City and County of San Francisco
London Breed
Mayor

San Francisco Department of Public Health
Grant Colfax, MD
Director of Health

MEMORANDUM

DATE: December 22, 2021

TO: Dan Bernal, President, San Francisco Health Commission and
Members of the Health Commission

THROUGH: Grant Colfax, Director of Health
Naveena Bobba, Deputy Director

FROM: Greg Wagner, Chief Operation Officer

RE: Proposed Approval of SFCO Escheatment Policy

This memorandum outlines a proposed policy for escheating inactive San Francisco City Option (SFCO) employee funds to the San Francisco General Fund. Escheatment is a process governed by the California Government Code Sections 50050 et seq. and used by existing San Francisco programs, where unused and unclaimed funds, after a three-year period, are remitted to the local agency holding the funds.

Background

The Health Care Security Ordinance (HCSO) passed by the San Francisco Board of Supervisors in 2006 established the Healthy San Francisco Program (HSF) and an employer spending requirement (ESR). San Francisco Department of Public Health (DPH) contracted with the San Francisco Health Plan (SFHP) to provide third party administrator (TPA) services for HSF and to administer the Medical Reimbursement Account program (SF MRA). The ESR became effective in 2008 and SFCO began operations. The main employee benefit offered through SFCO is the SF MRA benefit, where ESR funds are placed into an individual account for a covered employee. Employees can then reimburse themselves from available funds in their SF MRA for eligible health care expenses incurred on behalf of themselves and their family members.

The SFCO has grown significantly over time, particularly after the Board of Supervisors continued ESR after the implementation of the Affordable Care Act in 2014 and amended the HCSO to make all health care expenditures paid by employers irrevocable. Since 2008, nearly 4,300 employers have chosen to meet the ESR through SFCO, and over 500,000 employees have received contributions.

The growth in SFCO participation has meant that over time, employee accounts with unused funds have also grown. In 2015, SFCO established a policy that was approved by the Health Commission to deactivate unused SF MRA funds. Employee accounts are deactivated after 24 months if there have been no employer deposits nor any employee claims. Employees are notified and provided six (6) months to prevent their funds from being deactivated. Employees are allowed to reactivate their accounts at any time in the future by contacting the program. Current reactivation rates are approximately 10%.

In 2016, SFCO established a Pool Account where funds for new covered employees are initially deposited. This was due to the establishment of the SF Covered MRA program, an affordability program for SFCO employees enrolled in Covered CA. SFCO employees needed to be screened for eligibility into SF MRA, SF Covered MRA, or HSF before their funds in the Pool Account could be transferred to the correct program. The Pool Account holds money for employees who have not yet completed enrollment into any SFCO program. Over time, and due to the growth in SFCO, unused funds have accumulated. Unlike SF MRA, there is no deactivation process for the Pool Account.

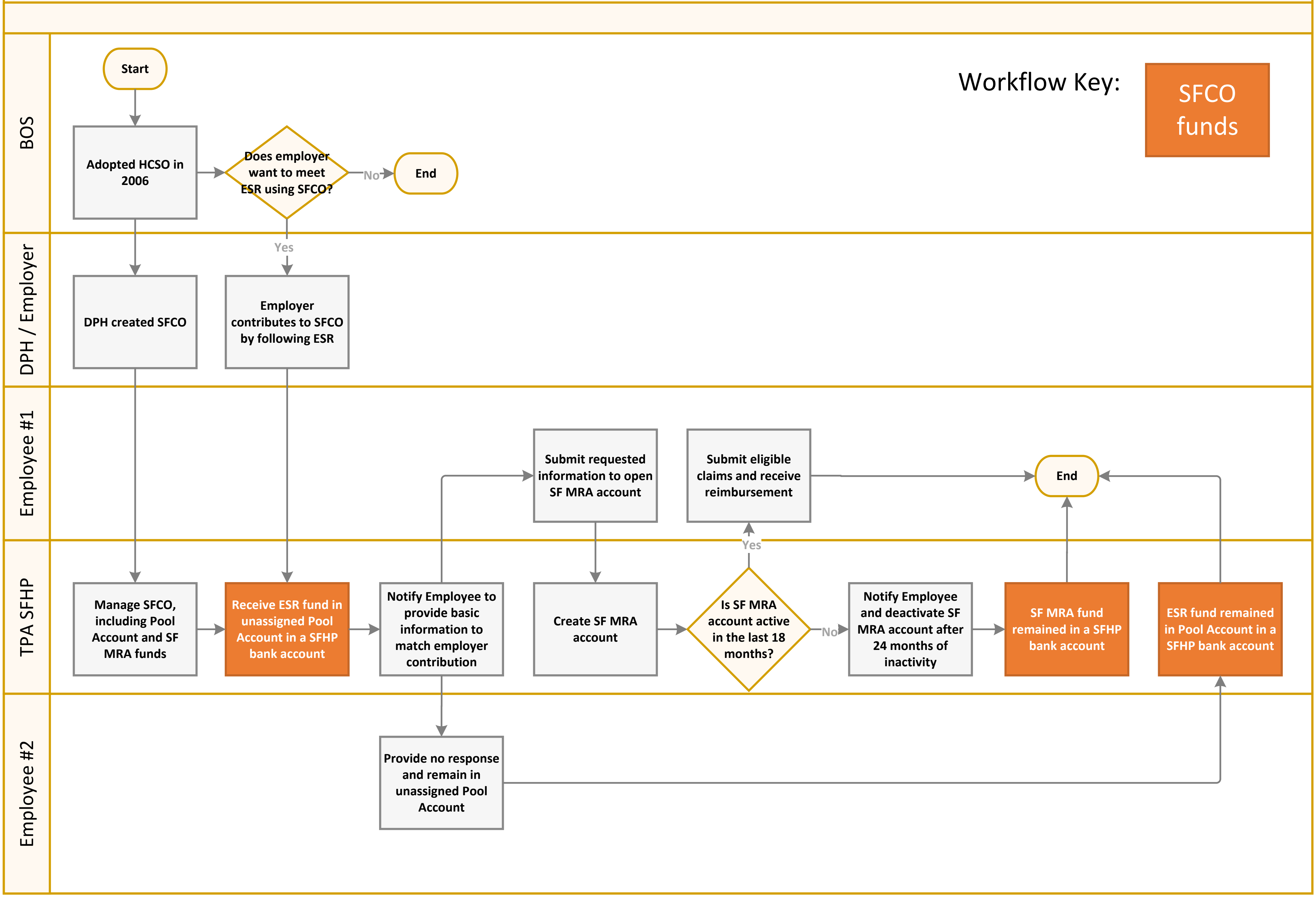
DPH and SFHP were aware of the need to update and simplify the SFCO program to make it easier for employees to understand and use their benefit. In June 2021, the Health Commission approved the SFCO Simplification Project (SFCO Simplification), a major update of the program, consisting of multiple projects to establish SF MRA as the sole employee benefit, given its broad use and popularity, to streamline enrollment into the program, to improve data quality and to increase employee engagement and utilization.

Proposed Policy

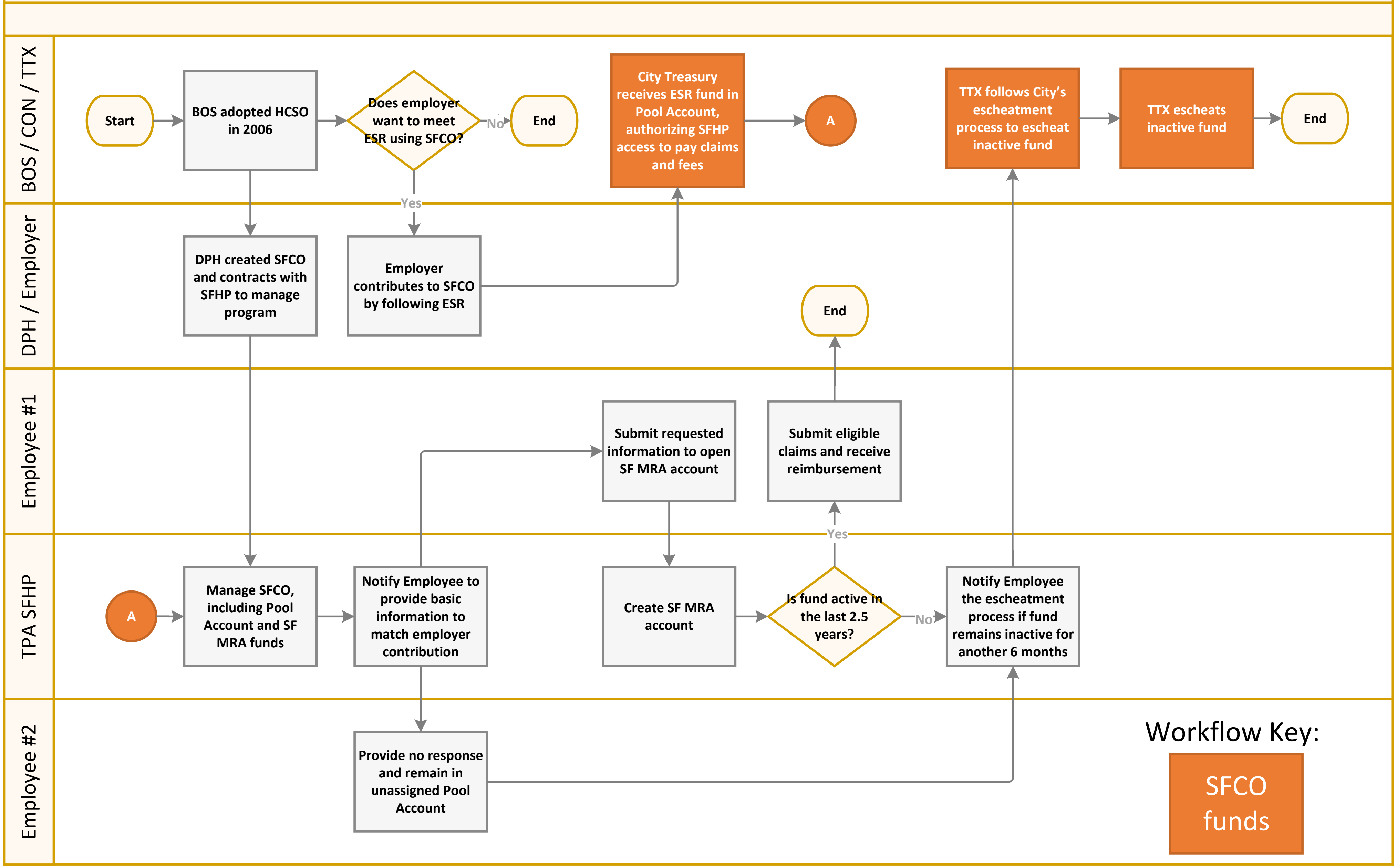
SFCO Simplification will help increase employee utilization of the SFCO benefit on an ongoing and future basis. However, given the size of the program, there will always be some level of unused funds in the program. Additionally, there is a current one-time backlog of deactivated funds that remain unclaimed by employees. DPH has been aware of the need to establish a permanent policy for how to handle deactivated SFCO funds. DPH, Controller, and Treasurer & Tax Collector (TTX) have agreed that all inactive SFCO funds, both the Pool Account and SF MRA, after three (3) years of inactivity and following State statutory requirements, should be escheated to the General Fund following the City's current escheatment process managed by TTX.

We are recommending that the Health Commission approve this SFCO escheatment policy. Should the Health Commission approve this policy, DPH will work with the City departments mentioned above and SFHP to create and transfer SFCO funds to a new bank account within the City Treasury, to replace current SFCO account deactivation policy with this new escheatment policy, and to align other program modifications and notifications with this new policy. For your reference, we have provided the current state of the inactive SFCO funds and a draft of the future state in Appendix 1, and the projected total funds to be escheated in Appendix 2 assuming the three-year period starts on July 1, 2022. We will report back to the Health Commission on our progress within the next six months.

Appendix 1: SFCO Inactive Fund: Current State



Appendix 1: SFCO Inactive Fund: Future State (DRAFT)



Appendix 2: Projection of Total Escheatment Funds (November 2021)

SFCO currently has a backlog of approximately $104M in contributions or accounts that has been inactive for over three (3) years, including $50M from SF MRA and $54M from SFCO Pool Account contributions. Since no money has ever been escheated, this is an unusually large amount that represents 13 years of accumulated funds and 7.6% of the total employer contributions.

For this one-time backlog, those employees would have had nearly seven (7) years to come forward to reactivate their MRA account before their funds are escheated in calendar year 2025, assuming the three-year escheatment period starts in July 2022. To emphasize, it is DPH's goal to ensure participants to maximize their utilization of the SFCO benefits. Escheatment of the unused fund is our very last resort as we cannot leave these unclaimed funds in the SFCO program in perpetuity.

Future annual projected escheatment amounts are estimated to be lower, at $2M from SF MRA accounts and $36M from Pool Account contributions. The actual amounts, of course, will not be known until the outreach work is conducted through the SFCO Simplification and escheatment process, which will affect these estimates, and until the escheatment is completed.