirect costs	3,136,557	-	(3,136,557)
Less: offsetting revenue	-	-	-
Total program costs	<u>\$ 3,136,557</u>	-	<u>\$ (3,136,557)</u>
Less amount paid by the State ²		(3,136,557)	
Amount paid in excess of allowable costs claimed		<u>\$ (3,136,557)</u>	
<u>July 1, 2018, through June 30, 2019</u>			
Direct Costs:			
Salaries and benefits	\$ 1,959,043	-	\$ (1,959,043)
Total direct costs	1,959,043	-	(1,959,043)
Indirect costs	743,977	-	(743,977)
Total direct and indirect costs	2,703,020	-	(2,703,020)
Less: offsetting revenue	-	-	-
Total program costs	<u>\$ 2,703,020</u>	-	<u>\$ (2,703,020)</u>
Less amount paid by the State ²		(2,583,561)	
Amount paid in excess of allowable costs claimed		<u>\$ (2,583,561)</u>	
<u>July 1, 2019, through June 30, 2020</u>			
Direct Costs:			
Salaries and benefits	\$ 1,678,993	-	\$ (1,678,993)
Total direct costs	1,678,993	-	(1,678,993)
Indirect costs	628,821	-	(628,821)
Total direct and indirect costs	2,307,814	-	(2,307,814)
Less: offsetting revenue	-	-	-
Total program costs	<u>\$ 2,307,814</u>	-	<u>\$ (2,307,814)</u>
Less amount paid by the State ²		(2,307,814)	
Amount paid in excess of allowable costs claimed		<u>\$ (2,307,814)</u>	

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2020, through June 30, 2021</u>			
Direct Costs:			
Salaries and benefits	\$ 1,556,317	-	\$ (1,556,317)
Total direct costs	1,556,317	-	(1,556,317)
Indirect costs	588,524	-	(588,524)
Total direct and indirect costs	2,144,841	-	(2,144,841)
Less: offsetting revenue	-	-	-
Total program costs	<u>\$ 2,144,841</u>	-	<u>\$ (2,144,841)</u>
Less amount paid by the State ²		<u>(2,144,841)</u>	
Amount paid in excess of allowable costs claimed		<u>\$ (2,144,841)</u>	
<u>Summary: July 1, 2017, through June 30, 2021</u>			
Direct Costs:			
Salaries and benefits	\$ 7,436,663	-	\$ (7,436,663)
Total direct costs	7,436,663	-	(7,436,663)
Indirect costs	2,855,569	-	(2,855,569)
Total direct and indirect costs	10,292,232	-	(10,292,232)
Less: offsetting revenue	-	-	-
Total program costs	<u>\$ 10,292,232</u>	-	<u>\$ (10,292,232)</u>
Less amount paid by the State ²		<u>(10,172,773)</u>	
Amount paid in excess of allowable costs claimed		<u>\$ (10,172,773)</u>	

¹ See the Finding and Recommendation section.

² Payment amount current as of October 6, 2023.

Finding and Recommendation

FINDING— Unsupported salaries, benefits, and related indirect costs

The county claimed \$7,436,663 in salaries and benefits for the audit period. We determined that the entire amount is unallowable. The related unallowable indirect costs total \$2,855,569, for total unallowable costs of \$10,292,232. The costs are primarily unallowable because the county did not provide contemporaneous source documentation to support the mandated functions performed or the actual number of hours devoted to each function.

The following table summarizes the unallowable salaries and benefits, the related indirect costs, and the audit adjustment by fiscal year:

Cost Elements	2017-18	2018-19	2019-20	2020-21	Total
Unallowable salaries	\$ (1,404,437)	\$ (1,217,659)	\$ (1,013,744)	\$ (953,421)	\$ (4,589,261)
Unallowable benefits	+ (837,873)	+ (741,384)	+ (665,249)	+ (602,896)	+ (2,847,402)
Sub-total: Unallowable salaries and benefits	(2,242,310)	(1,959,043)	(1,678,993)	(1,556,317)	(7,436,663)
Claimed indirect cost rate (applies to salaries only)	× 63.67%	× 61.10%	× 62.03%	× 61.73%	×
Related indirect costs (<i>immaterial difference due to rounding</i>)	+ (894,247)	+ (743,978)	+ (628,820)	+ (588,524)	+ (2,855,569)
Audit adjustment	\$ (3,136,557)	\$ (2,703,021)	\$ (2,307,813)	\$ (2,144,841)	\$ (10,292,232)

The county provided monthly time studies for Bureau of Investigations and Bureau of Prosecution employees. The employees' hours were charged to the following items:

- (1) FC sections 3130 through 3133;
- (2) FC sections 3408(c) and 3408(d);
- (3) FC sections 3411(a) and 3421(c); and
- (4) PC sections 277, 278, and 278.5.

The time studies include the following instructions:

Section 3130–3133

Activity performed under item number (1) involving enforcement of custody orders should be indicated in this category. . . .

Section 277, 278, 278.5

Activities performed under item (4) in the return of an illegally concealed child or minor to its legal custodian should be indicated in this category.

The time studies also include the following instructions for “non-claimable” activities:

Section 277, 278, 278.5 – Non-Claimable (8)

All non-claimable custody of minors activities should be indicated in this category.

Other – Non-Claimable Activity Item Number (9)

Please explain any entries in this category.

After discussions with county personnel, we determined that both Deputy District Attorneys and District Attorney Investigators are, at times, involved in activities after the defendant's arraignment date. Without a description of the mandated functions, we were unable to determine whether the county had claimed unallowable costs associated with criminal prosecution commencing with the defendant's first appearance in a California court, or claimed costs associated with non-mandated activities.

We reviewed the time studies for fiscal year (FY) 2018-19 and FY 2020-21. During our review, we noted the following deficiencies with the time studies:

- Time studies were not signed by the employee and/or the employee's supervisor.
- Time studies were signed before the end of the time-studied month.
- Time study signatures were the same for the employee and the employee's supervisor.
- Time studies were signed a month or several months after the end of the time-studied month.

During fieldwork, the Bureau of Special Prosecutions also provided us with child abduction and recovery case file documents from eight sample cases. The documents included Los Angeles Superior Court Minute Orders, attorney case notes, court transcripts, and attorney emails. In addition, the Bureau of Investigations provided us with child abduction and recovery case file documents for four sample cases (three of which were outside the audit period). None of the provided documents describe the mandated functions performed or specify the actual number of hours devoted to each function.

Based on the documentation provided, we were unable to determine the mandated functions performed, the actual number of hours devoted to each function, or the validity of the costs. Only actual costs traceable to source documents may be claimed for this program.

In addition, the county did not separately identify its time spent on activities for PC section 278.7 cases (commonly referred to as "good cause" cases). After discussions with county personnel, we determined that the Intermediate Typist Clerk position performs activities for "good cause" cases. Time spent on "good cause" cases is unallowable because the parameters and guidelines do not identify "good cause" cases as reimbursable costs.

The parameters and guidelines incorporate requirements of PC sections 278 and 278.5, as amended by Chapter 988, Statutes of 1996. This law, known as the Parental Kidnapping Prevention Act, also added PC section 278.7. However, PC section 278.7 was not incorporated into the parameters and guidelines; therefore, any costs claimed under this section are not reimbursable.

Section V., “Reimbursable Costs,” 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 sheets, invoices, and receipts.

Section VII.A.1., “Salaries and Employees’ Benefits” of the parameters and guidelines states, in part:

Identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study. . . .

Recommendation

We recommend that the county:

- Follow the SCO’s *Mandated Cost Manual* and the mandated program’s parameters and guidelines when preparing its reimbursement claims; and
- Ensure that claimed costs are supported by source documentation.

County Response

I. SUMMARY OF RESPONSE

By letter dated June 28, 2023, the State Controller’s Office (“Controller”) has provided the County of Los Angeles (“County”) the results of the Controller’s draft audit of the County’s claims for costs incurred in implementing the Custody of Minors-Child Abduction and Recovery Program (“Child Custody Program”) for the period July 1, 2017, through June 30, 2021. During this period, the Los Angeles County District Attorney’s Office, including its Bureau of Investigation, filed 141 cases, and declined 244 more. It expended approximately 67,328 hours. For the calendar years 2017 through 2021, these efforts resulted in the recovery or reunification of over 300 minors. The District Attorney’s Office is proud of its work. The office has provided immeasurable comfort and peace of mind to the families involved.

The Controller’s draft audit, however, values this work as worth \$0.00. Although the Child Custody Program in its various forms has been a reimbursable mandate since 1979, and the Controller has reimbursed the County for this work from the program’s conception, the Controller has now reversed its position and asserts that the same documentation that was found sufficient in the past is now insufficient. The Controller did this without prior notice or warning and after the time periods had

passed, effectively precluding the County from providing the documentation the Controller now seeks.

The County does not agree with the Controller that the submitted documentation, as well as the supporting documentation provided to the Controller during the audit, is insufficient. The documents provided details of the employees involved and the cost of each employee's services, both direct and indirect. The time sheets provided allocate each employee's time between claimable and non-claimable activities in accordance with this program's Parameters and Guidelines.

There is no dispute that claimable services were rendered. Contrary to the draft audit's conclusions, the time sheets and other documentation submitted in support of the claims are source documents that show the validity of the costs, when they were incurred, and their relationship to the reimbursable activities within the meaning of the Parameters and Guidelines. The draft audit's conclusions otherwise are unsupported and are arbitrary, capricious, and an abuse of discretion. . . .

IV. THE AUDIT FOR [FY] 2017-2018 SHOULD BE WITHDRAWN AS UNTIMELY

The audit for FY 2017-2018 is untimely and should be withdrawn.

The County filed its reimbursement claim for FY 2017-2018 on January 25, 2019. *See* Form FAM-27, dated January 25, 2019, enclosed herewith (Attachment II). The Controller initiated its audit of this fiscal year on August 5, 2022. *See* Letter to Arlene Barrera, dated August 5, 2022, enclosed herewith (Attachment III).

Government Code § 17558.5(a) provides that “[a] reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later.”

Here the initiation of the audit for FY 2017-2018 occurred more than three years after January 25, 2019, the date the claim for these costs were filed. The claim was not amended. The audit for FY 2017-2018 is untimely and should be withdrawn.

V. THE TIME STUDIES AND OTHER DOCUMENTS SUBMITTED BY THE COUNTY ARE SOURCE DOCUMENTS THAT SHOW THE VALIDITY OF THE CLAIMED COSTS

A. The County Submitted Source Documents Consistent with the Parameters and Guidelines

The County submitted time studies, salary and benefits information, and an indirect cost calculation in support of the costs incurred for each fiscal year. Contrary to the Controller's assertion, these documents are valid source documents as set forth by the Parameters and Guidelines.

The Parameters and Guidelines provide that claimed costs must be supported by documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. Employee time records or time logs are specifically referenced as acceptable source documents. *See* Parameters and Guidelines, Section V.

The County has submitted such source documents here. First, there are the time study reports. Although titled “time study,” these are actually time sheets. Each deputy district attorney, paralegal, investigator, and clerk completes his or her own time sheet. The time sheets set forth the time expended on both claimable and non-claimable matters.

Each time sheet contains instructions as to how the time sheet is to be completed. Enforcement of custody orders is included under Family Code §§ 3130–3133. The return of an illegally concealed child or minor to its legal custodian is to be included under Penal Code §§ 277, 278, and 278.5.

The directions also specifically provide that all non-claimable activities are to be segregated and placed under the non-claimable section. The total hours expended on both claimable and non-claimable matters are totaled for each sheet. Each employee is instructed that the time sheets are to be completed on a daily basis, certified by the employee, and signed, dated, and submitted at the end of each month. Each employee’s supervisor also signs and certifies that the time sheet is true and correct to the best of his or her knowledge.

In addition to the time sheet, the Controller also received in support of each claim a list of each attorney, paralegal, and investigator assigned to the appropriate category of compensable activities. With respect to Los Angeles County, these would be Family Code §§ 3130–3133 or Penal Code §§ 277, 278, and 278.5 matters. Support documentation showing salaries, benefits, and indirect costs was also supplied.

These documents were consistent with the Controller’s Mandated Cost Manual for Local Agencies. Section 9(a) of that manual addresses actual time reporting. It provides in pertinent part that:

Each program’s Ps & Gs define reimbursable activities for each mandated cost program. When employees work on multiple activities, a distribution of their salaries or wages must be supported by personnel activity reports or equivalent documentation that must:

- (1) Reflect an after-the-fact (contemporaneous) distribution of the actual activity of each employee.
- (2) Account for the total activity for which each employee is compensated.
- (3) Be prepared at least monthly and must coincide with one or more pay periods.
- (4) Be signed by the employee.

That is the case here. Each employee time sheet reflects an after-the-fact (contemporaneous) distribution of the employee’s actual activity, accounts for each employee’s total activity, is prepared monthly and coincides with one or more pay periods, and is signed by the employee, as well as his or her supervisor. *Significantly, the Mandated Cost Manual does not call for the further detail on which the draft audit bases its conclusions.*

The County also supplied additional information during the audit. This information included a list of all matters handled by investigators as well as case files from representative custody and Hague Convention matters.

The Parameters and Guidelines provide that the claimant must identify each cost element for which reimbursement is claimed, and claimed costs must be identified to each cost element. With respect to salary and employee's benefits specifically, the Parameters and Guidelines require the documents "identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed, and specify the actual number of hours devoted to each function, the productive hourly rate and the related benefits." Parameters and Guidelines, Section VII.A.1.

That was done here. Each claim was supported by a schedule of employees, his or her classification, and the salary and other benefits claimed. Each employee's time sheet allocated his or her time on a daily basis to the reimbursable activity identified in Section V of the Parameters and Guidelines. Each employee's time was allocated between Section V.B.1, obtaining compliance with court orders (Family Code §§ 3130–3033), or Section V.B.2, return of illegally concealed children or minors to his or her legal custodian (Penal Code §§ 277, 278, 278.5).

The draft audit recognized that the County kept and submitted these time records. It noted that time was allocated between claimable and non-claimable activities by Family and Penal Code section, and that employees were specifically instructed as to how to allocate their time.

The draft audit nevertheless disallowed reimbursement in its entirety. Noting that Deputy District Attorneys and Investigators are at times involved in activities after a defendant's arraignment date, which would be non-claimable, the draft audit asserted that without a further description of the mandated functions, the Controller was unable to determine whether the County was claiming unallowable costs. This conclusion is not well taken.

First, the Parameters and Guidelines do not require the degree of detail the draft audit intends to require. Parameters and Guidelines Section V provides that the source documents must show the validity of the costs, when they were incurred, and their relationship to the reimbursable activities. Here, the only direct costs claimed are the attorneys', paralegals', and investigators' time. The Parameters and Guidelines specifically provide that employee time records or time logs can be used for this purpose.

That is the case here. Each time record separates claimable from non-claimable time, reflects when the claimable activity occurred, and shows the relationship to the reimbursable activity by Family or Penal Code. Each employee certifies the accuracy of that record, and each employee's supervisor also certifies the time.

Significantly, these time records appear to have been used and accepted since 1994, the date of their last revision, without objection. Certainly, they have been used and accepted for audit periods prior to FY 2017-2018, the first audit period at issue here. The Controller, having accepted these records for several years prior to the audit period, cannot without notice or warning choose to reverse its decision and find that the records are insufficient. The time records and logs had already been prepared in the previously-accepted format and, given the period of time between the audit period and the audit, the employee can no longer create further contemporaneous records. By changing requirements without prior notice or warning, the Controller unduly prejudices claimants.

If the Controller desires more detailed information, that information can be provided, *see* Section VI below, but it has to give notice that it is changing its requirements. The Controller’s decision to reverse its prior practice of accepting the County’s time records and logs in their current format, without prior notice or warning, is arbitrary, capricious and an abuse of discretion.

Moreover, the draft audit does not reflect information provided during the audit. First, during the audit, County representatives explained to the auditor that their investigators’ time is almost exclusively devoted to claimable activities (i.e., enforcing custody orders). In support of this fact, the Controller was provided with a list of the cases the investigators handled during the audit period. The Controller was also provided with the case files of representative cases so that the Controller could review the activities performed by the investigators. In the few instances where an investigator may have assisted an attorney after the filing of a criminal case, there is a place for that to be indicated on the time record.

Second, there is the time expended by the Intermediate Typist Clerk in support of the section. His or her work is also entirely devoted to supporting the investigators. As such, the clerk’s work is also fully claimable. Nevertheless, the one month when the clerk was called upon to assist with non-claimable work, he so indicated on his time sheet, indicating that he understood the distinction and how to account for it. See Time Sheet for Roy Alvarado, January 2020.

The draft audit states that the Intermediate Typist Clerk also performs work for Penal Code § 287.7 cases, referred to as “good cause” cases. This is not correct. Penal Code § 287.7 does not create a new crime. It sets forth a defense as to when Penal Code § 278.5 does not apply (i.e., when a person with a right to custody keeps, withholds, or conceals a child because of a good faith and reasonable belief the child will suffer immediate bodily injury or emotional harm). Penal Code § 278.7(a) and (b). As such, there are no separate § 278.7 cases. Instead, this is a defense raised by a parent or person with a right to custody in a custody case. The Intermediate Clerk Typist performs no work other than inputting into a database any report filed by the person who keeps, withholds, or conceals the child so that there will be record of the report should the defense be asserted. This time is *de minimus*, but in any event claimable because it is part of the Penal Code §§ 278 or 278.5 hearing. The Parameters and Guidelines do not identify “good cause” hearings as reimbursable costs because there is no such hearing independent of Penal Code §§ 278 or 278.5; Penal Code § 278.7 is simply a defense that can be raised in those hearings.

Third, County representatives explained to the auditor that the paralegals work only on Section 3130 and Hague Convention cases and, accordingly, reflect their time under Family Code §§ 3130–3133. Their activities include coordinating with investigators, preparing documents for court, and communicating with the court clerk. As this time is entirely claimable, there is no issue as to whether the paralegals’ time sheets contain sufficient information to distinguish claimable from non-claimable time. The draft audit does not set forth any reason to exclude any paralegal time. This time should be fully reimbursed.

Finally, the County representatives explained the work performed by Deputy District Attorneys. Unlike investigators or paralegals, Deputy District Attorneys perform both claimable and non-claimable work. This is reflected, however, in their time records. The attorneys are instructed

in how to allocate between claimable and non-claimable time and certify that they did it correctly. There is no basis to disallow this time.

B. Representative Cases

When performing an audit of a large number of items, it is appropriate to review a representative sample to determine accuracy. Here the County provided the Controller with the files relating to eight cases handled by Deputy District Attorneys and four cases handled by investigators. The draft audit states that the documents in the case files did not describe the functions performed or the hours devoted to those tasks.

The eight cases all were cases handled pursuant to the Hague Convention. All activities that relate to Hague matters are claimable, as they all relate to the recovery and return of children by means of a civil proceeding. As the County explained to the Controller, the documents in these case files are not prepared to describe the functions performed or the hours devoted. The claimable hours and reimbursable activities are set forth on the time records. The documents in these case files reflect or are the claimable activities themselves, they are the court orders (memorializing court appearances), investigations, contacts, travel, and reports in the case.

The Parameters and Guidelines provide that evidence corroborating source documents can include, but are not limited to, documents like worksheets, purchase orders, contracts, and agendas. These documents in the case files are the same type of corroborating documents, except generated in the context of child custody court proceedings. As reimbursable activities, these case files were provided to the Controller to corroborate that the activities for which reimbursement was sought are reimbursable activities under the Parameters and Guidelines.

The same is true for the investigator files. These also were cases handled pursuant to Family Code § 3130 and included the investigators' notes, contacts, and reports. Although the draft states that three of the cases were not in the audit period, it is not contested that the one in the audit period and the other three all evidence the type of activities performed by the investigators. As such, they are also corroborative evidence within the meaning of the Parameters and Guidelines.

The County submits that these files are sufficient representatives of the other cases on which the Deputy District Attorneys and investigators worked. Should the Controller believe that the sample is not sufficient, however, the County is willing to make additional case files available for review.

C. Time Records for FYs 2018-19 and 2020-21

The draft audit notes that it reviewed the time studies for the FYs 2018-19 and 2019-20 and found some time studies were not signed by the employee or employee's supervisor, signed before the end of the month, signed by the same person as employee and supervisor, or signed a month or several months after the end of the time period. None of these specific issues are disqualifying, but that, in any event, at most it is only the particular time sheet that is objectionable. It is not a basis for rejecting all properly completed time sheets.

In this regard, the County submitted 147 time sheets for FY 2018-19. Of these, all were signed by the employee and only two were not signed by a supervisor. Only 11 were signed by the supervisor one to three days before the end of the month. (The date of the employee's signature is not controlling because when the supervisor signs it after the end of the month, he or she is certifying that the time was expended as set forth on the time sheet to the best of his or her belief.) Only one was signed more than a month after the end of the time-studied month. Finally, the only instances where the time sheet was signed by the same person were time sheets signed by a supervisor for her own time, which she was authorized to do.

These record-keeping omissions do not show that the time on these time sheets is inaccurate. At worst, however, there are only 14 out of 147 time sheets with one of these issues, other than where the supervisor was authorized to approve her own time. That is not a basis for rejecting the other 133 time sheets, and not a basis for rejecting the time reported prior to the date of the supervisor's signature where circumstances caused him or her to have signed the time sheet a few days before the end of the month.

The same is true for FY 2019-20. 133 time sheets were submitted for this period. Of these, only two were not signed by a supervisor and only two were signed by a supervisor before the end of the month. This is not a basis for rejecting the 129 other time sheets. Of the time sheets signed late by an employee, all were after the COVID County-wide health emergency was declared in March 2020 and County employees were directed to stay home. Similarly, of 17 time studies signed late by a supervisor, 15 of 17 were after March 2020. . . .

SCO Comment

Our finding and recommendation remain unchanged. We will address the county's concerns in the order in which they appear in the county's response.

On page 4 (Section IV., "The Audit for [FY] 2017-2018 Should Be Withdrawn as Untimely") of its response, the county states:

. . . Government Code § 17558.5(a) provides that "[a] reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later."

Here the initiation of the audit for FY 2017-2018 occurred more than three years after January 25, 2019, the date the claim for these costs were filed. The claim was not amended. The audit for FY 2017-2018 is untimely and should be withdrawn.

The county does not quote GC section 17558.5(a) in its entirety. The subparagraph concludes:

. . . However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be

completed not later than two years after the date that the audit is commenced.

The initial payment for the FY 2017-18 claim was made on August 15, 2019. SCO contacted the county on July 26, 2022, to initiate the audit and the engagement start letter was dated August 5, 2022. Therefore, the audit of FY 2017-18 claims was initiated in a timely manner. The three-year statutory limit had not expired.

On page 5 (Section V.A., “The County Submitted Source Documents Consistent with the Parameters and Guidelines”) of its response, the county states:

Each time sheet contains instructions as to how the time sheet is to be completed. Enforcement of custody orders is included under Family Code §§ 3130–3133. The return of an illegally concealed child or minor to its legal custodian is to be included under Penal Code §§ 277, 278, and 278.5.

During our review, we examined the county’s time study/time sheet instructions. They specifically state:

Section 3130–3133

Activity performed under item number (1) involving enforcement of custody orders should be indicated in this category. . . .

Section 277, 278, 278.5

Activities performed under item (4) in the return of an illegally concealed child or minor to its legal custodian should be indicated in this category.

The time studies also included the following instructions for “Non-claimable” activities:

Section 277, 278, 278.5 – Non-Claimable (8)

All non-claimable custody of minors activities should be indicated in this category.

Other – Non-Claimable Activity Item Number (9)

Please explain any entries in this category.

The time study/time sheet instructions list the Penal Code and Family Code section and “Activity performed” or “Activities performed.” However, descriptions of the mandated activities performed are not provided.

Likewise, “non-claimable” activities are simply noted as “277/278/278.5 Non-Claimable” or “Other-Non-claimable.” No further description of the activities performed is provided.

Section VII.A.1., “Salary and Employees’ Benefits,” of the parameters and guidelines states, in part:

Identify the employee(s), show the classification of the employee(s) involved, **describe the mandated functions performed and specify the actual number of hours devoted to each function**, [emphasis

added] the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study. . . .

On page 5 (Section V.A., “The County Submitted Source Documents Consistent with the Parameters and Guidelines”) of its response, the county states:

. . . Each employee time sheet reflects an after-the-fact (contemporaneous) distribution of the employee’s actual activity, accounts for each employee’s total activity, is prepared monthly and coincides with one or more pay periods, and is signed by the employee, as well as his or her supervisor. *Significantly, the Mandated Cost Manual does not call for the further detail on which the draft audit bases its conclusions.* [emphasis in original]

As noted in our draft report, the parameters and guidelines for the CAR Program establish the state mandate and define reimbursement criteria; SCO issues the *Mandated Cost Manual* to assist local agencies in claiming reimbursable costs.

Page 1 of “Custody of Minors – Child Abduction and Recovery – Program No. 13” (hereafter “Program No. 13”) in the SCO’s *Mandated Cost Manual* states, in part:

. . . SCO issues these claiming instructions subsequent to the Commission on State Mandates (CSM) adopting the Parameters and Guidelines (Ps & Gs). The Ps & Gs are an integral part of the claiming instructions and are located on CSM’s website.

The “Audit of Costs” section (“Program No. 13,” page 2) of the SCO’s *Mandated Cost Manual* begins:

All claims submitted to SCO are subject to review to determine if costs are related to the mandate, are reasonable and not excessive, and if the claim was prepared in accordance with the SCO’s claiming instructions **and the Ps & Gs adopted by CSM** [emphasis added]. . . .

On pages 6 and 7 (Section V.A., “The County Submitted Source Documents Consistent with the Parameters and Guidelines”) of its response, the county continues:

Significantly, these time records appear to have been used and accepted since 1994, the date of their [the Ps & Gs] last revision, without objection. Certainly, they have been used and accepted for audit periods prior to FY 2017-2018, the first audit period at issue here. The Controller, having accepted these records for several years prior to the audit period, cannot without notice or warning choose to reverse its decision and find that the records are insufficient. The time records and logs had already been prepared in the previously-accepted format and, given the period of time between the audit period and the audit, the employee can no longer create further contemporaneous records. By changing requirements without prior notice or warning, the Controller unduly prejudices claimants.

We disagree.

This is the first audit conducted by our office of Los Angeles County's CAR Program mandated cost claims under the amended parameters and guidelines, issued October 30, 2009. The prior audit report for the period of July 1, 1999, through June 30, 2002, was issued on January 19, 2007. Therefore, the prior audit report was conducted under the program's previous parameters and guidelines, adopted on August 26, 1999.

The county asserts that the requirements were changed without prior notice or warning; however, page 1 of "Program No. 13" of the SCO's *Mandated Cost Manual* states "On October 30, 2009, CSM approved amendments to the Ps & Gs to clarify source documentation requirements."

The SCO's updated *Mandated Cost Manual* is provided annually to all claimants. Furthermore, the Commission issued a "Notice of Draft Staff Analysis, Comment Period and Hearing Date" to all state agencies and interested parties on September 23, 2009. This notification was to allow any interested parties to comment regarding the proposed changes to the program's parameters and guidelines.

To state that the "Controller unduly prejudices claimants" is inaccurate. Claimants are responsible for reviewing all relevant material, including any changes to the program's parameters and guidelines, *before* any claim is submitted for reimbursement. Claimants are also responsible for adhering to the requirements of the program's parameters and guidelines when submitting their claims.

During this engagement, we audited claims filed under the Amended Parameters and Guidelines, adopted October 30, 2009. These parameters and guidelines became effective beginning with claims for FY 2005-06. Claims applicable to this audit engagement were filed between July 1, 2017, and June 30, 2021.

On page 7 of its response (Section V.A., "The County Submitted Source Documents Consistent with the Parameters and Guidelines"), the county states:

Moreover, the draft audit does not reflect information provided during the audit. First, during the audit, County representatives explained to the auditor that their investigators' time is almost exclusively devoted to claimable activities (i.e., enforcing custody orders). In support of this fact, the Controller was provided with a list of the cases [that] the investigators handled during the audit period. The Controller was also provided with the case files of representative cases so that the Controller could review the activities performed by the investigators. In the few instances where an investigator may have assisted an attorney after the filing of a criminal case, there is a place for that to be indicated on the time record.

We reviewed the list of the cases that the investigators handled during the audit period, as well as case file documents from sample cases. None of the provided documents describes the mandated functions performed or specifies the actual number of hours devoted to each function. Providing case files to support the county's assertion that the "investigators' time is almost exclusively devoted to claimable activities (i.e. enforcing custody

orders)” does not comply with the requirements of the parameters and guidelines to support the actual number of hours devoted to each reimbursable function.

Additionally, the parameters and guidelines do not allow for the Intermediate Typist Clerk’s time to be “fully claimable” simply because “his or her work is also entirely devoted to supporting the investigators” (page 7 in Section V.A., “The County Submitted Source Documents Consistent with the Parameters and Guidelines”).

On page 7 of its response (Section V.A., “The County Submitted Source Documents Consistent with the Parameters and Guidelines”), the county states:

The draft audit states that the Intermediate Typist Clerk also performs work for Penal Code § 287.7 cases, referred to as “good cause” cases. This is not correct. Penal Code § 287.7 does not create a new crime. It sets forth a defense as to when Penal Code § 278.5 does not apply. . . . there are no separate § 278.7 cases. Instead, this is a defense raised by a parent or person with a right to custody in a custody case. The Intermediate Clerk Typist performs no work other than inputting into a database any report filed by the person who keeps, withholds, or conceals the child so that there will be record of the report should the defense be asserted. This time is de minimus, but in any event claimable because it is part of the Penal Code §§ 278 or 278.5 hearing. . . .

We disagree.

During an interview with the Sergeant of the Bureau of Investigations on October 18, 2022, we were told that good cause reports are taken and input by the Intermediate Typist Clerk. We emailed a summary of the conversation to the county on October 19, 2022, and the county did not dispute the statement regarding the Intermediate Typist Clerk.

Activities performed related to PC section 278.7 are not considered reimbursable mandated activities. Furthermore, the documentation provided as support for the claims did not contain the required detail to determine the mandated functions performed, or identify employees’ time spent on activities related to cases under PC section 278.7.

On page 8 of its response (Section V.A., “The County Submitted Source Documents Consistent with the Parameters and Guidelines”), the county states:

County representatives explained to the auditor that the paralegals work only on Section 3130 and Hague Convention cases and, accordingly, reflect their time under Family Code §§ 3130–3133. Their activities include coordinating with investigators, preparing documents for court, and communicating with the court clerk. As this time is entirely claimable, there is no issue as to whether the paralegals’ time sheets contain sufficient information to distinguish claimable from non-claimable time. The draft audit does not set forth any reason to exclude any paralegal time. This time should be fully reimbursed.

Documenting time spent on activities under FC sections 3130 through 3133, without describing the mandated functions performed and

specifying the number of hours devoted to each function, does not meet the requirements of the parameters and guidelines.

Section VII.A.1., “Salaries and Employees’ Benefits” of the parameters and guidelines states:

Identify the employee(s), show the classification of the employee(s) involved, **describe the mandated functions performed and specify the actual number of hours devoted to each function** [emphasis added], the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study. . . .

On page 8 (Section V.B., “Representative Cases”) of its response, the county states:

. . . As the County explained to the Controller, the documents in these case files are not prepared to describe the functions performed or the hours devoted. The claimable hours and reimbursable activities are set forth on the time records. The documents in these case files reflect or are the claimable activities themselves, they are the court orders (memorializing court appearances), investigations, contacts, travel, and reports in the case.

As discussed previously, the time records provided by the county are not adequate source documentation. Furthermore, the documents in the case files do not qualify as source documents; they qualify as corroborating documents.

Section V., “Reimbursable Costs,” of the parameters and guidelines states, in part:

. . . 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 sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. . . . Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. **However, these documents cannot be substituted for source documents** [emphasis added].

Claimants are allowed to submit evidence corroborating their source documents. However, the parameters and guidelines do not allow claimants to substitute corroborating documents for source documents.

On page 9 (Section V.C., “Time Records for FYs 2018-19 and 2020-21”) of its response, the county states:

The draft audit notes that it reviewed the time studies for the FYs 2018-19 and 2019-20 and found some time studies were not signed by the employee or employee's supervisor, signed before the end of the month, signed by the same person as employee and supervisor, or signed a month or several months after the end of the time period. None of these specific issues are disqualifying, but that, in any event, at most it is only the particular time sheet that is objectionable. It is not a basis for rejecting all properly completed time sheets. . . .

We discussed time study deficiencies in the draft audit report to provide readers with a broader understanding of the time records that we reviewed and the deficiencies noted within. The time study deficiencies were not the primary basis for the audit finding; however, these deficiencies represent a lack of consistency with the county's ability to provide accurate, contemporaneous time records to support the hours claimed for the legislatively mandated CAR Program.

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



OSCAR VALDEZ
AUDITOR-CONTROLLER

**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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ASSISTANT AUDITOR-CONTROLLERS

MAJIDA ADNAN
ROBERT G. CAMPBELL
CONNIE YEE

July 27, 2023

Lisa Kurokawa, Chief, Compliance Audits Bureau
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250

Dear Ms. Kurokawa:

**LOS ANGELES COUNTY'S RESPONSE TO THE DRAFT AUDIT REPORT:
CUSTODY OF MINORS – CHILD ABDUCTION AND RECOVERY PROGRAM**

We have received your draft audit report for the State Controller's Office's (SCO) audit of costs claimed by Los Angeles County (County) for the legislatively-mandated Custody of Minors – Child Abduction and Recovery Program for the period of July 1, 2017, through June 30, 2021.

The County does not agree with the SCO's results and has prepared the attached response.

If you have any questions please call me, or your staff may contact Fernando Lemus at (213) 974-0324 or at flemus@auditor.lacounty.gov.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Oscar Valdez".

Oscar Valdez
Auditor-Controller

OV:CY:RA:RC:FL:tm

Attachments

c: Fesia A. Davenport, Chief Executive Officer
George Gascón, District Attorney
Dawyn R. Harrison, County Counsel

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I. SUMMARY OF RESPONSE

By letter dated June 28, 2023, the State Controller's Office ("Controller") has provided the County of Los Angeles ("County") the results of the Controller's draft audit of the County's claims for costs incurred in implementing the Custody of Minors-Child Abduction and Recovery Program ("Child Custody Program") for the period July 1, 2017, through June 30, 2021. During this period, the Los Angeles County District Attorney's Office, including its Bureau of Investigation, filed 141 cases, and declined 244 more. It expended approximately 67,328 hours. For the calendar years 2017 through 2021, these efforts resulted in the recovery or reunification of over 300 minors.¹ The District Attorney's Office is proud of its work. The office has provided immeasurable comfort and peace of mind to the families involved.

The Controller's draft audit, however, values this work as worth \$0.00. Although the Child Custody Program in its various forms has been a reimbursable mandate since 1979, and the Controller has reimbursed the County for this work from the program's conception, the Controller has now reversed its position and asserts that the same documentation that was found sufficient in the past is now insufficient. The Controller did this without prior notice or warning and after the time periods had passed, effectively precluding the County from providing the documentation the Controller now seeks.

The County does not agree with the Controller that the submitted documentation, as well as the supporting documentation provided to the Controller during the audit, is insufficient. The documents provided details of the employees involved and the cost of each employee's services, both direct and indirect. The time sheets provided allocate each employee's time between claimable and non-claimable activities in accordance with this program's Parameters and Guidelines.

There is no dispute that claimable services were rendered. Contrary to the draft audit's conclusions, the time sheets and other documentation submitted in support of the claims are source documents that show the validity of the costs, when they were incurred, and their relationship to the reimbursable activities within the meaning of the Parameters and Guidelines. The draft audit's conclusions otherwise are unsupported and are arbitrary, capricious, and an abuse of discretion.

II. THE CLAIMS AT ISSUE

The draft audit proposes to disallow all costs incurred between July 1, 2017, and June 30, 2021, on the grounds that the County did not provide sufficient supporting documentation as follows:

¹ These statistics are collected on a calendar, as opposed to fiscal, year basis.

Fiscal Year	Actual Costs Claimed	Audit Adjustment
2017-2018	\$3,136,557	\$3,136,557
2018-2019	\$2,703,020	\$2,703,020
2019-2020	\$2,307,814	\$2,307,814
2020-2021	\$2,144,841	\$2,144,841
Total	\$10,292,232	\$10,292,232

For the following reasons, these draft audit adjustments are erroneous.

III. THE CHILD CUSTODY PROGRAM

As set forth in the Amended Parameters and Guidelines, *Custody of Minors-Child Abduction and Recovery 05-PGA-26 (CSM4237)* ("Parameters and Guidelines"), the Legislature, through the enactment of several Family and Penal Code sections, has required District Attorney offices to assist parents and interested parties in resolving custody disputes and enforcing custody decrees.

As is pertinent here, Family Code §§ 3130 and 3131 provide that, where a petition to determine custody of a child has been filed, or a temporary order pending determination of custody has been entered, and the whereabouts of a party in possession of the child are unknown, the district attorney shall take all actions necessary to locate the party and the child and procure compliance with an order to appear, and if a child is taken or detained in violation of a custody or visitation order, the district attorney shall take all actions necessary to locate and return the child and the person who violated the order, and to assist in the enforcement of the custody or visitation order. Family Code § 3132 provides that the district attorney acts on behalf of the court, not any party to the proceeding. Family Code § 3133 provides that a court can issue a temporary custody order upon the district attorney's representation that such an order is needed to recover a detained or concealed child.

Penal Code § 277 contains definitions applicable to Penal Code §§ 278 and 278.5. Penal Code § 278 provides that every person not having a right to custody, who maliciously takes, entices away, keeps, withholds, or conceals any child with the intent to detain or conceal that child from a lawful custodian, shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding one thousand dollars, or both, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three or four years, a fine not exceeding ten thousand dollars, or both. Penal Code § 278.5 provides that every person who takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian of a right to custody, or a person of a right to visitation, shall be subject to similar punishment.

The Child Custody Program's Parameters and Guidelines provide for reimbursement for the costs incurred in implementing these statutes (Parameters and Guidelines, Section I). Section V.A of the Parameters and Guidelines specifically provides that:

Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren) by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child custody or visitation, as provided in Family Code Sections 3130 to 3134.5, with the exception of those activities listed in Section VI.

(Section VI of the Parameters and Guidelines excludes from reimbursement costs associated with criminal prosecution, commencing with the defendant's first appearance in a California court, for offenses defined in sections 278 or 278.5.)

Section V.B. of the Parameters and Guidelines provides that the County can recover all direct and indirect costs of labor, material and supplies, training and travel associated with obtaining compliance with court orders relating to child custody or visitation proceedings and enforcement of child custody or visitation orders, including:

- (1) contact with children and other involved persons, receipt of reports and requests for assistance, mediating with or advising involved individuals, and locating missing or concealed offenders and children;
- (2) utilizing any appropriate civil or criminal court action to secure compliance, including preparation and investigation of reports and requests for assistance, seeking physical restraint of offenders and/or the children to assure compliance with court orders, process services and depositions; and
- (3) physically recovering children, including travel expenses, food, lodging, transportation, and personal necessities for the child. (Section V.B.1.)

Section V.B further provides that the County can recover all direct and indirect costs in cases involving child custody or visitation orders from another jurisdiction, which may include utilization of the Uniform Child Custody Jurisdiction Act, the Federal Parental Kidnapping Prevention Act, and The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ("Hague Convention"), including:

- (1) cost of providing foster care or other short-term care for any child pending return to the out-of-jurisdiction custodian,
- (2) cost of transportation, including travel expenses, and personal necessities for the child;

(3) securing appearance of offenders and children in conjunction with an arrest warrant or court order, and cost of foster or short-term care because of the detention of the individual having custody; and

(4) return of an illegally obtained or concealed child, including the cost of food, lodging and necessities and cost of escorting the child. (Section V.B.2.)

IV. THE AUDIT FOR FISCAL YEAR (FY) 2017-2018 SHOULD BE WITHDRAWN AS UNTIMELY

The audit for FY 2017-2018 is untimely and should be withdrawn.

The County filed its reimbursement claim for FY 2017-2018 on January 25, 2019. See Form FAM-27, dated January 25, 2019, enclosed herewith (Attachment II). The Controller initiated its audit of this fiscal year on August 5, 2022. See Letter to Arlene Barrera, dated August 5, 2022, enclosed herewith (Attachment III).

Government Code § 17558.5(a) provides that “[a] reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later.”

Here the initiation of the audit for FY 2017-2018 occurred more than three years after January 25, 2019, the date the claim for these costs were filed. The claim was not amended. The audit for FY 2017-2018 is untimely and should be withdrawn.

V. THE TIME STUDIES AND OTHER DOCUMENTS SUBMITTED BY THE COUNTY ARE SOURCE DOCUMENTS THAT SHOW THE VALIDITY OF THE CLAIMED COSTS

A. The County Submitted Source Documents Consistent with the Parameters and Guidelines

The County submitted time studies, salary and benefits information, and an indirect cost calculation in support of the costs incurred for each fiscal year. Contrary to the Controller’s assertion, these documents are valid source documents as set forth by the Parameters and Guidelines.

The Parameters and Guidelines provide that claimed costs must be supported by documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. Employee time records or time logs are specifically referenced as acceptable source documents. See Parameters and Guidelines, Section V.

The County has submitted such source documents here. First, there are the time study reports. Although titled “time study,” these are actually time sheets. Each deputy district

attorney, paralegal, investigator, and clerk completes his or her own time sheet. The time sheets set forth the time expended on both claimable and non-claimable matters.

Each time sheet contains instructions as to how the time sheet is to be completed. Enforcement of custody orders is included under Family Code §§ 3130-3133. The return of an illegally concealed child or minor to its legal custodian is to be included under Penal Code §§ 277, 278, and 278.5.

The directions also specifically provide that all non-claimable activities are to be segregated and placed under the non-claimable section. The total hours expended on both claimable and non-claimable matters are totaled for each day. Each employee is instructed that the time sheets are to be completed on a daily basis, certified by the employee, and signed, dated, and submitted at the end of each month. Each employee's supervisor also signs and certifies that the time sheet is true and correct to the best of his or her knowledge.

In addition to the time sheet, the Controller also received in support of each claim a list of each attorney, paralegal, and investigator assigned to the appropriate category of compensable activities. With respect to Los Angeles County, these would be Family Code §§ 3130-3133 or Penal Code §§ 277, 278, and 278.5 matters. Support documentation showing salaries, benefits, and indirect costs was also supplied.

These documents were consistent with the Controller's Mandated Cost Manual for Local Agencies. Section 9(a) of that manual addresses actual time reporting. It provides in pertinent part that:

Each program's Ps & Gs define reimbursable activities for each mandated cost program. When employees work on multiple activities, a distribution of their salaries or wages must be supported by personnel activity reports or equivalent documentation that must:

- (1) Reflect an after-the-fact (contemporaneous) distribution of the actual activity of each employee.
- (2) Account for the total activity for which each employee is compensated.
- (3) Be prepared at least monthly and must coincide with one or more pay periods.
- (4) Be signed by the employee.

That is the case here. Each employee time sheet reflects an after-the-fact (contemporaneous) distribution of the employee's actual activity, accounts for each employee's total activity, is prepared monthly and coincides with one or more pay periods, and is signed by the employee, as well as his or her supervisor. *Significantly, the Mandated Cost Manual does not call for the further detail on which the draft audit bases its conclusions.*

The County also supplied additional information during the audit. This information included a list of all matters handled by investigators as well as case files from representative custody and Hague Convention matters.

The Parameters and Guidelines provide that the claimant must identify each cost element for which reimbursement is claimed, and claimed costs must be identified to each cost element. With respect to salary and employee's benefits specifically, the Parameters and Guidelines require the documents "identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed, and specify the actual number of hours devoted to each function, the productive hourly rate and the related benefits." Parameters and Guidelines, Section VII.A.1.

That was done here. Each claim was supported by a schedule of employees, his or her classification, and the salary and other benefits claimed. Each employee's time sheet allocated his or her time on a daily basis to the reimbursable activity identified in Section V of the Parameters and Guidelines. Each employee's time was allocated between Section V.B.1, obtaining compliance with court orders (Family Code §§ 3130-3033), or Section V.B.2, return of illegally concealed children or minors to his or her legal custodian (Penal Code §§ 277, 278, 278.5).

The draft audit recognized that the County kept and submitted these time records. It noted that time was allocated between claimable and non-claimable activities by Family and Penal Code section, and that employees were specifically instructed as to how to allocate their time.

The draft audit nevertheless disallowed reimbursement in its entirety. Noting that Deputy District Attorneys and Investigators are at times involved in activities after a defendant's arraignment date, which would be non-claimable, the draft audit asserted that without a further description of the mandated functions, the Controller was unable to determine whether the County was claiming unallowable costs. This conclusion is not well taken.

First, the Parameters and Guidelines do not require the degree of detail the draft audit intends to require. Parameters and Guidelines Section V provides that the source documents must show the validity of the costs, when they were incurred, and their relationship to the reimbursable activities. Here, the only direct costs claimed are the attorneys', paralegals', and investigators' time. The Parameters and Guidelines specifically provide that employee time records or time logs can be used for this purpose.

That is the case here. Each time record separates claimable from non-claimable time, reflects when the claimable activity occurred, and shows the relationship to the reimbursable activity by Family or Penal Code. Each employee certifies the accuracy of that record, and each employee's supervisor also certifies the time.

Significantly, these time records appear to have been used and accepted since 1994, the date of their last revision, without objection. Certainly, they have been used and accepted for audit periods prior to FY 2017-2018, the first audit period at issue here. The Controller,

having accepted these records for several years prior to the audit period, cannot without notice or warning choose to reverse its decision and find that the records are insufficient. The time records and logs had already been prepared in the previously-accepted format and, given the period of time between the audit period and the audit, the employee can no longer create further contemporaneous records. By changing requirements without prior notice or warning, the Controller unduly prejudices claimants.

If the Controller desires more detailed information, that information can be provided, see Section VI below, but it has to give notice that it is changing its requirements. The Controller's decision to reverse its prior practice of accepting the County's time records and logs in their current format, without prior notice or warning, is arbitrary, capricious and an abuse of discretion.

Moreover, the draft audit does not reflect information provided during the audit. First, during the audit, County representatives explained to the auditor that their investigators' time is almost exclusively devoted to claimable activities (i.e., enforcing custody orders). In support of this fact, the Controller was provided with a list of the cases the investigators handled during the audit period. The Controller was also provided with the case files of representative cases so that the Controller could review the activities performed by the investigators. In the few instances where an investigator may have assisted an attorney after the filing of a criminal case, there is a place for that to be indicated on the time record.

Second, there is the time expended by the Intermediate Typist Clerk in support of the section. His or her work is also entirely devoted to supporting the investigators. As such, the clerk's work is also fully claimable. Nevertheless, the one month when the clerk was called upon to assist with non-claimable work, he so indicated on his time sheet, indicating that he understood the distinction and how to account for it. See Time Sheet for Roy Alvarado, January 2020.

The draft audit states that the Intermediate Typist Clerk also performs work for Penal Code § 287.7 cases, referred to as "good cause" cases. This is not correct. Penal Code § 287.7 does not create a new crime. It sets forth a defense as to when Penal Code § 278.5 does not apply (i.e., when a person with a right to custody keeps, withholds, or conceals a child because of a good faith and reasonable belief the child will suffer immediate bodily injury or emotional harm). Penal Code § 278.7(a) and (b). As such, there are no separate § 278.7 cases. Instead, this is a defense raised by a parent or person with a right to custody in a custody case. The Intermediate Clerk Typist performs no work other than inputting into a database any report filed by the person who keeps, withholds, or conceals the child so that there will be record of the report should the defense be asserted. This time is de minimus, but in any event claimable because it is part of the Penal Code §§ 278 or 278.5 hearing. The Parameters and Guidelines do not identify "good cause" hearings as reimbursable costs because there is no such hearing independent of Penal Code §§ 278 or 278.5; Penal Code § 278.7 is simply a defense that can be raised in those hearings.

Third, County representatives explained to the auditor that the paralegals work only on Section 3130 and Hague Convention cases and, accordingly, reflect their time under Family Code §§ 3130-3133. Their activities include coordinating with investigators, preparing documents for court, and communicating with the court clerk. As this time is entirely claimable, there is no issue as to whether the paralegals' time sheets contain sufficient information to distinguish claimable from non-claimable time. The draft audit does not set forth any reason to exclude any paralegal time. This time should be fully reimbursed.

Finally, the County representatives explained the work performed by Deputy District Attorneys. Unlike investigators or paralegals, Deputy District Attorneys perform both claimable and non-claimable work. This is reflected, however, in their time records. The attorneys are instructed in how to allocate between claimable and non-claimable time and certify that they did it correctly. There is no basis to disallow this time.

B. Representative Cases

When performing an audit of a large number of items, it is appropriate to review a representative sample to determine accuracy. Here the County provided the Controller with the files relating to eight cases handled by Deputy District Attorneys and four cases handled by investigators. The draft audit states that the documents in the case files did not describe the functions performed or the hours devoted to those tasks.

The eight cases all were cases handled pursuant to the Hague Convention. All activities that relate to Hague matters are claimable, as they all relate to the recovery and return of children by means of a civil proceeding. As the County explained to the Controller, the documents in these case files are not prepared to describe the functions performed or the hours devoted. The claimable hours and reimbursable activities are set forth on the time records. The documents in these case files reflect or are the claimable activities themselves, they are the court orders (memorializing court appearances), investigations, contacts, travel, and reports in the case.

The Parameters and Guidelines provide that evidence corroborating source documents can include, but are not limited to, documents like worksheets, purchase orders, contracts, and agendas. These documents in the case files are the same type of corroborating documents, except generated in the context of child custody court proceedings. As reimbursable activities, these case files were provided to the Controller to corroborate that the activities for which reimbursement was sought are reimbursable activities under the Parameters and Guidelines.

The same is true for the investigator files. These also were cases handled pursuant to Family Code § 3130 and included the investigators' notes, contacts, and reports. Although the draft states that three of the cases were not in the audit period, it is not contested that the one in the audit period and the other three all evidence the type of activities performed by the investigators. As such, they are also corroborative evidence within the meaning of the Parameters and Guidelines.

The County submits that these files are sufficient representatives of the other cases on which the Deputy District Attorneys and investigators worked. Should the Controller believe that the sample is not sufficient, however, the County is willing to make additional case files available for review.

C. Time Records for FYs 2018-19 and 2020-21

The draft audit notes that it reviewed the time studies for the FYs 2018-19 and 2019-20 and found some time studies were not signed by the employee or employee's supervisor, signed before the end of the month, signed by the same person as employee and supervisor, or signed a month or several months after the end of the time period. None of these specific issues are disqualifying, but that, in any event, at most it is only the particular time sheet that is objectionable. It is not a basis for rejecting all properly completed time sheets.

In this regard, the County submitted 147 time sheets for FY 2018-19. Of these, all were signed by the employee and only two were not signed by a supervisor. Only 11 were signed by the supervisor one to three days before the end of the month. (The date of the employee's signature is not controlling because when the supervisor signs it after the end of the month, he or she is certifying that the time was expended as set forth on the time sheet to the best of his or her belief.) Only one was signed more than a month after the end of the time-studied month. Finally, the only instances where the time sheet was signed by the same person were time sheets signed by a supervisor for her own time, which she was authorized to do.

These record-keeping omissions do not show that the time on these time sheets is inaccurate. At worst, however, there are only 14 out of 147 time sheets with one of these issues, other than where the supervisor was authorized to approve her own time. That is not a basis for rejecting the other 133 time sheets, and not a basis for rejecting the time reported prior to the date of the supervisor's signature where circumstances caused him or her to have signed the time sheet a few days before the end of the month.

The same is true for FY 2019-20. 133 time sheets were submitted for this period. Of these, only two were not signed by a supervisor and only two were signed by a supervisor before the end of the month. This is not a basis for rejecting the 129 other time sheets. Of the time sheets signed late by an employee, all were after the COVID County-wide health emergency was declared in March 2020 and County employees were directed to stay home. Similarly, of 17 time studies signed late by a supervisor, 15 of 17 were after March 2020.

VI. FUTURE RECORD KEEPING

As set forth above, the County believes that the documentation it has provided is sufficient and consistent with the Parameters and Guidelines. Nevertheless, in order to provide more detailed information in response to the Controller's requests, the County has implemented a new time-keeping policy and created new time records that reflect not only

claimable and non-claimable categories, but also individual task codes for each specific activity performed under each category.

Personnel have been advised to submit these new time records and have them approved by a specified date. These new time records will continue to be consistent with the State Controller's Office's Mandated Cost Manual for Local Agencies.


VII. CONCLUSION

During the audit period, the District Attorney's office filed 141 cases resulting in the recovery and reunification of over 300 minors. The District Attorney's office is proud of its work.

In support of this claim, the County has submitted documentation consistent with the Parameters and Guidelines: time sheets certified by each employee and their supervisor allocating time between claimable and non-claimable activities, and schedules reflecting the employee's salaries and benefits, as well as indirect cost calculations.

There is no dispute that claimable activities were performed, benefiting hundreds of children and their parents or legal custodians. The draft audit's refusal to allow any compensation for this work is, on its face, unreasonable. Having provided reimbursement based on the same documentation for several years prior to the audit, the Controller's draft audit is arbitrary, capricious, and an abuse of discretion.

For the forgoing reason, the draft audit should be revised, and the Controller should reinstate all disallowed costs.

State Controller's Office		Mandated Cost Manual for Local Agencies	
PROGRAM 013	CUSTODY OF MINORS- CHILD ABDUCTION AND RECOVERY CLAIM FOR PAYMENT	For State Controller Use Only	FORM FAM-27
		(19) Program Number 00013 (20) Date Filed (21) LRS Input	
(01) Claimant Identification Number 9919		Reimbursement Claim Data	
(02) Claimant Name Auditor-Controller		(22) FORM 1, (04) 1. (f)	\$2,242,310
County of Location County of Los Angeles		(23) FORM 1, (04) 2. (f)	
Street Address or P.O. Box 500 W. Temple Street Suite 603		(24) FORM 1, (04) 3. (f)	
City Los Angeles State CA Zip Code 90012		(25) FORM 1, (04) 4. (f)	
		(26) FORM 1, (06)	84%
		(27) FORM 1, (07)	\$894,247
		(28) FORM 1, (09)	
		(29) FORM 1, (10)	
(09) Reimbursement <input checked="" type="checkbox"/>		(12) 2017-2018	(30)
(10) Combined <input type="checkbox"/>		(13) \$3,136,557	(31)
(11) Amended <input type="checkbox"/>		(14)	(32)
(12) 2017-2018		(15)	(33)
(13) \$3,136,557		(16) \$3,136,557	(34)
(14)		(17) \$3,136,557	(35)
(15)		(18)	(36)
(16) \$3,136,557			
(17) \$3,136,557			
(18)			
(37) CERTIFICATION OF CLAIM			
<p>In accordance with the provisions of Government Code sections 17560 and 17661, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 of the Government Code.</p> <p>I further certify that there was no application other than from the claimant, nor any grant(s) or payment(s) received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>			
Signature of Authorized Officer			
 John Naimo, Auditor-Controller Type or Print Name and Title of Authorized Signatory		Date Signed <u>1/25/19</u> Telephone Number <u>(213) 974-8302</u> Email Address <u>jnaimo@auditor.lacounty.gov</u>	
(38) Name of Agency Contact Person for Claim Hasmik Yaghobyan Name of Consulting Firm / Claim Preparer		Telephone Number <u>(213) 974-9653</u> Email Address <u>hyaghobyan@auditor.lacounty.gov</u> Telephone Number _____ Email Address _____	



BETTY T. YEE
California State Controller

August 5, 2022

Arlene Barrera, Auditor-Controller
Los Angeles County
500 West Temple Street
Los Angeles, CA 90012

Re: Audit of Mandated Cost Claims for the Custody of Minors—Child Abduction and Recovery Program for the Period of July 1, 2017, through June 30, 2021

Dear Ms. Barrera:

This letter constitutes the initiation of an audit by the State Controller's Office of Los Angeles County's legislatively mandated Custody of Minors – Child Abduction and Recovery Program cost claims filed for fiscal year (FY) 2017-18 through FY 2020-21. The amount claimed for the audit period totals \$10,292,392. The objective of our audit is to determine whether costs claimed represent increased costs as a result of the mandated program. To that end, we will assess whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

Alexandra Bonezzi, of our office, contacted the county on July 26, 2022, to schedule an entrance conference for Tuesday, August 16, 2022, at 9:00 a.m. The audit will be conducted in accordance with generally accepted government auditing standards. Government Code sections 12410, 17558.5, and 17561 provide the authority for this audit. We will begin audit fieldwork after the entrance conference.

Please furnish working accommodations for staff. Attached is a list of documents that we will need to begin the audit. We request that this information be made available at the time of the entrance conference. We will request additional documentation throughout the audit process, if necessary.

Lisa Kurokawa is the Bureau Chief with overall responsibility for the audit. Kimberly Tarvin, CPA, is the Division Chief, and is responsible for final review and signing the audit report.

Arlene Barrera, Auditor-Controller
August 5, 2022
Page 2

If you have any questions, please contact me by telephone at (916) 323-2368, or email at khowell@sco.ca.gov.

Sincerely,

Original signed by

KEN HOWELL, Audit Manager
Compliance Audits Bureau
Division of Audits

KH/ac

21205

Attachment

cc: Fernando Lemus, Principal Accountant-Auditor
Los Angeles County
Holly Mitchell, Chair
Los Angeles County Board of Supervisors
Chris Hill, Principal Program Budget Analyst
Local Government Unit
California Department of Finance
Steven Pavlov, Finance Budget Analyst
Local Government Unit
California Department of Finance
Darryl Mar, Manager
Local Reimbursement Section
State Controller's Office
Lisa Kurokawa, Bureau Chief
Division of Audits
State Controller's Office
Alexandra Bonezzi, Auditor-in-Charge
Division of Audits
State Controller's Office

**Attachment—
Records Request for Mandated Cost Program
FY 2017-18 through 2020-21**

1. Copies of claims filed for the Custody of Minors – Child Abduction and Recovery Program for FY 2017-18, FY 2018-19, FY 2019-20 and FY 2020-21
2. Copies of external and internal audit reports performed on the mandated cost program.
3. Organization charts for the county effective during the audit period, showing employee names and position titles.
4. Chart of accounts
5. Documentation that supports the productive hourly rate used, including support for benefit rates.
6. Employee timesheets or time logs that support claimed hours.
7. Access to payroll records showing employee salaries and benefits paid during the audit.
8. Access to general ledger accounts that support disbursements.
9. Documentation that supports amounts received from other funding sources.
10. Documentation that supports the indirect cost rate proposal.
11. List of child abduction cases for each fiscal year.
12. Access to case files.

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250**

www.sco.ca.gov