File No. 190226 Committee Item No. 13
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee **Date** April 10, 2019

Board of Supervisors Meeting **Date** _____

Cmte	Board	
☐	☐	**Motion**
☒	☐	**Resolution**
☐	☐	**Ordinance**
☐	☐	**Legislative Digest**
☐	☐	**Budget and Legislative Analyst Report**
☐	☐	**Youth Commission Report**
☒	☐	**Introduction Form**
☐	☐	**Department/Agency Cover Letter and/or Report**
☐	☐	**MOU**
☒	☐	**Grant Information Form**
☐	☐	**Grant Budget**
☐	☐	**Subcontract Budget**
☒	☐	**Contract/Agreement**
☐	☐	**Form 126 – Ethics Commission**
☒	☐	**Award Letter**
☐	☐	**Application**
☐	☐	**Public Correspondence**

OTHER **(Use back side if additional space is needed)**

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Completed by: Linda Wong **Date** April 5, 2019
Completed by: Linda Wong **Date** _____

FILE NO. 190226 RESOLUTION NO.

[Accept and Expend Grant - Retroactive - California Department of Insurance - Workers' Compensation Insurance Fraud Program - $801,148]

Resolution retroactively authorizing the Office of the District Attorney to accept and expend a grant in the amount of $801,148 from the California Department of Insurance for the Workers' Compensation Insurance Fraud Program for the grant period of July 1, 2018, through June 30, 2019.

WHEREAS, The Administrative Code requires City departments to obtain Board of Supervisors' approval to accept or expend any grant funds (Section 10.170 et seq.); and

WHEREAS, The Board of Supervisors provided in Section 11.1 of the administrative provisions of the FY2018-2019 Annual Appropriation Ordinance that approval of recurring grant funds contained in departmental budget submissions and approved in the FY2018-2019 budget are deemed to meet the requirements of the Administrative Code regarding grant approvals; and

WHEREAS, The Department of Insurance of the State of California that provides grant funds to the Office of the District Attorney requires documentation of the Board's approval of their specific grant funds (California Insurance Code, Section 1872.83, California Code of Regulations, Title 10, Section 2698.55 et seq.); and

WHEREAS, The Office of the District Attorney applied for funding from the California Department of Insurance for the "Workers' Compensation Insurance Fraud Program" and was awarded $801,148; and

WHEREAS, The purpose of the grant is to provide enhanced investigation and prosecution of workers' compensation insurance fraud cases, including the application process and subsequent reporting requirements as set forth in the California Insurance

Code, Section 1872.83, California Code of Regulations, Title 10, Section 2698.55 et seq. ; and

WHEREAS, The adopted budget for FY2018-2019 is $758,121; and

WHEREAS, The amount of $43,027 is required to be appropriated to equal the total amount of $801,148 awarded to the Office of the District Attorney for the 2018-19 fiscal year; and

WHEREAS, The grant does not require an amendment to the Annual Salary Ordinance (ASO) Amendment; and

WHEREAS, The grant includes indirect costs of $53,691; and now, therefore, be it

RESOLVED, That should the Office of the District Attorney receive more or less money than the awarded amount of $801,148, that the Board of Supervisors hereby approves the acceptance and expenditure by the Office of the District Attorney of the additional or reduced money; and, be it

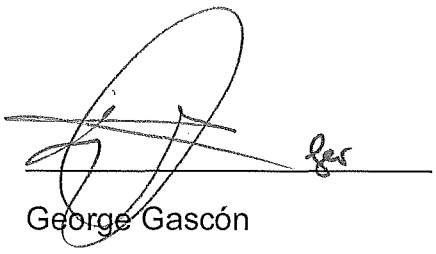
FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the Office of the District Attorney to accept and expend, on behalf of the City and County of San Francisco, a grant from the California Department of Insurance for the Workers' Compensation Insurance Fraud Program to be funded in part from funds made available through California Insurance Code, Section 1872.83, California Code of Regulations, Title 10, Section 2698.55 et seq. in the amount of $801,148 to enhance investigation and prosecution of workers' compensation insurance fraud cases; and, be it

FURTHER RESOLVED, That the District Attorney of the City and County of San Francisco is authorized, on its behalf, to submit the attached proposal to the California Department of Insurance and is authorized to execute on behalf of the Board of Supervisors the attached Grant Award Agreement including any extensions or amendments thereof; and, be it

FURTHER RESOLVED, That it is agreed that any liability arising out of the performance of the Grant Award Agreement, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency; the State of California and the California Department of Insurance disclaim responsibility for any such liability; and, be it

FURTHER RESOLVED, That the grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

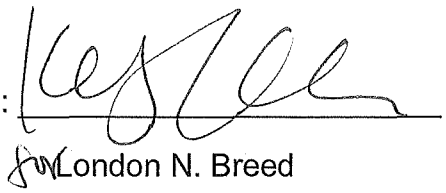
Recommended:



George Gascón

District Attorney

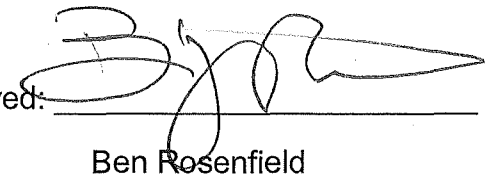
Approved:



London N. Breed

Mayor

Approved:



Ben Rosenfield

Controller

File Number: _____
(Provided by Clerk of Board of Supervisors)

Grant Resolution Information Form
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors ordinances authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: **Workers' Compensation Insurance Fraud Program**

2. Department: **Office of the District Attorney**

3. Contact Person: **Lorna Garrido** Telephone: **(415) 553-9258**

4. Grant Approval Status (check one):

   [**X**] Approved by funding agency [ ] Not yet approved

5. Amount of Grant Funding Approved or Applied for: **$801,148**

6. a. Matching Funds Required: **$0**
   b. Source(s) of matching funds (if applicable): **n/a**

7. a. Grant Source Agency: **California Department of Insurance**
   b. Grant Pass-Through Agency (if applicable): **n/a**

8. Proposed Grant Project Summary: **To provide enhanced investigation and prosecution of workers' compensation insurance fraud cases, including the application process and subsequent reporting requirements as set forth in the California Insurance Code section 1872.83, California Code of Regulations, Title 10, Section 2698.55 et seq.**

9. Grant Project Schedule, as allowed in approval documents, or as proposed:
   Start-Date: **July 1, 2018** End-Date: **June 30, 2019**

10. a. Amount budgeted for contractual services: **$0**
    b. Will contractual services be put out to bid? **n/a**
    c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements? **n/a**
    d. Is this likely to be a one-time or ongoing request for contracting out? **n/a**

11. a. Does the budget include indirect costs?
    [**X**] Yes [ ] No
    b. 1. If yes, how much? **$53,691**
    b. 2. How was the amount calculated? **10% of total salaries**
    c. 1. If no, why are indirect costs not included? **n/a**
    [ ] Not allowed by granting agency [ ] To maximize use of grant funds on direct services
    [ ] Other (please explain):
    c. 2. If no indirect costs are included, what would have been the indirect costs?

12. Any other significant grant requirements or comments:
We respectfully request for an expedited Resolution. On November 5, 2018, we were notified that the City and County of San Francisco Budget and Appropriation Ordinance that includes this recurring grant does not meet the California Department of Insurance resolution regulation. Thus, a separate resolution is necessary. Grant funds will not be released until the California Department of Insurance receives an original or certified copy of the Resolution. The Resolution must be received as soon as possible.

****Disability Access Checklist***(Department must forward a copy of all completed Grant Information Forms to the Mayor's Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

[X] Existing Site(s) [ ] Existing Structure(s) [X] Existing Program(s) or Service(s)
[ ] Rehabilitated Site(s) [ ] Rehabilitated Structure(s) [ ] New Program(s) or Service(s)
[ ] New Site(s) [ ] New Structure(s)

14. The Departmental ADA Coordinator or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor's Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:

Comments:

Departmental ADA Coordinator or Mayor's Office of Disability Reviewer:

Jessica Geiger
(Name)

Facilities Manager (Title)

Date Reviewed: 1/11/19

(Signature Required)

Department Head or Designee Approval of Grant Information Form:

Eugene Clendinen
(Name)

Chief Administrative & Financial Officer
(Title)

Date Reviewed: 1/11/19

(Signature Required)

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
FRAUD DIVISION
2400 DEL PASO ROAD, SUITE 250
SACRAMENTO, CA 95834
(916) 854-5760

Dave Jones, *Insurance Commissioner*
George Mueller, *Deputy Commissioner*

November 29, 2018

Eugene Clendinen
Chief Financial Officer
San Francisco County District Attorney's Office
850 Bryant Street, Suite 322
San Francisco, CA 94103

RE: Fiscal Year 2018-19 Workers' Compensation Insurance Fraud Program Grant Award Amendment

Dear Eugene Clendinen:

I am pleased to inform you that the amended grant award for the Fiscal Year 2018-19 Workers' Compensation Insurance Fraud Program for San Francisco County is $801,148 which is an increase of $21,829 above the initial funding amount. This amended grant award is to be used specifically for the enhanced investigation and prosecution of workers' compensation insurance fraud.

Enclosed are two original Grant Award Agreements for signature. Please have the official designated in the Resolution from the Board of Supervisors sign and date both originals and return to the address below by **December 19, 2018**. Once the Agreements are fully executed, a signed Grant Award Agreement will be returned to you.

If the previously submitted Fiscal Year 2018-19 Resolution does not provide authority to accept amended funding, a new BOS Resolution is required. Sample Resolution wording can be provided upon request.

Return to: CDI Enforcement Branch Headquarters
Local Assistance Unit Manager
2400 Del Paso Road, Suite 250
Sacramento, CA 95834

Sincerely,

Jan Perschler

Janis Perschler
Manager, Local Assistance Unit

Enclosures

cc: Supriya Perry, Managing Attorney

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
FRAUD DIVISION
2400 DEL PASO ROAD, SUITE 250
SACRAMENTO, CA 95834
(916) 854-5760
www.insurance.ca.gov

Dave Jones, *Insurance Commissioner*
George Mueller, *Deputy Commissioner*

November 6, 2018

Eugene Clendinen
Chief Financial Officer
San Francisco County District Attorney's Office
850 Bryant Street, Suite 322
San Francisco, CA 94103

RE: Executed Original of the Fiscal Year 2018-19 Grant Award Agreement for the Workers' Compensation Insurance Fraud Program

Dear Eugene Clendinen:

San Francisco County was awarded $779,319 for the Fiscal Year 2018-19 Workers' Compensation Insurance Fraud Program.

Please find the following three documents enclosed:

- Executed Original of the Fiscal Year 2018-19 Grant Award Agreement
- Summary of Important Deadlines
- After Award Administrative Requirements

Sincerely,

Jan Perschler

Janis Perschler
Manager, Local Assistance Unit

Enclosures

cc: Supriya Perry, Managing Attorney

INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

GRANT AWARD AGREEMENT

Fiscal Year 2018-19

Workers' Compensation Insurance Fraud Program

The Insurance Commissioner of the State of California hereby makes an award of funds to **San Francisco County,** Office of the District Attorney, in the amount and for the purpose and duration set forth in this grant award.

This grant award consists of this agreement and the application for the grant and made a part hereof. By acceptance of the grant award, the grant award recipient agrees to administer the grant program in accordance with all applicable statutes, regulations, and Request-for-Application (RFA).

Duration of Grant: The grant award is for the program period **July 1, 2018** through **June 30, 2019.**

Purpose of Grant: This grant award is made pursuant to the provisions of California Insurance Code Section 1872.83 and shall be used solely for the purposes of enhanced investigation and prosecution of workers' compensation insurance fraud cases.

Amount of Grant: The grant award agreed to herein is in the amount of **$779,319.** This amount has been determined by the Insurance Commissioner with the advice and consent of the Fraud Assessment Commission based on the estimated funds collected pursuant to Section 62.6 of the Labor Code. However, the actual total award amount for the county is contingent on the collection of assessments and the authorization for expenditure pursuant to Government Code Section 13000 et seq. The grant award shall be distributed pursuant to Section 1872.83 of the Insurance Code and the California Code of Regulations Subchapter 9, Article 3, Sections 2698.53, 2698.54, and 2698.57.

Official Authorized to Sign for Applicant/Grant Recipient	**DAVE JONES** Insurance Commissioner
Name: George Gascón Title: District Attorney Address: 850 Bryant Street, Suite 322 San Francisco, CA 94112 Date: 9-18-18	Name: **George Mueller** Title: Deputy Commissioner Date: 10-22-18

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purposes of this expenditure.

Crista Hill, Budget Officer, CDI — Date: 10/25/18

CALIFORNIA DEPARTMENT OF INSURANCE
FRAUD DIVISION

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM

REQUEST FOR APPLICATION
FISCAL YEAR 2018-2019

SECTION III
ADMINISTRATIVE REQUIREMENTS AFTER AWARD

Pursuant to Insurance Code Section 1872.83(d), the application for funding is a public document and may be subject to disclosure.

However, information submitted to the California Department of Insurance (CDI) concerning criminal investigations, whether active or inactive, is considered confidential.

For assistance during this process contact
Workers' Compensation Program Analyst
(916) 854-5828
LocalAssistanceUnit@insurance.ca.gov

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
AFTER AWARD
SUMMARY OF IMPORTANT DEADLINES
FISCAL YEAR 2018-2019

This table summarizes the Reports/Documents required to comply with Insurance Code Section 1872.83 and California Code of Regulations, Title 10, Section 2698.50, et seq.

Due Date	Report/Document	Comments	Completed
Within 30 days of change	**Program Contact Form** FORM 03	Submit update(s) when contacts change	☐
As needed	**Budget Modification Request(s)** FORMs 10, 11, and 12	Submit change(s) to original or last approved budget	☐
With RFA or by Dec. 31, 2018	**Board of Supervisors Resolution**	Original **or** certified copy is required	☐
Feb. 1, 2019	**Mid-Year Program Report** Six Month DAR (FORM 07) FY 2018-2019	Submitted online	☐
Aug. 29, 2019	**Estimate of Unexpended Funds and Carry Over Utilization Request** FY 2018-19 into FY 2019-20 *A written justification must be submitted if you wish to utilize the estimated carry over.*	The justification should include: • Justification for the use of funds • Budget showing how the funds will be used **If the carry over exceeds 25%,** the justification must include an explanation of the extenuating circumstances resulting in the carry over.	☐
Aug. 30, 2019	**Annual Program Report** Year End DAR (FORM 07) FY 2018-19	Submitted online	☐
Nov. 1, 2019	**Annual Expenditure Report** FY 2018-19	Submitted by the County ***separate*** from the Financial Audit Report	☐
Nov. 1, 2019	**Financial Audit Report** FY 2018-19	Financial Audit Guidelines are provided at the end of Section III	☐

ADMINISTRATIVE REQUIREMENTS AFTER AWARD
WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
FISCAL YEAR 2018-2019

When a county's application is selected for funding, the Insurance Commissioner, or his designee, will send a letter to the district attorney notifying them of their selection and the amount of the award. The following is a discussion of the county's administrative requirements after award.

The grant period will begin on July 1, 2018 and end on June 30, 2019.

A. ACCOUNTING SYSTEM

The County will maintain an accounting system that conforms to generally accepted accounting principles and practices and allows CDI to determine the county's adherence to these principles and practices.

Accounting systems include such practices as:

- Adequate separation of duties
- Fiscal policies and procedures that ensure grant expenditures comply with statute, regulation and guidelines set herein
- Maintain evidence of receipts of grant distributions
- Maintain source documentation to support claimed expenditures
- Account reconciliation
- All other records necessary to verify account transactions

The California State Controller's Office (SCO), in its Accounting Standards and Procedures for Counties manual (Government Code Section 30200 and California Code of Regulations, Title 2, Division 2, Chapter 2), also specifies minimal required accounting practices for counties. Counties may download a copy of this manual at the SCO website http://www.sco.ca.gov .

B. FUNDING CYCLE AND GRANT LIQUIDATION PERIOD

The program period will begin on July 1, 2018 and end on June 30, 2019. Counties responding to this application must budget funds for 12 months.

There shall be a grant liquidation period of ninety (90) days following the termination of the program period for costs incurred but not paid. Payment may be made and deducted from the program budget during this period.

C. PROGRAM CONTACT UPDATE(S)

An updated Program Contact Form (FORM 03) is due **within 30 days of the change.**

If there is a change in the county's contact information, an updated Program Contact Form (FORM 03) is to be submitted to CDI within 30 days of the change. FORM 03 can be found in SECTION II of this RFA.

D. BUDGET MODIFICATION REQUEST(S)

A budget modification is required if the grant award amount is different than the amount requested in the application. Additional Budget Modification Requests (FORMS 10-12) may be submitted for approval as needed.

Additional budget modifications to the original or last approved budget are allowable as long as they do not change the grant award amount. Budget modifications across budget categories (i.e., personnel services, operations, and equipment) require CDI approval. Each budget modification request shall be made in writing before it can be approved. Budget FORMS 10 - 12 can be found in SECTION II of this RFA.

E. RESOLUTION

If the Resolution cannot be submitted with the application, it must be submitted **by December 31, 2018.**

A Resolution from the Board of Supervisors authorizing the applicant to enter into a Grant Award Agreement with CDI is required. An **original or certified copy** of the current Board Resolution for the new grant period must be submitted to receive funding for the 2018-2019 fiscal year.

The Board Resolution must designate the official authorized by title to sign the Grant Award Agreement for the applicant. The Resolution must include a statement accepting liability for the local program. A sample Resolution is included in SECTION II of this RFA.

F. GRANT AWARD AGREEMENT

CDI will provide the County with two (2) original Grant Award Agreements (GAAs) for signature by the official authorized to sign.

- Two (2) GAAs, with original signatures should be returned to CDI.

- After the Insurance Commissioner or his designee signs, one (1) fully executed GAA, will be returned to the county for its records.

By signing GAAs the county agrees to participate in the CDI Workers' Compensation Insurance Fraud Program and the district attorney assumes the responsibility for the proper utilization, accounting, and safeguarding of the program funds.

NOTE: Grant funds will not be distributed to the county until CDI has received the Resolution and the Grant Award Agreement is fully executed.

G. DISTRICT ATTORNEY MID-YEAR PROGRAM REPORT

The Mid-Year Program Report is due **by February 1, 2019.**

Insurance Code Section 1872.83(i) requires the biannual submission of information by the district attorneys. The Mid-Year Program Report is the first collection of the biannual statistical information.

The Program Report should include:

- The number of investigations initiated related to workers' compensation insurance fraud, with the number of defendants indicated;
- The number of arrests or civil suits filed related to workers' compensation insurance fraud, with the number of defendants indicated;
- The number of prosecutions or civil suits filed related to workers' compensation insurance fraud;
- The number of convictions or civil awards related to workers' compensation insurance fraud, with the number of defendants, trials, pleas and/or settlements indicated, and names of all convicted fraud perpetrators;
- The dollar savings realized as a result of workers' compensation insurance fraud case prosecutions, as evidenced by fines and penalty assessments ordered and collected, and restitution ordered and collected, with the number of defendants indicated;
- The number of warrants issued; and
- A summary of activity with respect to pursuing a reduction of workers' compensation fraud in coordination with the following:
  a) Fraud Division
  b) Insurance companies
  c) Employers, as defined in Section 3300 of the Labor Code, who are self-insured for workers' compensation and doing business in the State.
  d) Other public agencies such as Department of Industrial Relations, Employment Development Department, etc.

H. ESTIMATE OF UNEXPENDED FUNDS AND CARRY OVER UTILIZATION REQUEST

The Estimate of Unexpended Funds and Carry Over Utilization Request form is due **by August 29, 2019.**

Section 2698.53(c) of the California Code of Regulations, Title 10, stipulates that any portion of distributed funds not used at the termination of each program period shall be returned to the Insurance Fraud Account to be reapportioned for use in the subsequent program year. Counties shall provide CDI with an estimate of unused funds within sixty (60) days after the termination of the grant period.

However, Section 2698.53(d) states that a district attorney who has undertaken investigations and/or prosecutions that will carry over into the following program year may carry over the distributed but unused funds. That district attorney must specify and justify in writing to CDI (1) how the funds will be used at the end of the program period and (2) a modified budget showing how the funds will be used in the subsequent application period. **If the carry over exceeds 25%,** the justification must also include an explanation of the extenuating circumstances resulting in the carry over.

I. DISTRICT ATTORNEY ANNUAL REPORT

Each district attorney receiving annual funds pursuant to Section 1872.83 of the California Insurance Code shall submit an annual report to the Insurance Commissioner on the local program and its accomplishments. The Annual Report is comprised of two documents--statistical and financial. These documents are referred to as the Program Report and the Expenditure Report and discussed below.

These documents shall be submitted at the close of the regular grant period and within the deadlines specified below. Failure to submit the annual report shall affect subsequent funding decisions.

ANNUAL PROGRAM REPORT

The Annual Program Report is due **by August 30, 2019.**

The Annual Program Report is the second collection of the biannual statistical information required in Section 1872.83 of the California Insurance Code. California Code of Regulations, Title 10, Section 2698.59(d)(1), further specifies that Annual Program Reports must be submitted no later than two (2) months after the close of the program period.

The Program Report should include:

- The number of investigations initiated related to workers' compensation insurance fraud, with the number of defendants indicated;

- The number of arrests or civil suits filed related to workers' compensation insurance fraud, with the number of defendants indicated;
- The number of prosecutions or civil suits filed related to workers' compensation insurance fraud;
- The number of convictions or civil awards related to workers' compensation insurance fraud, with the number of defendants, trials, pleas and/or settlements indicated, and names of all convicted fraud perpetrators;
- The dollar savings realized as a result of workers' compensation insurance fraud case prosecutions, as evidenced by fines and penalty assessments ordered and collected, and restitution ordered and collected, with the number of defendants indicated;
- The number of warrants issued; and
- A summary of activity with respect to pursuing a reduction of workers' compensation fraud in coordination with the following:
  a. Fraud Division
  b. Insurance companies
  c. Employers, as defined in Section 3300 of the Labor Code, who are self-insured for workers' compensation and doing business in the State.
  d. Other public agencies such as Department of Industrial Relations, Employment Development Department, etc.

ANNUAL EXPENDITURE REPORT

The Annual Expenditure Report is due **by November 1, 2019.**

California Code of Regulations, Title 10, Section 2698.59(d)(1), specifies that Expenditure Report must be submitted to the CDI no later than four (4) months after the close of the program period.

If an organization-wide audit will delay the submission of the Expenditure Report, a county may request an extension of time. The extension request should be submitted to the Program Analyst for approval and clearly explain the need and planned submittal date.

The Expenditure Report is **prepared by the county** and should include:

- Personnel salaries and benefits;
- Operations cost breakdown;
- Equipment; and an
- Explanation of any significant variances from the district attorney's approved budget plan.

J. FINANCIAL AUDIT REPORT

The Financial Audit Report is due **by November 1, 2019.**

California Code of Regulations, Title 10, Section 2698.59 requires each district attorney receiving funds to submit a Financial Audit Report. The Financial Audit Report must be submitted to the CDI no later than four (4) months after the close of the program period.

If an organization-wide audit will delay the submission of the Financial Audit Report, a county may request an extension of time. The extension request should be submitted to the Program Analyst for approval and clearly explain the need and planned submittal date.

The Financial Audit Report is to be prepared by either an independent auditor who is a qualified state or local government auditor, an independent public accountant licensed by the State of California, or the County Auditor/Controller.

The county may include the cost of the Financial Audit in their budget as a line-item in Operating Expenses (FORM 11).

The audit report shall

- Indicate that expenditures were made for the purposes of the program. (CIC Section 1872.83 and CCR, Title 10 Section 2698.50 et. seq.)
- Indicate that the auditor shall use county policies and procedures as the standard for verifying appropriateness of personnel and support costs.
- Separately show revenues and expenditures for the local program, in the event the program audit is included as a part of an organization-wide audit.

NOTE: **Grant Financial Audit Guidelines**, which sets forth the standards for audit preparation, is provided as an attachment at the end of this Section.

K. AUDITS BY CDI

Section 2698.59(f) of the California Code of Regulations allows CDI to perform audits and reviews of the Workers' Compensation Insurance Fraud Fund. To maximize the effectiveness and efficiency of these reviews, and to minimize the disruption to the county's operation, CDI will conduct the reviews of the Workers' Compensation Insurance Fraud, Automobile Insurance Fraud, Organized Automobile Fraud Activity Interdiction, Disability and Healthcare Insurance Fraud, and/or Disability and Healthcare—Supplemental Insurance Fraud Programs at the same time and, if applicable, any additional funds received pursuant to the above sections.

The principle objective of the fiscal audit is to evaluate overall administration of the Fraud Grant Programs. An audit will focus on whether the county district attorney's

office complies with the laws, regulations, and general program administrative and accounting control requirements.

CDI Fraud Grant Audit Program (FGAP) will perform the audits. FGAP will:

Determine the revenue, expenditures and approved prior year carry over are an accurate reflection of the information contained in the county fiscal records for the applicable program;

- Compare the results of the independent financial audit to the expenditure report and approved budget and note any discrepancies;
- Determine that actual personnel time charged to the program is limited to personnel funded by the grant and to specific program investigative and prosecutorial activities;
- Determine that equipment charged to the program are only for items specifically approved by CDI in the county's program budget;
- Determine that equipment purchased by the grant is in the custody and use of the personnel funded by the grant; and
- Examine the documentation that supports the number of investigations, arrests, prosecutions, convictions, and outreach events reported in the biannual program report.

In addition, the audit will focus on the internal controls the county has implemented to safeguard the insurance fraud grant funds, including, but not limited to, a review of accounting records, payment documents, and accounting processes and procedures. FGAP will review prior year audit reports, supporting working papers, the status of previous audit findings, and any required corrective action.

L. RESTITUTION

Section 1872.83(b)(4) of the California Insurance Code specifies that the amount collected, together with the fines collected for violations of the unlawful acts specified in Sections 1871.4, 11760, and 11880, Section 3700.5 of the Labor Code, and Section 549 of the Penal Code, shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund. The statute further specifies in Subsection (j) that "any funds resulting from assessments, fees, penalties, fines, restitution, or recovery of costs of investigation and prosecution deposited in the Insurance Fund shall not be deemed "unexpended" funds for any purpose.

Restitution should be submitted to CDI for deposit into the Workers' Compensation Fraud Account.

NOTE: **Instructions for Submitting Restitution Payments to CDI** is provided as an attachment at the end of this Section.

ATTACHMENT: FINANCIAL AUDIT GUIDELINES

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
FINANCIAL AUDIT GUIDELINES
FISCAL YEAR 2018-2019

The financial audit of the district attorney's office participation in CDI's Workers' Compensation Insurance Fraud Program must be conducted using generally accepted auditing standards and the most recent Government Auditing Standards (GAS) and related guidance published by the Comptroller General of the United States. The audit must include an examination of the internal control structures of the district attorney's office as it applies to this program.

The following are specific, minimum areas of examination that are applicable for conducting an audit of the Workers' Compensation Insurance Fraud Program. These guidelines are not intended to be all-inclusive but, rather, specific areas to be examined during the performance of the audit of this program.

1. Verify the appropriateness of personnel and support costs, including equipment purchases, using the county's policies and procedures as the standard for verification. Note any conflicts with program requirements and potential disallowed expenses.

2. Determine the approved budget for the audited grant period by line item within each budget category. Examine district attorney's office records, the grant applications, grant amendments and augmentations, CDI grant award letter(s) and, if any, CDI approved prior year carry over. Compare the approved budget to the year-end Expenditure Report. Note any exceptions.

3. Determine that the Expenditure Report is an accurate reflection of information contained in the County Auditor/Controller's records for this program. Note any differences between the two.

4. Determine that grant revenues from CDI for the grant period are included in the Financial Report even if they were deposited by the county after the end of the grant period (i.e., treats grant revenues from CDI on an accrual basis).

5. Ensure that the Audit Report reflects the correct amount of grant revenues received for the grant period and, if applicable, the correct amount of prior year carry over. Note any differences between the calculated carry over found as a result of the audit and the amount approved by CDI.

6. Determine that personnel time charged to the program was expended only for the purpose of enhancing investigations and prosecutions of workers' compensation insurance fraud.

7. Determine that personnel expenses charged to the program are limited to personnel funded by the grant.

8. Determine that direct charges to the program are not also included in indirect costs (i.e., space charges) charged to the program.

9. Determine that equipment purchases made with grant funds are only for items specifically approved by CDI in the applicant's budget.

10. Determine that no vehicle purchases have been charged against this program without specific written approval by CDI.

11. Determine that equipment purchased by the grant is in the custody and use of the personnel funded by the grant.

12. Compare the results of the audited expenses to the end-of-the-year Expenditure Report and note any exceptions, particularly variances between audited expenditure, claimed and budgeted categories.

13. Identify non-compliance with applicable statute, regulation, county policy or grant application requirements, and any questionable or disallowed grant amounts received for the grant period.

ATTACHMENT: SUBMITTING RESTITUTION

INSTRUCTIONS AND ADDRESS FOR SUBMITTING RESTITUTION, FINES, AND PENALTIES FISCAL YEAR 2018-2019

Mail Restitution, Fine, and Penalty Payments to:

California Department of Insurance
Accounting - Cashiering Unit
300 Capitol Mall, 14th Floor
Sacramento, CA 95814

Payable to: California Department of Insurance

Acceptable forms of payment:

- Money Order
- Cashier Check
- County Check

Cover letter or stub should include:

- Defendant's Name
- County Name
- County Case Number
- Program
- Type of payment (such as, 3700.5 fines, restitution, etc.)

If you have any questions, please contact the CDI Local Assistance Unit at LocalAssistanceUnit@insurance.ca.gov.

NOTE: The county is responsible for tracking collections.

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
FRAUD DIVISION
2400 DEL PASO ROAD, SUITE 250
SACRAMENTO, CA 95834
(916) 854-5760
www.insurance.ca.gov

Dave Jones, *Insurance Commissioner*
George Mueller, *Deputy Commissioner*

October 26, 2018

via email

Ms. Supriya S. Perry
Managing Attorney
San Francisco County District Attorney's Office
732 Brannan Street 2nd Floor
San Francisco, CA 94103

RE: Fiscal Year (FY) 2017/18 Carryover and FY 2018/19 Modified Budget – Workers' Compensation Insurance Fraud Program

Dear Ms. Perry:

We received your County's request to carryover unexpended FY 2017/18 Workers' Compensation Insurance Fraud Program grant funds into FY 2018/19. After careful review, **FY 2017/18 Carryover in the amount of $53,274 and FY 2018/19 modified budget are approved.**

If the financial audit report determines a different carryover amount, please submit a modified budget to the Local Assistance Unit.

FY 2018/19 grant funding is:

FY 2017/18 Carryover Approval:	$ 53,274
FY 2018/19 Grant Base Award:	$779,319
FY 2018/19 Total Funding:	$832,593

Thank you for your commitment to the program. Through our coordinated efforts, we make a difference in the fight against workers' compensation insurance fraud in California.

For questions, please contact Diana Russell, Local Assistance Program Analyst, at (916) 854-5765 or Diana.Russell@insurance.ca.gov.

Sincerely,

ERIC CHARLICK
Assistant Chief, Fraud Division

cc: Eugene Clendinen, Chief Financial Officer
George Mueller, CDI Deputy Commissioner
Jack Horvath, CDI Division Chief

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
FRAUD DIVISION
2400 DEL PASO ROAD, SUITE 250
SACRAMENTO, CA 95834
(916) 854-5760
www.insurance.ca.gov

Ricardo Lara, *Insurance Commissioner*
George Mueller, *Deputy Commissioner*

January 7, 2019

Eugene Clendinen
Chief Financial Officer
San Francisco County District Attorney's Office
850 Bryant Street, Suite 322
San Francisco, CA 94103

RE: Executed Fiscal Year 2018-19 Grant Award Amendment for the Workers' Compensation Insurance Fraud Program

Dear Eugene Clendinen:

Please find the County's original copy of the fully executed grant award amendment enclosed.

Thank you for San Francisco County's participation in Fiscal Year 2018-19 Workers' Compensation Insurance Fraud Program.

Sincerely,

Janis Perschler

Janis Perschler
Manager, Local Assistance Unit

Enclosure

cc: Supriya Perry, Managing Attorney

INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

GRANT AWARD AGREEMENT
of Additional Funds for Fiscal Year 2018-19
Workers' Compensation Insurance Fraud Program

The Insurance Commissioner of the State of California hereby makes an amendment to the award of funds to **San Francisco County,** Office of the District Attorney, in the amount and for the purpose and duration set forth in this grant award.

This grant award consists of this agreement and the application for the grant and made a part hereof. By acceptance of the grant award, the grant award recipient agrees to administer the grant program in accordance with all applicable statutes, regulations, and Request-for-Application (RFA).

Duration of Amended Grant: The grant award is for the program period **July 1, 2018** through **June 30, 2019.**

Purpose of Amended Grant: This grant award is made pursuant to the provisions of California Insurance Code Section 1872.83 and shall be used solely for the purposes of enhanced investigation and prosecution of workers' compensation insurance fraud cases.

Amount of Amended Grant: The grant award agreed to herein is in the amount of **$801,148** which is an increase of $21,629 above the initial funding amount. This amount has been determined by the Insurance Commissioner with the advice and consent of the Fraud Assessment Commission based on the estimated funds collected pursuant to Section 62.6 of the Labor Code. However, the actual total award amount for the county is contingent on the collection of assessments and the authorization for expenditure pursuant to Government Code Section 13000 et seq. The grant award shall be distributed pursuant to Section 1872.83 of the Insurance Code and the California Code of Regulations Subchapter 9, Article 3, Sections 2698.53, 2698.54, and 2698.57.

Official Authorized to Sign for Applicant/Grant Recipient Name: George Gascón Title: District Attorney Address: 850 Bryant Street, Suite 322 San Francisco, CA 94103 Date: 12-13-18	**DAVE JONES** Insurance Commissioner George Mueller Name: **George Mueller** Title: Deputy Commissioner Date: 11/2/19

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purposes of this expenditure.

Crista Hill

Crista Hill, Budget Officer, CDI

11/2/19

Date

FY18-19 Workers' Compensation Insurance Fraud Budget

7/1/18-6/30/19

Positions	Biweekly Salary	pay periods	FTE	Amount	FY17-18 Carry Over	FY18-19 Award	Total Budget
8177 Trial Attorney (C. del Rosario), Step 16	**$ 8,729**	**26**	**0.43**	**$ 97,595**		$ 97,595	**$ 97,595**
Social Security	$ 8,249			$ 3,547			
Social Sec. - Medicare	1.45%			$ 1,415			
Health Ins	$ 3,261			$ 1,402			
Dependent Cov	$ 5,556			$ 2,389			
Retirement	16.92%			$ 16,513			
Unemployment Ins	0.27%			$ 263			
Dental Rate	$697			$ 300			
Total Benefits	26%					$ 25,829	$ 25,829
8177 Trial Attorney (L. Meyers), Step 16	**$ 8,125**	**26**	**0.45**	**$ 95,066**		$ 95,066	**$ 95,066**
Social Security	$ 8,249			$ 3,712			
Social Sec. - Medicare	1.45%			$ 1,378			
Health Ins	$ 3,261			$ 1,467			
Dependent Cov	$ 11,771			$ 5,297			
Retirement	19.92%			$ 18,937			
Unemployment Ins	0.27%			$ 257			
Dental Rate	$697			$ 314			
Total Benefits	32.99%					$ 31,362	$ 31,362
8177 Trial Attorney (S. Zudekoff), Step 5	**$ 5,265**	**26**	**0.25**	**$ 34,222**		$ 34,222	**$ 34,222**
Social Security	$ 8,249			$ 2,063			
Social Sec. - Medicare	1.45%			$ 496			
Health Ins	$ 3,261			$ 815			
Dependent Cov	$ 11,771			$ 2,943			
Retirement	19.92%			$ 6,817			
Unemployment Ins	0.27%			$ 92			
Long Term Disability	0.35%			$ 120			
Dental Rate	$697			$ 174			
Total Benefits	39.51%					$ 13,520	$ 13,520
8177 Trial Attorney (A. Fasteau), Step 15	**$ 7,680**	**26**	**0.47**	**$ 93,846**		$ 93,846	**$ 93,846**
Social Security	$ 8,249			$ 3,877			
Social Sec. - Medicare	1.45%			$ 1,361			
Health Ins	$ 3,261			$ 1,533			
Dependent Cov	$ 4,641			$ 2,181			
Retirement	16.76%			$ 15,732			
Unemployment Ins	0.27%			$ 253			
Dental Rate	$697			$ 328		$ 25,265	$ 25,265
Total Benefits	26.92%						
8177 Trial Attorney (C. Alexander), Step 6	**$ 5,585**	**11**	**0.03**	**$ 1,843**		$ 1,843	**$ 1,843**
Social Sec. - Medicare	1.45%			$ 27			
Health Ins	$ 3,261			$ 98			
Retirement	22.70%			$ 418			
Unemployment Ins	0.27%			$ 5			
Dental Rate	$1,517			$ 46		$ 594	$ 594
Total Benefits	32.23%						
8550 DAI (J. Kennedy), Step 6	**$ 5,014**	**26**	**0.83**	**$ 108,192**	**$ 36,688**	$ 71,504	**$ 108,192**
Social Sec. - Medicare	1.45%			$ 1,569			
Health Ins	$ 3,084			$ 2,560			
Dependent Cov	$ 11,579			$ 9,611			
Retirement	16.08%			$ 17,397			
Unemployment Ins	0.27%			$ 292			
Dental Rate	$ 720			$ 598			
Total Benefits	29.60%				$ 16,586	$ 15,441	$ 32,027
8550 DAI (M. Morse), Step 6	**$ 4,919**	**26**	**0.83**	**$ 106,151**		$ 106,151	**$ 106,151**
Social Sec. - Medicare	1.45%			$ 1,539			
Health Ins	$ 3,084			$ 2,560			
Dependent Cov	$ 11,579			$ 9,611			
Retirement	22.58%			$ 23,969			
Unemployment Ins	0.27%			$ 287			
Dental Rate	$ 625			$ 519			
Total Benefits	36.25%					$ 38,485	$ 38,485

FY18-19 Workers' Compensation Insurance Fraud Budget

7/1/18-6/30/19

Subtotal Salary					$ 36,688	$ 500,228	$ 536,916
Subtotal Benefits					$ 16,586	$ 150,496	$ 167,082
TOTAL SALARY & BENEFITS			**3.26**		**$ 53,274**	$ 650,723	**$ 703,997**

				Amount	FY17-18 Carry Over	FY18-19 Award	Total Budget
Lease of Office Space ($18,628/FTE)	$18,628			$ 60,728		$ 60,728	$ 60,728
Audit Expense				$ 5,945		$ 5,945	$ 5,945
CDAA Membership				$ 825		$ 825	$ 825
Travel and Training Expenses				$ 9,132		$ 9,132	$ 9,132
Materials & Supplies							$ -
Outreach Campaign				$ 20,000		$ 20,000	$ 20,000
Transcription				$ 104		$ 104	$ 104
Indirect Cost (10% of direct salary)	10%			$ 53,691		$ 53,691	$ 53,691
TOTAL OPERATING					**$ -**	$ 150,425	**$ 150,425**

Equipment							
none requested					$ -	$ -	$ -
TOTAL EQUIPMENT					**$ -**	$ -	**$ -**

GRAND TOTAL					**$ 53,274**	$ 801,148	**$ 854,422**

CITY AND COUNTY OF SAN FRANCISCO OFFICE OF THE DISTRICT ATTORNEY

GEORGE GASCON
DISTRICT ATTORNEY

April 24, 2018

Larissa Morgan
California Department oflnsurance
2400 Del Paso Road, Suite 250
Sacramento, CA 95834

Dear Ms. Morgan:

Enclosed please find the original copy of the 2018-2019 Workers' Compensation Insurance Fraud Program Grant Application for the City and County of San Francisco. A CD containing a digital copy of the application is also included in this package.

I have quoted County Ordinance 391-97 for the City and County of San Francisco in this grant application in lieu of a certified resolution. This Ordinance authorizes County Department Heads to apply for and to expend grant proceeds. Specifically, in Section 10.170-1, the Ordinance states that programs that are recurring or have continuous funding from year to year shall be included in the budget submission by the department. This eliminates the necessity for a new resolution each year. For fiscal year 2018-2019, the District Attorney's proposed budget will include an expenditure of up to $847,734 for the investigation and prosecution of workers' compensation insurance fraud.

Our year-end report for fiscal year 2017-2018 is in the process of being completed. Our office will forward the report to you once it is finalized. At this time, our estimated carryover funds are $154,056.

Thank you for your attention to this request. Should you have any questions or need additional information, please feel free to contact Kelly Burke of my office at (415) 551-9523.

Very truly yours,

George Gascón
District Attorney

FORM 02

GRANT APPLICATION TRANSMITTAL

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM

Grant Period: July 1, 2018 to June 30, 2019

The District Attorney of the City and County of San Francisco hereby makes application for funds under the Workers' Compensation Insurance Fraud Program pursuant to Section 1872.83 of the Insurance Code.

Contact: Kelly Burke

Address: 732 Brannan Street
San Francisco, CA 94103

Telephone: (415) 551-9523

(1) New Funds Being Requested: $847,734

(2) Estimated Carryover Funds: $154,056

(3) *Program Director*
Kelly Burke
732 Brannan Street
San Francisco, CA 94103 (415) 551-9523

(4) *Financial Officer*
Eugene Clendinen
850 Bryant Street
San Francisco, CA 94103 (415) 553-1895

(5) *District Attorne Signature*

George Gascón, District Attorney
City and County of San Francisco

850 Bryant Street
San Francisco, CA 94103
(415) 553-1752

Date: April 2018

TABLE OF CONTENTS

FORM 01

GRANT APPLICATION CHECKLIST AND SEQUENCE
FISCAL YEAR 2018-2019 GRANT

THE REQUEST FOR APPLICATION MUST INCLUDE THE FOLLOWING:

		YES	NO
1.	GRANT APPLICATION TRANSMITTAL SHEET (FORM 02)	☒	☐
2.	PROGRAM CONTACT FORM (FORM 03)	☒	☐
3.	BOARD RESOLUTION (FORM 04) (*Please read cover letter, County Ordinance included.*)	☒	☐
4.	TABLE OF CONTENTS	☒	☐
5.	The County Plan includes:		
	a) COUNTY PLAN QUALIFICATIONS (FORM 05)	☒	☐
	b) STAFF QUALIFICATIONS (FORM 06(A))	☒	☐
	c) ORGANIZATIONAL CHART (FORM 06(B))	☒	☐
	d) PROGRAM REPORT (DAR OR FORM 07)	☒	☐
	e) COUNTY PLAN PROBLEM STATEMENT (FORM 08)	☒	☐
	f) COUNTY PLAN PROGRAM STRATEGY (FORM 09)	☒	☐
6.	Projected BUDGET (FORMS 10-12)	☒	☐
	a) LINE-ITEM TOTALS VERIFIED	☒	☐
	b) PROGRAM BUDGET TOTAL (FORM 12)	☒	☐
7.	EQUIPMENT LOG (FORM 13)	☒	☐
8.	JOINT PLAN (ATTACHMENT A)	☒	☐
9.	CONFIDENTIAL CASE DESCRIPTIONS (Attachment B)	☒	☐
10.	ELECTRONIC VERSION (CD/DVD)	☒	☐

FORM 03

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
PROGRAM CONTACT FORM
FISCAL YEAR 2018-2019

1. Provide the contact information for the person with day-to-day operational responsibility for the program, and who can be contacted with questions regarding the program.

Name: Kelly Burke
Title: Assistant District Attorney
Address: 732 Brannan Street
San Francisco, CA 94103

E-mail: kelly.burke@sfgov.org

Phone: (415) 551-9523 Fax: (415) 581-9807

2. Provide the contact information for the District Attorney's Financial Officer.

Name: Eugene Clendinen
Title: Chief Administrative & Financial Officer
Address: 850 Bryant Street
San Francisco, CA 94103

E-mail: eugene.clendinen@sfgov.org

Phone: (415) 553-1895 Fax: (415) 575-8815

3. Provide contact information for questions regarding data collection/reporting for the applicant agency.

Name: Kelly Burke
Title: Assistant District Attorney
Address: 732 Brannan Street
San Francisco, CA 94103

E-mail: kelly.burke@sfgov.org

Phone: (415) 551-9523 Fax: (415) 581-9807

FORM 04

City and County of San Francisco Ordinance 391-97

SEC. 10.170. GRANT – APPLICATION PROCEDURE.

(a) Applications for federal, State, or other grants involving any project or program shall be filed on behalf of a department upon the approval by the department head.

(b) For annual or otherwise recurring grants of $5,000,000 or more, the department head shall submit a resolution articulating the grant application to the Board of Supervisors at least 60 days prior to the grant deadline for review and approval. The department shall provide as supporting documents to the resolution all relevant materials, including but not limited to the funding source's grant criteria, the department's most recent draft of its grant application materials, anticipated funding categories that the department will establish in the subsequent Request for Proposals (RFPs) process, and comments from any relevant citizen advisory body. Should the department fail to submit the resolution and/or supporting documents prior to the 60-day deadline, all funds received through the grant application shall be placed on reserve at the Board of Supervisors.

For applications for annual or otherwise recurring grants of $5,000,000 or more that anticipate the issuance of Requests for Proposals, the department head shall submit a resolution articulating anticipated funding categories to the Board of Supervisors at least 60 days prior to the issuance of the RFPs for review and approval. The department shall provide as supporting documents to the resolution all relevant materials, including but not limited to the funding source's grant criteria, the department's most recent draft of its grant application materials, and comments from any relevant citizen advisory body. Should the department fail to submit the resolution and/or supporting documents prior to the 60-day deadline, all funds received through the grant application shall be placed on reserve at the Board of Supervisors.

The Board of Supervisors shall approve the resolution before the department head issues the RFPs. Should the Board of Supervisors neither approve nor disapprove a resolution submitted by a department head for review and approval by three business days prior to the issuance date for RFPs, the department head may issue the RFPs.

In exercising its powers of review and approval of the aforementioned grant applications, the Board of Supervisors shall take into account whether, and to what degree, its policy priorities, and those expressed by the Mayor's Office and any applicable citizen advisory bodies, have been addressed.

(c) The provisions of subsection (b) above are not intended to apply to annual or otherwise recurring Department of Homeland Security grants, grants for equipment purchases, or capital grants used only for capital improvements or as authorized by federal or State law.

(Amended by Ord. 93-86, App. 3/21/86; Ord. 204-90, App. 6/8/90; Ord. 401-90, App. 12/20/90; Ord. 187-91, App. 5/23/91; Ord. 301-91, App. 8/6/91; Ord. 931-97, App. 10/17/97; Ord. 265-05, File No. 051414, App. 11/18/2005)

SEC. 10.170-1. GRANT FUNDS – ACCEPTANCE AND EXPENDITURE.

(a) Any department, board, or commission that seeks to accept and expend federal, State, or other grant funds must comply with any applicable provisions of this Section.

(b) The acceptance and expenditure of federal, State, or other grant funds in the amount of $100,000 or more is subject to the approval by resolution of the Board of Supervisors. If, as a condition of the grant, the City is required to provide any matching funds, those funds shall be included in determining whether the grant meets the $100,000 threshold. This subsection (b) shall also apply to an increase in a grant where the increase, alone or in combination with any other previous increases to that grant, would raise the cumulative total amount of the grant to $100,000 or more. The department, board, or commission requesting approval shall submit the following documents to the Board prior to its consideration:

(1) A proposed resolution approving the acceptance and expenditure of grant funds, or a proposed ordinance as required under subsection (d), signed by the department head, the Mayor or his or her designee, and the Controller;

(2) A completed "Grant Information Form." The Clerk of the Board shall prepare the form; it shall include a disability access checklist, indirect cost recovery, and other information as the Board of Supervisors may require;

(3) A copy of the grant application;

(4) A letter of intent to award the grant or acknowledgment of grant award from the granting agency; and,

(5) A cover letter to the Clerk of the Board of Supervisors substantially conforming to the specifications of the Clerk of the Board.

(c) **Grants or Increases to Grants of Less Than $100,000.** The Controller may prescribe rules for the acceptance and expenditure of federal, State, or other grant funds in amounts less than $100,000, or for increases to grants where the increase, alone or in combination with any other previous increases to that grant, would not raise the cumulative total amount of the grant to $100,000 or more. The Controller may also prescribe rules for the acceptance and expenditure of increases to grants, where the original grant or any subsequent increase to the grant has been approved by the Board of Supervisors under subsection (b) or (d) and where the latest increase would be in an amount less than $50,000.

(d) **Grant Funded Positions.** No position funded by a grant, regardless of the amount of the grant, shall be authorized or filled unless the classification, duration, and number of positions to be funded by the grant are specifically set forth in an ordinance approving acceptance and expenditure, which ordinance shall also contain appropriate amendments to the annual salary ordinance to reflect the positions proposed to be funded through the grant.

(e) **Recurring Grants.** Grants that provide funding to departments or programs of the City and County in a recurring manner or continue funding from one year to the next shall be included in the annual budget submission by the Department.

The Department budget submission shall also include a budget detail, explanations, and substantiations of the grant funding. If it is not possible for the Department to include recurring grant funds in its annual Department budget submission, the acceptance and expenditure of a recurring grant shall follow the procedure set forth in subsection (b).

(f) **Indirect Costs.** Every grant shall contain provisions for the reimbursement of indirect costs. Such indirect cost provisions shall reimburse the City and County from grant funds for administrative services that are necessary for the administration and performance of the project or program. Every department, office, board or commission shall establish a rate for such

indirect costs that is approved by the Controller and fixed in accordance with a directive issued by the Controller. The indirect cost rate shall be included in the grant budget that is submitted to the Board of Supervisors and in the authorizing resolution.

The receipt and expenditure of grant funds shall not be approved by the Board of Supervisors unless the Controller has certified that provisions for appropriate indirect cost reimbursement is included in the grant budget.

If indirect costs are not allowed by the funding agency, or for other reasons indirect costs cannot be included in the budget, these reasons shall be stated in the authorizing resolution. Upon approving acceptance and expenditure, the Board of Supervisors may waive the requirement for the inclusion of reimbursement of indirect costs.

(g) **Grant Budget.** Every department, board, commission, agency, or office submitting a budget for a grant of public funds to the Board of Supervisors pursuant to this Section shall submit such budget in a format that conforms to and provides the detail substantiation that is required of similar appropriations in the annual budget for the City and County. The mission and goals statement, which is required as part of the annual budget, is not required by this Section for submittal of a grant budget.

(h) **Grant Budget Revision.** A department, agency, or office may reallocate or transfer funds of line item expenditures within an approved grant budget, if such reallocations or transfers are within the total of the approved budget and are allowed by the granting agency. If any line item of a Federal or State grant is modified or increased by more than 15 percent, copies of documentation of such modification or increase which are transmitted to Federal or State agencies shall also be transmitted to the Board of Supervisors.

(i) **Grant Draw Down of Funds.** Departments, agencies, boards, and commissions shall promptly draw down grant funds from a Federal, State, or other funding agency and deposit such funds in the Treasury of the City and County of San Francisco to minimize the displacement of City funds that support grant activities.

(j) **Grant Transportation Authority.** The provisions of this Section shall not be applicable to applications for or expenditure of funds from the San Francisco County Transportation Authority. The Controller shall prescribe rules for the acceptance and expenditure of such funds.

(k) **Certain Transportation Funds (Proposition 1B Funds).** The voters of California adopted Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, at the November 7, 2006 California General Election. Under the Proposition, the State will appropriate two billion dollars ($2,000,000,000) into the Local Streets and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006 ("Proposition 1B Local Street and Road Improvement Funds"). These funds will be distributed to cities and counties for improvements to transportation facilities that will assist in reducing local traffic congestion and further deterioration, improving traffic flows, or increasing traffic safety that may include, but not be limited to, street and highway pavement, maintenance, rehabilitation, installation, construction and reconstruction of necessary associated facilities such as drainage and traffic control devices, or the maintenance, rehabilitation, installation, construction and reconstruction of facilities that expand ridership on transit systems, safety projects to reduce fatalities, or as a local match to obtain state or federal transportation funds for similar purposes. The Proposition requires that the funds distributed to the City be deposited in a local account that is designated for the receipt of state funds allocated for local streets and roads.

(1) The Board of Supervisors finds that while there are a range of projects involving various City departments that could benefit from the Proposition 1B Local Street and Road Improvement

Funds, implementing a coordinated planning process for use of those funds will help ensure the effective and efficient expenditure of funds in a manner that will maximize the benefit to the City and its residents.

(2) The Board of Supervisors further finds that given the range of projects and the Citywide impact of transportation-related projects, it is appropriate for the Board to review proposed expenditures of Proposition 1B Local Street and Road Improvement Funds, and to be kept apprised of the progress on projects that are receiving Proposition 1B Local Street and Road Improvement Funds.

(3) The Board of Supervisors shall not appropriate any Proposition 1B Local Street and Road Improvement Funds, as referenced above, until the Board has received from the department or departments requesting the appropriations a specific and detailed spending plan for the funds. The Spending Plan (the "Plan") shall set forth projects, programs and other improvements to be funded over the next ten years (10) years by Proposition 1B Local Street and Road Improvement Funds, and shall include a budget, scope, and schedule, as well as any other information requested by the Board. The Plan should also address the relative need or urgency, cost effectiveness, and fair geographic distribution of resources, taking into account the various needs of San Francisco's neighborhoods. The Plan shall be coordinated with other relevant City agencies including the Planning Department and the Municipal Transportation Agency, as well as the San Francisco Transportation Authority. The Plan should identify attempts to leverage or match Proposition 1B Local Street and Road Improvement Funds with funding from other sources, including any other state or federal funds. No City Department shall expend or encumber any Proposition 1B Local Street and Road Improvement Funds without approval from the Board of Supervisors pursuant to this ordinance. Any Proposition 1B Local Street and Road Improvement Funds received by the City and County of San Francisco will be deposited into a local account named "The Proposition 1B Local Account," and shall remain in such account until the Board of Supervisors approves a department's specific spending plan. Under no circumstances will Proposition 1B Local Street and Road Improvement Funds be mixed with other funds prior to the approval of the spending plans as outlined in this paragraph. Proposition 1B Local Street and Road Improvement Funds can be appropriated as part of the annual budget process only if the requirements of this paragraph are met. The Board of Supervisors further encourages any department seeking such an appropriation to consult and work with its commission if any, the public, and the Board on the development of such spending plans.

(4) Any department that receives an appropriation of Proposition 1B Local Street and Road Improvement Funds shall report back to the Board of Supervisors beginning six months from the date of the appropriation, and at six-month intervals thereafter until the appropriation has been spent. The report required by this Section shall state the amount of Proposition 1B Local Street and Road Improvement Funds expended as of the reporting date and shall describe the progress on the project, the projected date of completion, and such additional information as the Board may require as a condition of the appropriation.

(Added by Ord. 391-97, App. 10/17/97; amended by Ord. 230-06, File No. 060852, App. 9/14/2006; Ord. 102-07, File No. 070316, App. 5/4/2007; Ord. 97-12 , File No. 120192, App. 5/29/2012, Eff. 6/28/2012; Ord. 166-13 , File No. 130541, App. 8/2/2013, Eff. 9/1/2013; Ord. 6-17, File No. 161081, App. 1/20/2017, Eff. 2/19/2017)

SEC. 10.170-2. ACCOUNTING FOR GRANTS; DUTIES OF CONTROLLER, OFFICERS, BOARDS OR COMMISSIONS.

Upon receipt of a federal, State or other grant, the officer, employer, board or commission authorized to file application therefor pursuant to the provisions of Section 10.170 hereof, shall forthwith notify the Controller of such receipt. The Controller shall keep accounts of all such grants adequate to record the status of any such grant during the life thereof. All officers and employees shall keep such records and render to the Controller such grant reports as the Controller may require to comply with the provisions of this Section.

(Added by Ord. 129-73, App. 4/5/73; amended by 391-97, App. 10/17/97)

SEC. 10.170-2.5. LIMITATIONS UPON EXPENDITURE OF GRANT FUNDS.

Notwithstanding the provisions of Section 11.1 of Ordinance No. 244-77 (Annual Appropriation Ordinance, Fiscal Year 1977-1978), no federal, State or other grant funds received by any officer, employee, board or commission pursuant to an application filed in accordance with the provisions of Section 10.170 of this Article shall be expended in whole or in part unless and until such expenditure is approved by the Board of Supervisors.

(Added by Ord. 469-78, App. 10/20/78)

FORM 05

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
COUNTY PLAN QUALIFICATIONS

Description of the San Francisco District Attorney's experience in investigating and prosecuting workers' compensation insurance fraud during the last two (2) fiscal years.

1) AREAS OF SUCCESS

A. Performance in the Investigations and Arrests of Workers' Compensation Insurance Fraud Offenders

The San Francisco District Attorney's Office Workers' Compensation Insurance Fraud Program (SFDA) has developed strategies and tactics to combat insurance fraud trends that are specific to San Francisco. The SFDA is aggressive in educating our workforce to be vigilant against insurance fraud and a 2017 analysis from the California Workers' Compensation Institute found that workers' compensation claim costs in the Bay Area are consistently lower than in the rest of the state, despite the Bay Area having some of the highest wages in the state. The 2017 study found that the lower claim costs were likely the results of several factors:

1) Only 13% of the Bay Area claims involve permanent disability payments compared to 15.6% of claims statewide;
2) The attorney involvement rate for lost time cases was 10% below the rate in other regions;
3) Overall claim duration averaged 38 days fewer in the Bay Area and permanent disability claim duration averaged 77 days fewer; and
4) The average number of visits and total paid for radiology, physical therapy, and medical services was significantly less on Bay Area claims.

While the SFDA understands the value of keeping a balanced caseload, we also recognize that complex investigations and prosecutions involving millions of dollars in chargeable fraud are resource intensive. Our success with large complex fraud investigations is the result of the special expertise of our investigators and prosecutors, in conjunction with our ability to collaborate with other agencies to augment investigative resources and skill. The SFDA and the California Department of Insurance (CDI) are working together to prosecute a complex four defendant premium fraud case involving excessive takings, with white-collar crime allegations and enhancements totaling $7,100,000, by a large janitorial company with numerous contracts throughout California. This janitorial company – GMG – has been grossly underreporting payroll to the State Compensation Insurance Fund (SCIF) since 2009. The owner submitted falsified Employment Development Department (EDD) documents to SCIF, claiming far lower numbers of employees and wages paid than were stated in the records that she filed with EDD. On a number of occasions, she changed the company name and changed the listed owner from herself to a family member in order to make it appear as though it were a newly established company, to lower the premiums. In addition, the prosecuting attorney successfully litigated motions that secured orders from the court freezing the janitorial company's assets and placing

them in a receivership, so the employees can continue to work and be paid while the defendant does not profit from the company's operations. To date, three search warrants have been executed and six locations have been searched, to include the businesses, homes, and bank records of the defendants and their associates. The discovery consists of more than two terabytes of data. This case is pending in San Francisco Superior Court.

Another large complex fraud case we have filed in San Francisco charges the owners of cSolutions Insurance Company with stealing their customers' insurance premiums. The defendants operated an insurance brokerage, and they stole money from clients who hired them to obtain liability and workers' compensation insurance for their businesses. By stealing their clients' money and pretending to purchase insurance policies, these defendants jeopardized their customers' businesses, which were financially vulnerable without insurance coverage. In what we hope will be a growing trend of collaborative multi-county investigations and prosecutions, this case is the result of a joint investigation and prosecution conducted by the SFDA, the Alameda District Attorney's Office, and CDI. This partnership arose from the fact that the suspects operated in San Francisco but stole from victims in both counties. Prosecutors from both Alameda County and San Francisco County collaborated on the case, and it is being jointly prosecuted by both offices in San Francisco County.

A third complex fraud case that is pending in San Francisco Superior Court involves an insurance insider who fraudulently approved half a million dollars in invoices that had been submitted by her co-conspirator. The co-conspirator's company was not an approved vendor for the employer. After eight months, the company learned that the insider had secretly approved over $528,000 in payments to her co-conspirator. When the company asked the insider about her approval of the invoices, she claimed not to remember approving the invoices and then she quickly resigned. The co-conspirator used her fraudulently obtained proceeds to pay for an exorbitant lifestyle, which included Louis Vuitton luggage, high-end jewelry, and a luxurious Mercedes Benz. This investigation involved 10 search warrants, and has generated over 200,000 pages of discovery. Once the criminal case was filed, the SFDA froze the defendants' bank accounts and seized her high-end Mercedes Benz. The Mercedes Benz was recently auctioned and $80,000 was stipulated as future restitution to the victim.

B. Premium Fraud Investigations

The SFDA recognizes that premium fraud impacts employers across all industries by allowing those employers who are committing fraud to operate with less overhead and to secure more job projects than their competitors, who legitimately pay their premiums. As a result, the SFDA has prioritized premium fraud investigations in its program.

Because premium fraud investigations are heavily reliant on document and payroll analysis, the SFDA has sought creative methods to utilize resources for these complex investigations. Instead of relying on auditors and accountants from various state regulatory agencies to assist in the analysis of seized records and other investigative documents, the SFDA has recently sought assistance from volunteer forensic auditors who are looking for experience working on premium fraud cases. In addition, our office recently requisitioned a position for a certified forensic examiner. Although this position will be assigned to our Crime Strategies Unit, that examiner will be available for advice and guidance with our premium fraud cases.

Further recognizing the value of the expertise of forensic auditors, an SFDA program prosecutor recently presented to the San Francisco Chapter of the Association of Certified Fraud Examiners' (ACFE) at their Spring Fraud Conference. After his presentation, members of the ACFE reached out to our office to volunteer to work on our cases for specific periods of time. Bringing short-term volunteers into our program will provide these document-intensive cases with needed expertise and analysis.

For the past four years, the SFDA has worked closely with CDI's Regional Office and SCIF to investigate and prosecute a complex premium fraud investigation involving excessive takings, and white-collar crime allegations and enhancements totaling $7,100,000 by a San Francisco employer who underreported payroll. Though part of that case has been filed and is pending in the San Francisco Superior Court, more details about an additional ongoing investigation in connection with this case will be provided in the confidential section (Attachment B) of this application.

Further, the SFDA is building on its experience with premium fraud as it relates to roofing contractors, and is working closely with the California Contractor State Licensing Board (CSLB), CAL/OSHA, and EDD to identify additional suspect employers to investigate for premium fraud. These premium fraud investigations follow a common pattern where an employer reports no employees to his/her insurance carrier despite reporting employees to EDD or to CAL/OSHA. This difference in reported payroll by the employer is the starting point for the SFDA to launch a premium fraud investigation. The conflicting payroll statements provide evidence of the employer's fraudulent intent, since it is difficult to articulate a legitimate reason for an employer to report two different payroll amounts (for the same company) to two separate entities.

A premium fraud investigation in this area of roofing contractors, which is detailed in Attachment B, involves a "hot tip" from the Roofing Compliance Working Group (RCWG) that roofers were reported to have been working on a roof without fall protection. SFDA inspectors observed and interviewed three employees during a site visit. The SFDA inspectors learned that the company had coverage with SCIF, but a review of the policy showed the company had reported no employees in their policy declaration. As further corroboration that they had underreported payroll to SCIF, the company had previously obtained 65 permits for roofing jobs in San Francisco. The SFDA inspectors and prosecutor are working closely with EDD and CSLB to secure further evidence of the underreporting.

A second complex premium fraud investigation involving a roofing company is being developed with CDI, and is detailed in Attachment B. After SCIF was notified that a roofing company was fined by the California Department of Industrial Relations (DIR) for wage theft violations, SCIF conducted an audit of the company workers' compensation policy. For the years the company misrepresented to SCIF that they had no employees, the premium loss exceeds $200,000.

An additional premium fraud investigation that is detailed in Attachment B involves a high-end restaurant that is suspected of not paying appropriate sales taxes to a state regulatory tax agency as well as committing premium fraud. As a result, the SFDA opened an investigation and requested a parallel investigation by EDD. DIR indicated that several employees had filed

complaints about wages not being paid. EDD is currently forensically examining bank records that were seized via search warrant. SFDA inspectors are interviewing former employees to determine the wages that are owed to employees. The estimated payroll is being compared to the restaurant's various insurance policies in order to assess the premium loss amounts.

C. Medical Provider Investigations and Prosecutions

Consistent with the stated goals and objectives of the Insurance Commissioner, the SFDA has developed and established strategies to detect, investigate, and prosecute suspects in the area of medical provider fraud. Medical provider fraud is gradually migrating its way to the Bay Area from Southern California. However, the SFDA has identified industries in which medical provider fraud is a growing concern. These industries include care homes, drug treatment facilities, imaging services, and drug testing companies.

The SFDA keeps abreast of trends in medical provider fraud by actively participating in the San Francisco Bay Area Mini Medical Fraud Task Force, by attending the Northern District of California Health Care Task Force meetings and local Healthcare Fraud symposiums, and talking with insurers and self-insureds about suspicious provider and irregular medical billing requests. In addition, the SFDA looks for ways to find creative methods of identifying medical provider fraud. For example, the SFDA has been working closely with a special agent from NICB located in Southern California, Malisa Trimble. She has led many provider fraud investigations in Southern California and is a recognized expert in her area. Through leads developed in our county, SFDA can forward suspected providers, treatments, or CPT codes for her to conduct data analysis with multiple carriers.

An example of this would be a current investigation from a federal agency that is described in detail in Attachment B that involves several years of suspected billing for services not rendered that could amount to hundreds of thousands of dollars in suspected medical provider fraud impacting the Federal workers' compensation system. The investigation centers around suspected CPT codes that are inaccurate. However, reaching out to the NICB special agent, she can collect data from private carriers to see if similar codes are being used by the same provider. This collaboration expands the investigation and leads to possibly more evidence of fraud.

Our most recent medical provider fraud conviction was the result of our strong relationship with a Special Investigations Unit (SIU) whose referrals we had successfully investigated. This SIU alerted us to an investigation they were working on involving a San Francisco psychotherapist who had collected more than $70,000 from an insurance carrier for five years of psychotherapy sessions with injured workers. However, all of the provider's invoices were illegal, since she had lost her psychotherapy license more than 10 years previously. The SFDA quickly took over this investigation and executed a search warrant for the provider's bank account records to determine whether other carriers were being defrauded by this suspect. Once SFDA inspectors confirmed that no other carriers were being defrauded, they interviewed several people, including the suspect and the people she treated. This suspect provider, Rachelle Goodfriend, pled guilty to felony insurance fraud last year and was ordered to reimburse the insurance carrier $75,000.

A final medical provider investigation, described in Attachment B, involves a topical compound cream from Southern California that is being prescribed to patients in Northern California. The doctor prescribing this compound cream and the producers of the compound cream were arrested for provider fraud and are facing criminal charges in Southern California in a multi-million dollar kickback scheme. This appears to be a clear example of a Southern California criminal enterprise expanding into Northern California.

The Southern California prosecution is very complex, involving multiple defendants and hundreds of millions of dollars in chargeable fraud. The SFDA aims to take advantage of Southern California's investigative findings in order to shorten our investigative timeframe. The prosecution in Southern California is based on kickbacks that the doctor received for prescribing the compound creams. Consequently, our office is working with the Southern California prosecution team to determine whether that same kickback scheme applies to the suspect provider's Northern California patients.

D. Success with Premium Fraud Investigations and the Underground Economy

In the past three years, the SFDA has identified and investigated premium fraud cases with a focus on specific industries or types of businesses that seriously impact the underground economy and the San Francisco community. Through these investigations, the SFDA has discovered that some of those businesses profiting from the underground economy are also engaging in human trafficking either for their labor force or, as in the case of massage parlors, for commercial sex.

Human trafficking is a crime that impacts the business community by allowing employers to underbid law-abiding business owners to secure work projects. Worse, human traffickers severely exploit and deprive people of their rights by forcing them into a life of servitude. By collaborating closely with agencies and groups that are dealing with human trafficking issues, the SFDA can bring relief to the trafficked workers and hold the employers accountable for their labor crimes and their efforts to cheat their insurance companies. Employers who profit off of the exploited cheap labor of immigrants will invariably underreport their payroll and their number of employees to their insured. Such employers can be held criminally liable for premium fraud charges.

In the last few years, the SFDA has been developing strategies to address two problematic industries: construction contractors and massage parlors.

1. The Mayor's Task Force on Anti-Human Trafficking

In March 2013, former San Francisco Mayor Edwin Lee launched the Mayor's Task Force on Anti-Human Trafficking (Mayor's Task Force). The Mayor's Task Force meets to identify gaps in services, improve anti-trafficking policies, and increase the City's responsiveness to this issue. The Mayor's Task Force includes more than 30 agencies that represent a broad array of nongovernmental organizations, government agencies, law enforcement agencies, service providers, educators, and community members. The SFDA interfaces with the Mayor's Task Force to help identify and investigate business owners who either are committing insurance premium fraud, or are not insured at all. Prosecuting premium

fraud is an essential tool to combat exploitation of workers, as our investigations can result in the filing of felony charges against these human traffickers.

a. Construction contractors

The Mayor's Task Force confronts all forms of human trafficking, including those profiting from a cheap and replaceable labor force. Further, based on information from collaborating law enforcement and regulatory agencies, the Mayor's Task Force's networks can act on leads where information may link businesses in the San Francisco Bay Area to trafficking operations throughout the country. The SFDA investigated a construction business after a local regulatory agency identified an operation linking a transporter in the Southern California region to that San Francisco Bay Area construction business. The regulatory agency also reported the business to a federal law enforcement agency, which has opened an investigation relating to trafficking for labor. An SFDA inspector and members of the Mayor's Task Force visited the suspect's operations facility and located evidence of human trafficking activity (including a room where laborers had been kept locked up at night in minimal living conditions). The SFDA also learned that the suspect's operation extended into Alameda County, so our program shared our investigation with Alameda County in order that the suspect be prosecuted in the most advantageous venue.

b. Massage establishments

The SFDA, by working closely with members of the Mayor's Task Force, has also learned that many identified business establishments suspected of human trafficking for commercial sex are involved in insurance fraud. The SFDA inspectors have discovered that these businesses are often not insured for workers' compensation insurance. Yet, to obtain a business permit, the business owners often file affidavits with the San Francisco Department of Public Health (SFDPH) stating that they have workers' compensation insurance. This misrepresentation subjects them to prosecution for the felony crime of filing a false document under California Penal Code section 115. The SFDA has multiple investigations pending, discussed in further detail in Attachment B, looking into employers who have no insurance, employers who have insurance but are misclassifying or underreporting their employees, and employers who are filing false declarations regarding their workers' compensation insurance policy at SFDPH to secure business permits.

In one investigation that has led to an arrest warrant, the owner of a massage establishment filed a declaration with SFDPH stating that the owner had a proper workers' compensation insurance policy and that the owner would properly maintain insurance during the business's operation. However, an SFDA inspector learned that declaration was false, since the insurance listed was for a liability policy (not a workers' compensation policy) and furthermore, the policy had been cancelled before the declaration was submitted.

Another open case – which is pending in the San Francisco Superior Court – involves an owner who had an established massage establishment for several years. During the execution of a search warrant by members of the Mayor's Task Force, SFDA Program inspectors discovered documentary evidence indicating that the owner had been lying about having workers'

compensation insurance. While we are unable to prove that Siam Orchid Traditional Thai Massage is a hub of human or sex trafficking, we have charged its owner with offering a false document for filing in a public office. At the time of applying for a permit to operate, the parlor owner signed under penalty of perjury, for submission to the San Francisco Department of Public Health, a Workers' Compensation Declaration for Regulated Business attesting to the fact that that she had and was going to continue to have workers' compensation insurance for her employees, knowing that she had none.

In conjunction with the San Francisco Police Department (SFPD), SFDA is investigating another massage parlor identified by the Mayor's Task Force, see Attachment B. There, the owner declared to SFDPH that the business was exempt from having to get workers' compensation insurance but then filed documents with EDD stating that there were employees, which would mean that the business had to secure workers' compensation insurance.

c. Care Home Facilities

Last year the members of the Northbay High Impact Workers' Compensation Fraud Consortium brought our investigations to the next level by growing premium and uninsured employer cases "from the ground up." Rather that passively waiting for SIUs to forward leads, seven District Attorneys' Offices in the San Francisco Bay Area and the Golden Gate Regional Office of CDI collaborated to investigate and charge several premium fraud cases involving care home facilities. CDI identified potential care homes who were committing premium fraud, and then ordered their carrier files and EDD records to ascertain whether there were discrepancies in the amounts of payroll reported. One care home in San Francisco had reported very divergent numbers: they only reported roughly 30% of the payroll to SCIF that they had reported to EDD.

An investigator and prosecutor from another county who had experience investigating and prosecuting care homes for premium fraud then provided a specific training to the member agencies. CDI drafted search warrants for both the suspect care home and the care home owners' residence in San Francisco; both searches yielded a significant amount of evidence. The owners and employees of the care homes were interviewed by CDI. The entire operation was conducted by members of CDI, SFDA inspectors, and other agencies working collaboratively.

The San Francisco case had the highest identified loss amount in the Bay Area operation, and the owner of that care home was charged with five counts of felony premium fraud and one count of felony grand theft. This operation demonstrates how we are all more effective when we work together to fight fraud.

2. Successful Strategies to Combat Premium Fraud in the Roofing Industry

a. Collaboration with the Roofing Compliance Working Group

The roofing industry is very susceptible to fraud because its insurance premiums are among the highest in the state due to the industry's inherent risks. In California, an employer can be required to pay up to $68 for every $100 in payroll to properly insure employees who

work on roofs. The SFDA has partnered with DIR's RCWG, a multi-agency task force created to combat the underground economy and improve California's business environment. A collaboration of state and local agencies, and the labor sector, RCWG's objectives include a rapid response to complaints of workplace health and safety hazards in the roofing industry, as well as investigations of complaints related to payroll, misclassification of workers' activities, and appropriate workers' compensation insurance. Once a tip is received, a member of the RCWG – usually from CAL/OSHA – is dispatched to the job site to investigate the complaint.

The SFDA's membership in the RCWG has allowed our investigators to: (1) immediately act upon tips to enforce employers' compliance with mandated workers' compensation insurance; and (2) develop criminal investigations involving insurance fraud within the underground economy. By joining the RCWG, the SFDA is able to respond timely to reports and leads where workers are working in unsafe conditions. This enables the SFDA to simultaneously interview employees and conduct investigations that could lead to premium fraud charges. These investigative tasks include observing the number of employees at the job sites, and their roles and activities; identifying the job foreman and requesting proof of workers' compensation insurance; and interviewing the employees/workers regarding their length of employment and methods of payment. Referrals received from other members of the RCWG often lead to viable premium fraud investigations, since employers who subject their employees to unsafe work conditions are often not honest when describing their payroll to their insurance carrier. Catching an employer (who claims no employees) at a job site supervising several workers is strong evidence that the employer is committing payroll fraud and premium fraud.

b. Roofing businesses claiming no employees on their workers' compensation policies

The SFDA has successfully employed an array of investigative strategies to combat premium fraud committed by roofing contractors. The first step is to identify problematic roofing companies. The SFDA works closely with CAL/OSHA, DIR, and EDD – and is a member of the RCWG – in order to quickly investigate suspect employers. In addition, the SFDA Program inspectors contact carriers and request information about roofing contractors that are reporting almost zero or no payroll for roofer employees, and who are operating in San Francisco. By cross-referencing these businesses with payroll records from EDD, permit project information from the San Francisco Department of Building Inspection (SFDBI), and information from the carriers of prior workers' compensation claims by employees, the SFDA inspectors have been able to flag multiple businesses suspected of engaging in premium fraud. Furthermore, employers who have no workers' compensation insurance but falsely state they are insured could be guilty of filing false documents with SFDBI. By streamlining our investigative efforts, the SFDA has been able to quickly identify viable premium fraud investigations.

The recent felony convictions for premium fraud by the owners of Ace Roofing and JK Construction were the direct result of the investigative model described above. Both of these companies obtained inexpensive insurance policies because they told their insurer (SCIF) that they had no employees. With their fraudulently obtained policies, these employers were able to outbid law-abiding employers on roofing jobs and construction jobs. The defendants' schemes came to light after an injured employee filed a claim with SCIF. Once notified, SFDA

inspectors responded to the defendants' job sites, where they documented their observations of work crews on roofs and they interviewed employees. In addition, SFDA inspectors learned that the defendants had misrepresented to SFDBI their workers' compensation insurance policy status and had misrepresented to SCIF their project costs when the homeowners provided the contract costs of each project. When confronted with the evidence of misrepresentations to SCIF and the false statements in their permit applications, both defendants entered felony guilty pleas to insurance premium fraud.

3. The SFDA Employer Compliance Program

In February 2014, the SFDA further expanded its efforts to investigate and prosecute fraud in the underground economy by launching the Employer Compliance Program. The purpose of the program is to: (1) alert and inform employers of their obligation to secure workers' compensation insurance for their employees; (2) ensure compliance with Insurance Code §3700.5 by prosecuting those not in compliance; and (3) identify any businesses that may be in compliance with Insurance Code §3700.5, but are committing premium fraud. This program minimally relies on investigative resources from the SFDA Program inspectors and prosecutors by using the efforts of SFDA volunteers.

The Employer Compliance Program was a natural extension of the RCWG. Members of the Employer Compliance Program send letters to random employers and request proof of their workers' compensation insurance policies pursuant to Labor Code §3711. For those businesses who fail to respond, an SFPD Program inspector personally visits the business and contacts the owner/manager to personally serve the compliance request letter to ensure receipt by the appropriate person. If proof of insurance is not provided in 10 days, the inspector commences an investigation for a violation of §3700.5 of the Labor Code. If proof of insurance is provided within the 10 days, the inspector sends another letter six months later to determine whether the business has continued to maintain its policy or has let it lapse. Additionally, if an employer recently obtained insurance, the inspector may also contact the carrier to determine whether the employer was properly classifying and reporting his/her employees in order to determine whether a premium fraud investigation would be warranted.

E. Resolved Cases

In the past two years, we have worked hard to successfully resolve several very complex claimant fraud cases that resulted in large restitution awards to the employers.

People v. John Chon and Douglas Guinn (dba as Ace Roofing and JK Construction)

This case involves a roofing contractor who told his insurance carrier that he had no employees and thus no payroll. However, the same employer reported payroll reports for five to six employees to EDD. The case came to our attention when one of the employees reported a workers' compensation injury to SCIF, which was at odds with the employer's declaration of no employees. The co-defendant in this case helped the employer run the corporation and did not inform the employee of his workers' compensation rights.

The SFDA inspector reviewed numerous documents, including filing information from SFDBI's permit office and SCIF's audits and records, and searched social media sites where this company had reviews posted by consumers. Further, the inspector conducted numerous interviews with employees at project sites and property owners to determine the actual value of the projects in comparison to project costs submitted to SCIF. Additionally, by employing creative investigative tactics in monitoring the suspects' social media sites, the investigator identified one of the co-defendants, who had posted valuable evidence indicating the fraud that had been perpetrated by the employer. As a result, our office successfully obtained and executed simultaneous arrest and search warrants in San Francisco and San Mateo Counties. As a result of the thoroughness of the investigation, both defendants pled guilty to felony insurance premium fraud and the company manager pled guilty to a felony for attempting to dissuade the employee from filing a workers' compensation claim.

People v. Daniel Moreno

This claimant case involved a construction worker who claimed he had hurt his ankle while carrying rebar. The claim was suspicious since the claimant had only been employed for a month before filing his claim. Sub rosa surveillance of the claimant revealed that he was far more physically capable than he was representing to his doctors. The surveillance footage not only captured the claimant conducting activity outside his work restrictions, but the claimant was also observed to be engaging in suspected narcotics sales transactions. When confronted with the surveillance footage, the claimant pled guilty to felony insurance fraud, was ordered to pay restitution of $2,622.82, and was placed on felony probation for a period of three years.

People v. Rachelle Goodfriend

This case involved a once-licensed psychotherapist who billed an insurance carrier for almost $75,000 in psychotherapy sessions that she was not legally authorized to conduct. The psychotherapist had been licensed for several years, however she let her license lapse in 2005 and it was cancelled in 2010. Even though her license to practice psychotherapy had expired, the provider obtained three new clients in 2011 and began billing the insurance company for weekly psychotherapy sessions. The provider's fraud became apparent after she became belligerent with the claims adjuster. The SFDA executed a search warrant for the provider's bank account records to find other victims the provider could have been defrauding. The provider was then interviewed and subsequently arrested. The provider pled guilty to felony insurance fraud and, as a condition of her felony probation, was ordered to pay restitution in the amount of $75,000 and serve 45 days county jail.

F. Notable Current Prosecutions

People v. Gina Gregori, et al. (GMG)

This is a complex four defendant premium fraud case involving excessive takings, with white-collar crime allegations and enhancements totaling $7,100,000, by a large janitorial company with numerous contracts throughout California. This janitorial company – GMG – has been grossly underreporting payroll to the State Compensation Insurance Fund (SCIF) since 2009. The owner submitted falsified Employment Development Department (EDD) documents

to SCIF, claiming far lower numbers of employees and wages paid than were stated in the records that she filed with EDD. On a number of occasions, she changed the company name and changed the listed owner from herself to a family member in order to make it appear as though it were a newly established company, to lower the premiums. In addition, the prosecuting attorney successfully litigated motions that secured orders from the court freezing the janitorial company's assets and placing them in a receivership, so the employees can continue to work and be paid while the defendant does not profit from the company's operations. To date, three search warrants have been executed and six locations have been searched, to include the businesses, homes, and bank records of the defendants and their associates. The discovery consists of more than two terabytes of data. This case is pending in San Francisco Superior Court.

People v. Catherine Gregoire (Claims Litigation Management Solutions)

This is a complex provider fraud prosecution involving conspiracy to commit fraud, forgery, claims adjuster fraud, grand theft, and money laundering. This case involved more than 200,000 pages of discovery, 10 search warrants, and over $528,000 in money fraudulent obtained from the insured. The defendant's bank accounts have been frozen and seized pursuant to Penal Code Section 186.11(e). To date, over $136,000 of defendant's assets have been frozen. Two weeks before the preliminary hearing, the defendant fired her attorney and obtained a continuance of the hearing.

People v. Adela Delores Belfrey

This case, related to the above case, is a complex case involving conspiracy to commit fraud, forgery, claims adjuster fraud, grand theft, identity theft, and money laundering by an employee and an outside vendor. The defendant was a senior claims examiner at an insurance company who conspired with a suspect provider to defraud her employer of over $528,000. The defendant's bank accounts have been frozen and seized pursuant to Penal Code Section 186.11(e). To date, over $35,000 of defendant's assets have been frozen. The defendant is awaiting preliminary hearing.

People v. Gonzalo Fierro & Andrew Giovannini

This is a very complex case involving both claimant fraud and provider fraud. Over a three year period, the claimant and his medical doctor conspired to submit fraudulent workers' compensation claims and reports which resulted in fraudulent payments in excess of $200,000. The claimant and his doctor conspired to defraud an insurance company and a self-insured entity, the City and County of San Francisco, by exaggerating the claimant's physical symptoms and by failing to disclose the claimant's pre-existing injuries. As a result of the criminal filing, the fraudulent doctor had his license to practice medicine revoked by the Medical Board of California. The case involves subpoenaed documents from 55 medical providers and 20 insurance carriers. The defendants are awaiting preliminary hearing.

People v. Francis Doherty

This case involves premium fraud and wage theft. There are 40 named victims and 57,000 pages of discovery. The suspect is accused of committing perjury, premium fraud, and wage theft by lying to her insurance company and city agencies about the hourly wage she was

paying her employees. A search warrant was obtained by our office and our investigators found the company's true payroll records as well as a fake set of accounting books. This matter is awaiting preliminary hearing.

People v. Christopher Ramos and Jay Trisko (dba cSolutions)

Detectives from the Investigative Branch of CDI conducted the investigation on this case, which involved an insurance brokerage agency that embezzled premiums paid by consumers, where some of the premiums were specifically for workers' compensation policies that were not tendered to the carrier. For over two years, Ramos and Trisko, doing business as cSolutions, had received $556,133 in insurance premiums from various consumers and failed to remit them to the carriers. Unbeknownst to the victims, their policies were never placed and there was no coverage in effect. The matter is currently awaiting preliminary hearing.

G. Continued Efforts in Outreach and Training

Our office continues to increase and expand our outreach and training to carriers, law enforcement agencies and associations fighting insurance fraud.

1. Northbay High Impact Workers' Compensation Fraud Consortium

With the inception of the Northbay High Impact Workers' Compensation Fraud Consortium (Consortium), there are joint collaborations in various areas of fraud investigations between seven District Attorney Offices in the San Francisco Bay Area and the Golden Gate Regional Office of CDI. The Consortium collaborates in organizing and hosting the Annual Fraud Training, an outreach event directed towards stakeholders in fighting workers' compensation fraud. The Consortium presented the Second Annual "Premium and Medical Provider Fraud" Conference in Dublin, California on February 22, 2018. This training served to provide information on the latest trends and successes in detecting, reporting, investigating, and prosecuting complex premium and medical provider frauds. The featured speakers included Don Marshall, the Vice President and National Director of the Zenith Insurance Company's Anti-Fraud Program; and Mi Kim, the Chief of DIR's Anti-Fraud Unit, who discussed using data analytics to uncover provider fraud. This day-long free training was attended by over 220 individuals, representing several agencies and SIUs.

2. SFDA Fraud Trainings

Recently, a member of the SFDA Program presented to the San Francisco Chapter of the Association of Certified Forensic Examiners (ACFE) to provide background on our office's White Collar Crime Division and to educate ACFE members that forensic examiners offer a critical expertise that can be utilized in insurance fraud-type cases. Because many of these ACFE members are forensic examiners who are seeking to gain experience in fraud-related cases, which they can use towards their certifications, we have received multiple inquiries from forensic examiners seeking opportunities to work in our unit as volunteers.

2) UNFUNDED CONTRIBUTIONS TO THE WORKERS' COMPENSATION FRAUD PROGRAM

The SFDA utilizes resources that are not funded under the grant. This year, the SFDA has relied heavily on the unfunded assistance of a paralegal in the White Collar Crime Division to create and maintain a database of all FD-1s submitted to our office in order to effectively track whether an FD-1 has been closed or an investigation has been initiated. This database tracks which Program inspector and prosecutor are assigned to each case, and permits the supervising attorney to monitor the progress of any open investigation. The unfunded paralegal has also created a spreadsheet to assist with the functionality of that database.

Also, the SFDA utilizes the resources of SFDA volunteers and interns to identify and contact businesses for the Employer Compliance Program. That includes: randomly selecting businesses from various databases that indicate whether a business is operational in San Francisco; confirming businesses are currently operating by monitoring social media sites; creating and mailing letters requesting certificates of workers' compensation insurance; and collaborating with the SFDA inspector on any issues involved with this program.

Every resource in our office is made available to assist in the prosecution of workers' compensation insurance fraud cases. For example, in connection with Ace Roofing, a premium fraud investigation, 15 SFDA investigators assisted in the execution of search warrants and arrest warrants. Only two of those 15 investigators were funded under the insurance fraud grant. Nonetheless, every available SFDA investigator in the office was used to ensure that the warrants were timely, safely, and properly executed. Even with those 15 investigators, we also used additional investigators from CDI and the San Mateo County District Attorney's Office, since the operation involved the simultaneous arrest of two subjects as well as the execution of search warrants.

Finally, as mentioned above, the SFDA is utilizing its collaboration with the ACFE to attract volunteers to assist with forensic examinations, and we have also recently requisitioned a position for a certified forensic examiner. Although that full-time position will be assigned to our Crime Strategies Unit, that examiner will be available for advice and guidance with our premium fraud cases.

3) CONTINUITY OF PERSONNEL ASSIGNMENTS

Our Program funded attorneys bring deep experience in Workers' Compensation prosecutions to the Program, and bring continuity to the Program due to the many years they have been affiliated with it.

For example, one prosecutor is a 32-year veteran, who was originally assigned to prosecute workers' compensation cases in the early 1990s, and who has continued to do so during the majority of the 20 years since then. In the course of handling numerous premium fraud cases – and also handling cases that involve complicated issues arising from searching and seizing computers from businesses – she has developed an expertise in the acquisition and presentation of digital evidence. As a result, she was one of the founding members of CDAA's high-tech subcommittee. She has trained hundreds of prosecutors and investigators in related

subjects, including how to investigate and prosecute a complex case, and how to prepare search warrants.

Another Program attorney is an experienced felony trial attorney who has been prosecuting insurance fraud since last year. A veteran trial prosecutor with experience in both Solano County and San Francisco County, she has handled some of the most serious and violent felony cases in our office, including the prosecution of defendants charged with sex crimes involving minors and human trafficking.

Finally, another seasoned prosecutor with over 24 years of experience is assigned to the SFDA Program. Mr. del Rosario has prosecuted major cases in both San Francisco County and Solano County. He is an acknowledged subject matter expert on high tech crimes and is a certified POST instructor who teaches law enforcement throughout California on using high technology to enhance their investigations. During his seven years as the Managing Attorney formerly assigned to oversee the Program, Mr. del Rosario was instrumental in establishing the "Northbay High Impact Workers' Compensation Fraud Consortium," which sprang from meetings and trainings he organized with workers' compensation prosecutors within the Bay Area counties.

There is no set policy to rotate members into or out of the Economic Crimes Unit. However, our inspectors' strong analytical and organizational skills make them attractive to other teams within our organization. This past year, two fraud investigators were re-assigned to our Special Prosecutions and Domestic Violence units. Fortunately, they were both replaced with experienced investigators with strong backgrounds in fraud investigations.

Inspector Jennifer Kennedy started her law enforcement career as an officer for the California Highway Patrol in 1991. While working for the CHP, she gained extensive experience in the investigation of vehicle thefts, vehicle collisions, and auto fraud. In addition, she received awards and commendations for her work against criminal street gangs. Inspector Kennedy also worked as an investigator with the CSLB, where she investigated licensed and unlicensed contractors who were accused of defrauding property owners. Inspector Kennedy's training and experience made her a natural fit as part of the workers' compensation fraud investigation team.

Inspector Michael Morse is an inspector with the San Francisco District Attorney's Office. A recent hire in our office, Inspector Morse has decades of experience in law enforcement and has been a sworn police officer since 1989. During his 28 years with the Oakland Police Department, he held the position of Officer when he was assigned to the Patrol Division, Community Policing Division, Traffic Division, and the Special Events Unit. He was also assigned as an acting Sergeant of Police at the Animal Services Division for one year and the Property and Evidence unit for more than four years. He has conducted criminal investigations involving a variety of crimes including murder, rape, robbery, assault, burglary, theft, fraud, forgery, and embezzlement. Inspector Morse has interviewed thousands of victims, witnesses, and suspects, and gained knowledge and insight as to how these crimes are committed. He has written and executed search warrants where he seized evidence related to criminal investigations. He has authored thousands of official reports documenting criminal

investigations and arrests and has testified in court regarding such investigations.

4) ALLIED GOVERNMENTAL AGENCIES

The SFDA has long recognized that working closely with other governmental agencies and sharing information and investigative techniques is an incredibly effective method of combating fraud. The SFDA worked very closely with the Bureau Chief for CDI in Northern California to establish a multi-jurisdictional consortium consisting of CDI investigators along with prosecutors from the following seven counties: Alameda, Contra Costa, Marin, Napa, San Francisco, Solano, and Sonoma.

Prior to the creation of the Northbay High Impact Workers' Compensation Fraud Consortium, there was no formalized communication between these governmental agencies and little opportunity to share prosecution strategies or "best practices" investigative techniques. Since the creation of the Consortium, the members meet quarterly to share investigative strategies and identify multi-jurisdictional criminal targets.

The creation of the Consortium has not only made it easier for prosecutors to share information, but also for governmental agencies to easily address a wide cross-section of local prosecutors. In the past six months, the following agencies have attended Consortium meetings and discussed ways in which they could assist us in our fight against insurance fraud: DIR, CSLB, the Franchise Tax Board, the Department of Consumer Affairs, the Department of Labor, and the Northern California Carpenters Regional Council.

The SFDA, along with the Consortium, is working hard to establish a network of contacts within various governmental agencies so that we can more easily share and access investigative resources. In February 2018, the Consortium hosted a free all-day training in Dublin, California, attended by over 220 members from different agencies and carriers. The training seminar focused on the investigation and detection of premium and medical provider fraud, but also provided a unique opportunity for the various agencies to interact and work more closely together. The SFDA is committed to extending our work with the Consortium in the coming years.

In addition to our work with the Consortium, the SFDA has worked closely with CSLB, the RCWG, the United States Department of Labor, and EDD to share information and develop criminal insurance fraud targets. In September 2015, the SFDA developed an innovative technique to identify premium fraud targets by comparing and contrasting payroll information that employers submitted to their insurance carriers with payroll information they submitted to EDD. In its simplest form, the employer would report no employees to its insurance carrier but report substantial payroll to the EDD. Using this technique, we were able to easily identify multiple premium fraud targets within San Francisco.

In March 2018, the SFDA entered into a Joint Plan of Action on Combating Workers' Compensation Fraud and a Data Sharing Agreement with DIR in order to share designated information to combat workers' compensation fraud. The purpose of the Joint Plan of Action was to formalize the process of identifying the information to be shared between the SFDA and

DIR and coordinating the effort of identifying suspected workers' compensation fraud.

Cultivating partnerships with a wide variety of governmental agencies is a top priority for our office. We have long recognized that regular communications and information sharing with fellow governmental agencies is an incredibly effective way to maximize our investigative capabilities and to pursue mutual objectives. San Francisco is a thriving city with a booming construction industry. However, many construction employers ignore their obligations to carry adequate insurance or to abide by city regulations. We have had great success working closely with the CSLB to develop insurance fraud targets. The CSLB often gets involved through consumer complaints, but once the CSLB interviews and investigates the employer, they share their investigation with us if they uncover payroll or licensing discrepancies.

We have also allied ourselves with top governmental and civilian operations dedicated to combating insurance fraud. The SFDA actively participates in the Anti-Fraud Alliance and the Coalition Against Insurance Fraud. Both organizations are nationally recognized as leading organizations comprised of both governmental agencies and private sector organizations joining forces to combat insurance fraud. Attending the Anti-Fraud Alliance's quarterly meetings and its annual insurance fraud conference is just one way that the SFDA works to establish strong communication throughout the insurance industry and to keep abreast of new fraud trends and investigative techniques.

Even prior to the formation of the Consortium, the SFDA has worked closely with neighboring counties like San Mateo County and Alameda County in the fight against insurance fraud. We routinely provide assistance to agencies conducting operations within San Francisco County and we have shared our investigative leads with Alameda and San Mateo Counties when an investigation revealed an insufficient San Francisco nexus. For example, in November 2015, two defendants were arrested in connection with an insurance fraud investigation overseen by both the offices of the Alameda County District Attorney and the SFDA. The counties decided that a joint prosecution would be the most effective way to ensure that the defendants' were held responsible for their actions given that the victims were split between San Francisco County and Alameda County. While the criminal case is filed in San Francisco County, both Alameda and San Francisco prosecutors appear on the case.

5) FROZEN ASSETS

No frozen assets were distributed this reporting period.

FORM 06(a)

STAFF QUALIFICATIONS

List the name of the program's prosecutor(s) and investigator(s). Include position titles and percentages for any vacant positions to be filled. For each, list:

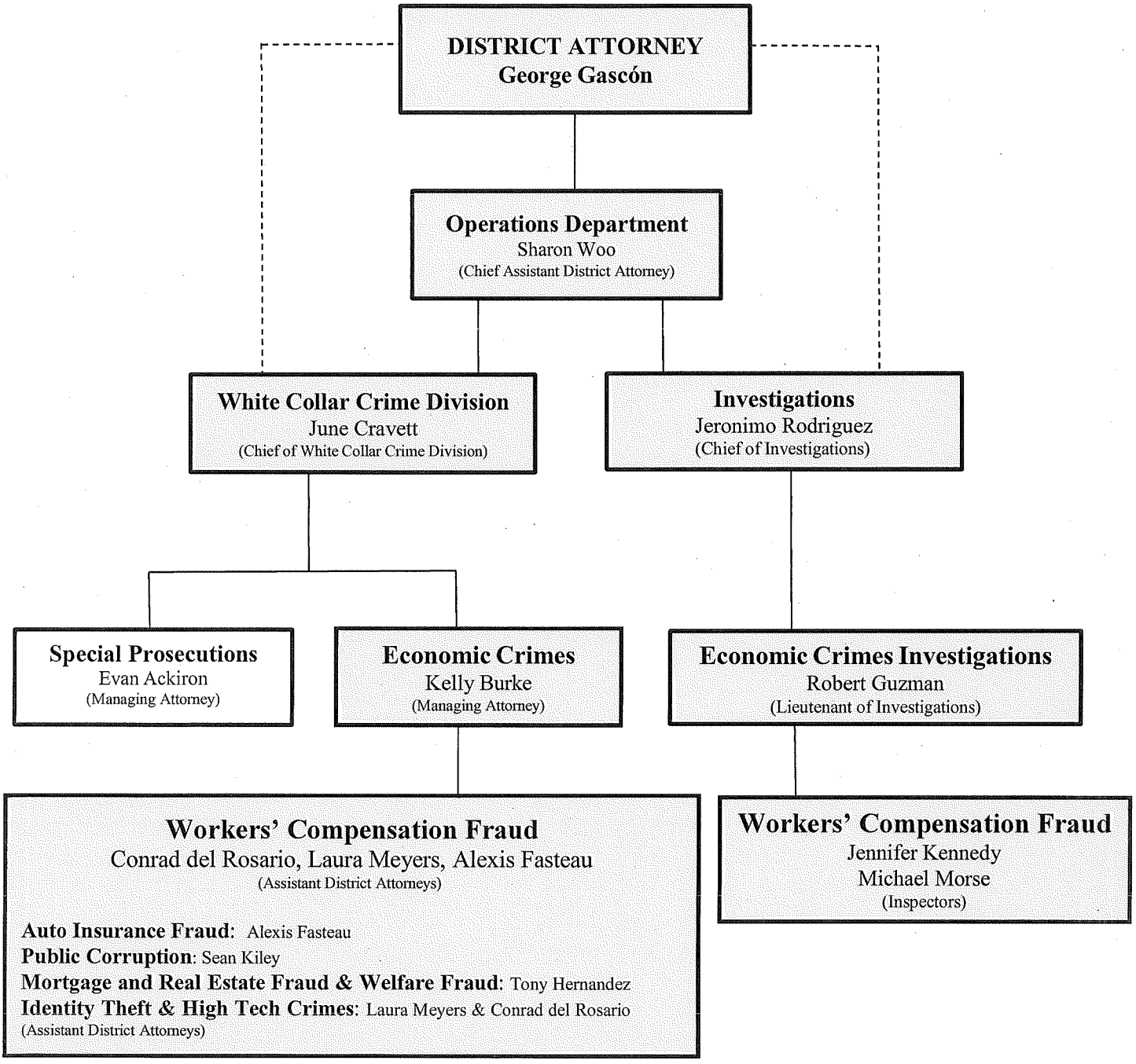
1. The percentage of time devoted to the program
2. How long the prosecutor(s)/investigator(s) have been with the program

Prosecutors	% Time	Time With Program; Start Date/End Date
Conrad del Rosario	50%	March 2011 – present
Laura Meyers	50%	1991 – present (with some gaps)
Alexis Fasteau	50%	March 2016 – present

Investigators	% Time	Time With Program; Start Date/End Date
Michael Morse	80%	February 2018 – present
Jennifer Kennedy	80%	January 2017 – present

FORM 06(b)

Organizational Chart



FORM 07

PROGRAM REPORT

For this application, statistical information from July 1, 2017 to April 15, 2018 has been electronically entered online.

COUNTY PLAN
PROBLEM STATEMENT

The District Attorney's Workers' Compensation Insurance Fraud program has identified certain issues that are unique to workers' compensation fraud in San Francisco. First, consistent with the concerns of the Insurance Commissioner and the Fraud Assessment Commission, the SFDA recognizes medical provider fraud as a substantial cost driver in insurance fraud. Second, San Francisco's underground economy impacts multiple industries, including construction and the services industry, which fosters crimes such as premium fraud and human trafficking. Third, because the City and County of San Francisco is the largest employer in the Bay Area, and also a self-insured entity for all workers' compensation claims, fraudulent claims by city employees can drain the general budget of the employer department, resulting in reduced funding for that department's services.

Medical Provider Fraud

The SFDA recognizes that the major cost driver in insurance fraud is medical provider fraud. San Francisco is home to UCSF, one of the country's 10 best hospitals, as well as 54 other primary care health centers. Medical care is relatively well distributed throughout the city's neighborhoods, with slightly fewer clinics per resident in the lower income areas. This county also has a very high number of primary care physicians relative to the size of its population. In fact, San Francisco boasts a primary care physician supply of one to every 631 residents, which exceeds the national average of a primary care physician to every 1,320 residents.

With such a large supply of medical providers there will inevitably be medical provider fraud. As the California Department of Insurance states on its website, "Based on estimates by the National Insurance Crime Bureau (NICB), workers' compensation fraud is a $30 billion problem annually in the United States. In California, it is estimated that workers' compensation fraud costs the state between $1 billion to $3 billion per year."

According to The National Health Care Anti-Fraud Association, "[t]he most common types of fraud committed by dishonest [health care] providers include:

- Billing for services that were never rendered-either by using genuine patient information, sometimes obtained through identity theft, to fabricate entire claims or by padding claims with charges for procedures or services that did not take place.

- Billing for more expensive services or procedures than were actually provided or performed, commonly known as 'upcoding' – i.e., falsely billing for a higher-priced treatment than was actually provided (which often requires the accompanying 'inflation' of the patient's diagnosis code to a more serious condition consistent with the false procedure code).

- Performing medically unnecessary services solely for the purpose of generating insurance payments – seen very often in nerve-conduction and other diagnostic-testing schemes.

- Misrepresenting non-covered treatments as medically necessary covered treatments for purposes of obtaining insurance payments – widely seen in cosmetic-surgery schemes, in which non-covered cosmetic procedures such as 'nose jobs' are billed to patients' insurers as deviated-septum repairs.

- Falsifying a patient's diagnosis to justify tests, surgeries or other procedures that aren't medically necessary.

- Unbundling – billing each step of a procedure as if it were a separate procedure.

- Billing a patient more than the co-pay amount for services that were prepaid or paid in full by the benefit plan under the terms of a managed care contract.

- Accepting kickbacks for patient referrals.

- Waiving patient co-pays or deductibles for medical or dental care and over-billing the insurance carrier or benefit plan (insurers often set the policy with regard to the waiver of co-pays through its provider contracting process; while, under Medicare, routinely waiving co-pays is prohibited and may only be waived due to 'financial hardship')."

Medical provider fraud can be particularly challenging to prosecute unless the prosecution is able to identify witnesses who can – and are willing to – truthfully relate what they know about the fraud. Documents alone do not usually prove intentional wrongdoing. One way to obtain evidence in connection with such fraud is via *qui tam* lawsuits. According to legaldictionary.net, "*Qui tam* is a philosophy of law in the U.S. that allows individuals who 'blow the whistle' on fraud against the government to receive all or part of the financial recovery received by the government. *Qui tam* refers to a civil lawsuit brought by a private individual, the 'whistleblower,' against the company or individual who is believed to have engaged in a criminal act involving fraud, in performance of its contract, or otherwise defrauded the government, on behalf of the government." Once the whistleblower has filed such a lawsuit, the government may step in and take over the lawsuit.

But absent information from insiders who can provide requisite details that give rise to probable cause supporting a warrant, it can be challenging to marshal sufficient evidence to file criminal charges against fraudulent providers.

As explained below in the strategy section, the SFDA has developed an effective plan to unearth more cases involving medical provider fraud and billing fraud, and to identify more whistleblowers.

The Underground Economy

A. Human Trafficking

The underground economy refers to businesses and employers using schemes to avoid paying workers' compensation insurance, payroll taxes, and other labor related expenses mandated by federal, state, and local regulations when paying their employees.

Employers engaging in the underground economy engage in common schemes such as:

- paying employees in cash to avoid payroll taxes;
- underreporting the number of employees working for the business and the wages paid to employees;
- declaring to a regulatory agency that the employer has the required workers' compensation policy when there is no policy or alternatively, when the employer has a policy that misrepresents the employees' wages, and/or the activity of its business;
- misclassifying employees as independent contractors in order to pay lower premiums for workers' compensation insurance;
- misclassifying the business as a provider of massage when in fact it should be classified as a bath house, which would amount to higher premiums; and/or
- committing wage theft.

The underground economy is prevalent in San Francisco for several reasons: (1) San Francisco requires employers to pay almost seven dollars over the federal minimum wage and to provide greater benefits to their employees; (2) San Francisco's prime real estate values fuel the building construction industry as a major contributor to the economy; and (3) many members of San Francisco's labor supply are recent immigrants and/or speak a language other than English.

However, the underground economy's impact extends far beyond the loss of monetary value to insurance carriers, governmental agencies, and the economy – its impact is most evident on the human lives brought in this county as trafficked victims. Under the federal Trafficking Victim Protection Act, severe forms of human trafficking are sex and labor trafficking. The U.S. Department of Justice estimates that approximately 17,500 men, women and children are trafficked into the United States every year and according to human rights groups, an estimated 60,000 people live in modern day slavery in the United States.

Human trafficking is a highly complex international criminal enterprise, involving vulnerable victims that are unlikely to self-identify, and that requires multi-faceted investigative and prosecutorial approaches. Survivors of all forms of trafficking have a number of unique and layered needs for safety: basic need provision, trauma recovery, life skills development. These challenges are intensified by linguistic and cultural isolation, fear related to immigration status, and vulnerability to perpetrator manipulation, control, exploitation and violence.

In March 2013, former San Francisco Mayor Edwin Lee launched the Mayor's Task Force on Anti-Human Trafficking. The Mayor's Task Force meets to identify gaps in services, improve anti-trafficking policies, and increase the City's responsiveness to this issue. In a report by the Mayor's Task Force on Anti-Human Trafficking in San Francisco in 2016, 18 government and community-based agencies identified 502 known victims of human trafficking, with 215 of those having been subjected to labor trafficking. 82% of these victims were recruited in California and 55% of those in San Francisco or Alameda County.

In the same year the National Human Trafficking Hotline run by Polaris reported that there was a total of 77 calls from San Francisco referencing trafficking cases. Only nine of those calls were for labor trafficking. Polaris emphasizes that labor trafficking often goes unrecognized compared to sex trafficking because of a lack of awareness about the issue and the vulnerable workers it affects. There are likely many more labor trafficking victims in San Francisco. In fact the 2016 Mayor's Task Force Report indicates that labor trafficking accounted for 42% of identified trafficking cases. Nationally, 46% of the reported cases involved sex trafficking and 64% involved labor trafficking. However, data from the International Labor Organization (ILO) indicates that labor trafficking is three times as prevalent as sex trafficking worldwide.

Regrettably, San Francisco is a hub for human trafficking where 16% of the victims are transported to this country or across state and county boundaries, predominantly from Mexico and the Philippines, exploited for profit, and then deprived of their basic human rights. They are viewed as a replaceable and cheap labor force by the unscrupulous employers. The SFDA has uncovered this activity in businesses that are engaging in the underground economy in the construction industry and in massage parlors. Through working closely with the Mayor's Task Force, the SFDA has recognized the problem of workers being transported to San Francisco for labor or commercial sex.

In 2018, the SFDA has proposed the creation of a Human Trafficking Unit, which would effectively identify and prosecute labor and sex traffickers, and disrupt the criminal organizations that drive trafficking. The proposed Human Trafficking Unit is an essential step toward rooting out this modern day form of slavery and holding offenders accountable. On February 28, 2018 the Mayor's Task Force on Anti-Human Trafficking voted to prioritize advocacy for a specialized Human Trafficking Unit at the District Attorney's Office. Once this Human Trafficking Unit is fully realized at the SFDA, the Program would work in conjunction with the Unit to prosecute labor traffickers who violate workers' compensation laws.

B. Construction/Roofing Industry

San Francisco's economic and employment boom has had a massive impact on the real estate market, especially in the area of new construction. According to the Department of Building Inspection's most recent annual report, during the Fiscal Year 2016-17, it issued 66,900 permits and performed over 156,000 inspections. This resulted in issued construction permits with a construction valuation of $5 billion dollars. As of December 30, 2016, there were approximately 387,597 residential units in San Francisco with about 5,250 units added in 2016 alone. The City adopted a production target in 2015 of 28,870 new units built between 2015 and 2022. Building contractors, and particularly those in the roofing industry where workers' compensation insurance is one of the most expensive industries to insure, fuel the underground

economy by obtaining policies and understating or misclassifying their employees, their wages, and/or their entire business operations to secure less expensive insurance policies. According to data from the Workers' Compensation Insurance Rating Bureau (WCIRB), roofing-related falls in California from 2008-2010 resulted in medical costs and total indemnity of over $70 million. Premium fraud becomes richly rewarded as employers are able to secure more projects by bidding lower with their expenses and overhead than law-abiding contractors.

Working closely with SCIF, in 2015 the SFDA Program manager requested a listing of roofing companies that were insured by SCIF but were reporting no payroll or staff. Based on our investigative experience and conversations with members of DIR's RCWG, an employer that pulls multiple permits for roofing projects and reports little to no payroll may be misrepresenting the company's activities and payroll to secure lower insurance premiums. SCIF, at the request of the SFDA manager, identified at least 40 employers who were insured for roofing activities but claimed to have no employees. This number suggests how widespread the problem of premium fraud is in the roofing industry in San Francisco County.

As further evidence of the widespread problem of roofing companies, the SFDA gets referrals of companies committing regulatory violations from various sources. CSLB will often provide reports on investigations involving unlicensed contractors who are additionally operating without workers' compensation insurance or working with underreported or misclassified employees. These referrals are a credible source for the initiation of a §3700.5 or premium fraud investigation. Additionally, we get reports from DIR's RCWG on unsafe contracting practices through CAL/OSHA that lead us to initiate investigations as to whether they have or are properly insured for workers' compensation insurance.

C. Massage Parlors

According to the Polaris Project, as of the beginning of 2018, there were 180 massage parlors in San Francisco, down from 220 in 2016. In 2016, the San Francisco Department of Public Health issued 345 violations, charged $71,000 in administrative fines, suspended operating permits for 685 days, revoked 2 practitioner permits and issued 1 permanent ban on an owner receiving permits. The efforts of law enforcement, including SFDA inspectors, working hand-in-hand with the Department of Public Health, have forced many massage parlors to shut down.

D. Employers Unwilling to Pay Employees their Required Wages

Although the Governor has signed a bill that sets California's minimum wage at $15.00 per hour by 2022, San Francisco's minimum wage is currently $14.00 per hour. Employers who are unwilling to pay their employees the required wages will engage in schemes to underpay their workers.

Additionally, among the greater benefits mandated by local laws in San Francisco, employers with 20 or more employees (and non-profit employers with 50 or more employees) must spend a minimum amount (set by law) on health care for each employee who works eight or more hours per week in San Francisco. Also, all employees who work in San Francisco, including part-time and temporary workers, are entitled to paid time off from work when they are sick or need medical care,

and when they need to care for their family members or designated persons when those persons are sick or need medical care. These benefits, coupled with San Francisco's higher wages, motivate unscrupulous employers to commit wage theft and premium fraud by hiring employees "off the books" in order to make more money for the owners and to gain an unfair economic advantage over their competition. They may not pay them required overtime. Alternatively, these employers may also intentionally misclassify their employees as independent contractors in order to avoid obtaining workers' compensation insurance.

San Francisco's immigrant employee population

According to the 2017 U.S. Census, San Francisco had an estimated population of 884,363. However, U.S. Census statistics have shown that employees who commute into San Francisco also increase the City's daytime population by as much as 20%. Furthermore, the City's population appears to be growing year by year. For example, the U.S. Census Bureau estimated that San Francisco's population grew 9.8% between 2010 and 2017. Moreover, our recent percentage of residents aged 16 years or over in the civilian labor force (69.7%) is considerably higher than the national average (63.1%).

San Francisco's ever-growing population is a racially-diverse one. For example, as of 2016, the U.S. Census Bureau charted San Francisco's residential ethnic diversity to include:

- 53.5% White
- 35.4% Asian
- 15.2% Hispanic/Latino
- 5.6% African American

It should be noted that the American Community Survey (ACS) is a relatively new survey conducted by the U.S. Census Bureau that collects sample socio-economic and housing data every year, rather than once every 10 years. Data on more than 40 topics, such as educational attainment, income, occupation, commuting to work, language spoken at home, nativity, ancestry, and selected monthly homeowner costs are included.

The U.S. Census Bureau estimated that from 2012-2016, of San Francisco's total population, 34.9% were foreign-born. Furthermore, 94.4% of people were age five and older with the City's total population as of 2016, and the data for the language spoken at home by these San Franciscans was estimated as follows:

- 44 % speak a language other than English;
- 11.1 % speak Spanish;
- 6.2 % speak Other Indo-European languages;
- 26.0 % speak Asian and Pacific Island languages; and
- 1.0 % speak other languages.

In addition, the U.S. Census Bureau defines a *limited English speaking household* as one in which no member age 14 years and over (1) speaks only English or (2) speaks English "very well."

The 2012-2016 5-year ACS estimated the following figures for the number of *limited English speaking* households located in San Francisco County, the State of California, Alameda County, and Santa Clara County (margin of error for each estimate is in parenthesis):

State of California:	
All households	9.4% (+/- 0.1)
Households speaking --	
Spanish	20.7% (+/-0.2)
Other Indo-European languages	16.3% (+/-0.3)
Asian and Pacific Island languages	27.3% (+/-0.2)
Other languages	19.3% (+/-0.8)
San Francisco:	
All households	12.2% (+/-0.4)
Households speaking --	
Spanish	21.0% (+/-1.5)
Other Indo-European languages	17.0% (+/-1.5)
Asian and Pacific Island languages	36.2% (+/-1.2)
Other languages	13.1% (+/-3.7)
Alameda County:	
All households	9.8% (+/-0.3)
Households speaking --	
Spanish	22.1% (+/-1.0)
Other Indo-European languages	10.9% (+/-0.9)
Asian and Pacific Island languages	27.9% (+/-0.9)
Other languages	22.4% (+/-3.0)
Santa Clara County:	
All households	11.0% (+/-0.3)
Households speaking --	
Spanish	17.9% (+/-1.0)
Other Indo-European languages	10.4% (+/-0.8)
Asian and Pacific Island languages	26.5% (+/-0.9)
Other languages	13.1% (+/-2.3)

As illustrated by the data above, with respect to the number of *limited English speaking* households, San Francisco County is clearly:

- above the state-wide average *and*
- above (or at least comparable to) that of two other major counties within the Bay Area region.

The significance of this data is that workers' compensation insurance fraud in the underground economy disproportionally impacts *limited English speaking* individuals due to their lack of language comprehension and lack of familiarity with California's comprehensive labor laws and extensive employment rights.

Many San Francisco businesses, including hotels, restaurants, and construction companies, are owned and operated by bilingual employers. With their ability to communicate with San Francisco's *limited English speaking* labor pool, these businesses are the main employers of this group. In our experience, these employers often engage in "cash pay" and wage theft when the employer fails to report to EDD all employee wages, while also neglecting to collect and remit the required state withholdings. In Chinatown alone, according to a 2010 survey by the Chinese Progressive Association, about half of the 433 surveyed restaurant workers received less than San Francisco's legally mandated minimum wage, then $9.79 an hour. Similarly, the Filipino Community Center surveyed 50 caregivers for the elderly and disabled, finding that they made an average hourly rate of $5.33.

In our experience, often when an employer fails to report wages to EDD, the employer will also fail to properly report the correct hours worked and wages paid to other state agencies, as well as to workers' compensation insurance carriers. Similarly, these employers may commit workers' compensation premium fraud because their employees may not have legal immigration status or Social Security cards. Also, the victimized employees often believe it is preferable to be paid in cash in order to avoid paying taxes, not realizing that they are being paid less than they legally deserve and are receiving absolutely no benefits, including health insurance and overtime pay. This is especially troublesome given San Francisco's booming construction industry, particularly in the area of roofing jobs, where the risk of catastrophic injury or death from a fall is high.

E. Public Employees

The City and County of San Francisco is a public, self-insured employer with 30,626 public employees as of August 2016, including the Police and Fire Departments. The majority of workers' compensation claims for employees of the City and County of San Francisco are managed in-house by the City and County's Department of Human Resources' Workers' Compensation Division (WCD). About one-third of the City's claims are managed on behalf of the City by a third party administrator called Intercare. With a staff of more than 5,100, the San Francisco Municipal Transportation Agency (SFMTA), which operates all ground transportation in the city, is one of the City's largest departments whose workers' compensation coverage is managed by Intercare.

The cost of workers' compensation claims is charged back to the annual budget of the department where the employee worked at the time of the injury. Accordingly, detection of fraudulent claims is essential because of staffing shortages that occur when covered employees are placed on disability leave. Also, departments are forced to reallocate the limited public money that would have otherwise paid for important city projects, services, and programs. Essentially, workers' compensation fraud committed by San Francisco city employees is theft of public funds. In recent years, public employee claimant fraud investigations have involved employees of vital city service departments such as police, fire, and municipal transportation. The SFDA, as a result of its partnership with WCD, has investigated City employees for

workers' compensation fraud. Below are a few examples that highlight cases from various City departments.

1. San Francisco Police Department (SFPD)

With the cooperation of WCD and SFPD, the SFDA investigated a San Francisco police officer who was on temporary disability after injuring his hand while subduing a suspected drug addict. The officer was on disability for several years, as doctors repeatedly refused to clear him for work because he claimed he had diminished grip strength and was not able to properly fire his service weapon. However, investigators learned that, while on disability, the officer was competing in competitive motocross competitions where he rode around a dirt track and jumped his bike over small hills for hours at a time. The officer admitted to using his injured hand while riding his motorcycle, but he still claimed that he was unable to properly hold and control his firearm. We closed the investigation when the treating doctor did not change his opinion regarding the defendant's condition after reviewing the officer's statements.

SFDA conducted an investigation into an officer who had retired on disability but became the target of an investigation when an informant provided information to her department that the officer's injury was not severe as evidenced by the officer's activities while on disability. The SFDA investigators and the police department's internal affairs unit, after extensive investigation, closed the case due to lack of evidence.

SFDA just opened an investigation (see Attachment B) into a San Francisco police officer who went out on disability many years ago. It was discovered that he was receiving disability payments from the City while he was working another job. The SFDA is working with the SFPD and WCD to investigate this case.

2. San Francisco Sheriff's Department (SFSD)

In conjunction with CDI, SFDA is conducting an investigation into a San Francisco deputy sheriff who is claiming injuries from an automobile accident that occurred while he was working. The automobile insurance carrier for the other party to the accident filed an FD-1, and investigation into the matter revealed potential workers' compensation fraud. See Attachment B for more details.

3. San Francisco Municipal Transit Agency (SFMTA)

The SFDA reviewed two suspect SFMTA workers' compensation claims involving fare inspectors. Fare inspectors are tasked with randomly boarding transportation vehicles and checking all passengers to ensure that they have paid the proper fare. The fare inspectors always work with partners, and at times they can be accompanied by police officers. In one case, a fare transit inspector claims she was pushed by a passenger as she was checking his fare. The fare inspector claimed to have been pushed to the ground as the passenger escaped. The case was closed due to insufficient evidence to prosecute.

In a second workers' compensation case, a fare inspector tried to arrest a passenger who tried to get past the fare inspector to get a seat on the bus. The fare inspector was caught on tape screaming that he was assaulted when the passenger simply tried to squeeze past the fare inspector.

Though the video did not corroborate the fare inspector's claims that he was assaulted, the workers' compensation form was submitted at the request of the claimant's supervisor and not the claimant himself. After discussing the matter with the SIU and SFMTA, SFDA closed the workers' compensation investigation.

4. San Francisco County Juvenile Probation Counselor

In *People v. Gonzalo Fierro,* a juvenile probation counselor is charged with multiple counts of workers' compensation insurance fraud. Fierro was the claimant allegedly conspiring with his medical doctor to submit fraudulent claims to the City and to an auto carrier by exaggerating his physical symptoms and by failing to disclose his pre-existing injuries. The suspected fraudulent payments were in excess of $200,000. This matter is pending preliminary hearing and, as a result of the criminal filing, the suspect doctor had his license to practice medicine revoked by the Medical Board of California. This case involves subpoenaed documents from 55 medical providers and 20 insurance carriers.

5. San Francisco General Hospital (SFGH)

The SFDA investigator has investigated a former laundry worker in the Environmental Services Department at SFGH for workers' compensation fraud. This case is mentioned in more detail in Attachment B. The employee injured his back several years ago, and has since retired. At issue is the nature and extent of any permanent disability sustained due to his work injury. Given certain discrepancies between his deposition testimony and evidence of his actual physical capabilities captured on sub rosa video surveillance, it appears that the laundry worker has been misrepresenting his true condition in order to obtain a higher permanent disability (PD) rating percentage. An arrest warrant has been issued and is outstanding at this time.

F. Taxi Cab Industry

San Francisco is an epicenter for the technology industry. The City hosts some of the most recognized online technology companies such as AirBnB, Yelp, Uber, Twitter, Salesforce, Pinterest, Dropbox, and Square. In the recent decade, San Francisco has naturally been a magnet for attracting tech-savvy citizens. Also, transportation has been a challenge for many San Franciscans since congested streets and scarcity of parking can make getting from one point of the city to another very difficult, depending on the date and time of the week. As a result, citizens are turning to their phones to summon rides from app-enabled transportation network companies (TNC) such as Uber and Lyft.

In recent years, TNCs have been aggressively competing against San Francisco's taxi cab industry for the share of consumers desperate for more transportation options in the City. TNCs, which are regulated differently, have been able to successfully reduce the profits the taxi cab industry had previously enjoyed. For example, on April 7, 2017, Big Dog City Corporation, which runs CityWide Taxi, bought San Francisco's Yellow Cab for a mere $810,000. Yellow Cab's assets were worth less than 1/3 of its liabilities, in part because it could not compete with Uber and Lyft. In December of 2016, San Francisco's oldest taxi cab company, DeSoto Cab, now known as Flywheel Taxi, filed a lawsuit against Uber for predatory pricing and

monopolization, claiming that Uber relies on its billions of dollars in venture capital to price ride hailing taxi cab companies right out of the market. This lawsuit alleges that Uber alone has caused a 65% decline in taxi cab ridership. A 2018 lawsuit filed by the San Francisco Federal Credit Union against SFMTA seeks $28,000,000 in damages and alleges that not a single $250,000 taxi cab medallion has been sold in almost two years, thanks to the takeover by Uber and Lyft.

As San Francisco taxi cab companies tread water in the face of bankruptcy and closure, they are trying to cut back on expenses. As a result, SFDA is seeing a rise in fraud related to the taxi industry. This fraud is either in the form of taxi employers underreporting the number of employees or misclassifying employees as independent contractors, in order to receive lower premiums for their workers' compensation policies. Alternatively, taxi cab businesses fall prey to complex scams aimed at getting them to save some money in the operation of their business. This year, the SFDA conducted two investigations involving taxi cab companies, both mentioned in greater detail in Attachment B.

FORM 09

COUNTY PLAN
PROGRAM STRATEGY

1. Explain how your county plans to resolve the problem stated in your Problem Statement. Include improvements in your program.

The SFDA will resolve the concerns identified in our Problem Statement by continuing our commitment to developing new and innovative strategies to identify, investigate, and prosecute complex medical provider cases; and by continuing to focus on employers of industries committing premium fraud. Our efforts will include: (1) developing a multifaceted approach to identifying medical provider fraud cases; (2) initiating complex investigations and arresting offenders in premium fraud cases; (3) focusing on roofing businesses, massage establishments, and industries benefiting from the underground economy and human trafficking; and (4) continuing to bring San Francisco employers into compliance through our Employer Compliance Program.

A. Strategies to Identify Medical Provider Fraud

The SFDA intends to address medical provider fraud in the next fiscal year by continuing to utilize a multifaceted approach to identifying activity which would lead to fruitful investigations.

1) Using Collaborative Agencies' Resources in Identifying Medical Provider Fraud

There are governmental agencies local to the San Francisco Bay Area that monitor specific medical provider fraud investigations. For example, the Northern District of California Health Care Task Force meets regularly with federal and state agencies to discuss and identify trends and cases being investigated within the San Francisco Bay Area. Attending these meetings provides tips and leads on potential medical provider cases. The current Program manager attends these meetings.

Further, working in collaboration with CDI, the SFDA intends to utilize its resources to gather information to identify suspicious medical provider activity. For example, the Department of Insurance's Fraud Integrated Database (FIDB) is a database containing all reported suspected fraudulent activity for carriers. This database contains summaries of all suspicious activities, identification of providers, dates of the activities, nature of claims, etc. By developing leads from the Health Care Task Force and from attorneys working in the area of *qui tam* suits, the SFDA and CDI can conduct specific searches in FIDB to identify and locate claims involving the suspicious activities or providers. From these methods, and working in conjunction with CDI, we can develop leads for investigations of medical provider fraud.

2) Use of the Department of Industrial Relations to Identify Suspicious and Recurring Billing Codes

At the January 14, 2015, Fraud Assessment Commission meeting in Sacramento, the commissioners invited Jim Fisher of the Department of Industrial Relations (DIR) and Kate Zimmerman of the Kern County District Attorney's Office to discuss ways to identify medical

provider fraud through the fraudulent use of medical billing codes. Mr. Fisher indicated that DIR has records of the billing codes submitted by medical providers in workers' compensation cases. Moreover, Mr. Fisher explained that medical provider fraud could be easily identified through the fraudulent use of medical billing codes submitted by the providers. While these forms are often vetted by medical bill review companies, Mr. Fisher identified 10 medical billing codes often used in a fraudulent submission. He also indicated that DIR could identify top suspect medical providers in our area.

On November 15, 2017, Mi Kim, Chief of the Anti-Fraud Unit at DIR, presented to the Northbay High Impact Workers' Compensation Fraud Consortium. She explained that DIR has the ability to use data analytics to initiate investigations into suspected medical provider fraud, and can perform specialized data mining on a suspected provider. DIR also has the ability to execute predictive modeling, which looks at connections and relational mapping. DIR can provide a listing of providers of interest and seven factors common to convicted providers to DA offices with whom it has a MOU.

In direct response to Chief Kim's presentation, the SFDA executed an MOU with DIR to share data in order to ferret out medical provider fraud in San Francisco.

Over the coming program year, the SFDA plans to collaborate with a very experienced Alameda County workers' compensation prosecutor, who will show us how to best utilize the data we receive from DIR to begin medical provider fraud investigations that can lead to successful prosecutions.

3) Utilizing Relations with the Carriers to Identify Fraudulent Practices

The SFDA manager at the time of the January 14, 2015 Fraud Commission meeting took the information provided by DIR and approached the Director of the San Francisco Workers' Compensation Division of the Department of Human Resources. This resulted in meetings with the manager for the City's Special Investigations Unit and the third party contractor who processes the billings for all City workers' compensation claims.

The SFDA has partnered with the City's Workers' Compensation Division of the Human Resources Department to help identify suspicious billing codes with their third party billing service. As a result, the manager of WCD has instructed its billing service to focus its attention on the use of certain codes and the providers consistently using those codes.

4) Identifying Qui Tam Lawsuits to Identify Potential Medical Provider Cases

The SFDA continues to use our partnerships with other agencies to identify and investigate medical provider fraud. In fact, by tapping into referrals from federal *qui tam* suits, we have been able to further expand our scope beyond traditional investigative sources.

For example, in this fiscal year, the SFDA is examining a *qui tam* action brought by an individual who may have been improperly billed by an MRI company. Also, we just received a new *qui tam* action involving pharmaceutical drugs with a kickback scheme. Please see Attachment B for more details.

The SFDA will continue to follow up on matters identified by this method and to file criminal charges when there is sufficient evidence to prove the case. Moreover, we plan to reach out to law offices and individuals specializing in this area of *qui tam* litigation to provide an opportunity to identify suspect medical providers and fraudulent schemes.

B. Underground Economy Program

To combat the various issues related to the underground economy identified in the problem section, the SFDA has taken an approach to leverage other governmental agencies and their resources to assist in the investigation and prosecution of cases involving human trafficking activity, wage theft, and premium fraud.

1) The Mayor's Task Force on Anti-Human Trafficking

As mentioned earlier in this application, in March 2013, former San Francisco Mayor Edwin Lee launched the Mayor's Task Force on Anti-Human Trafficking. The Mayor's Task Force meets to identify gaps in services, improve anti-trafficking policies, and increase the City's responsiveness to this issue. On a monthly basis, the Mayor's Task Force focuses on a business or group of businesses engaging in human trafficking. Task Force members monitor social media postings, process leads and tips from law enforcement officers in the local districts, and review complaints and referrals identifying businesses engaging in suspected human trafficking. The SFDA works with members of the Mayor's Task Force to identify businesses that are suspected of engaging in human trafficking in order to investigate possible insurance fraud violations.

a) Construction contractors

The Mayor's Task Force addresses all forms of human trafficking including businesses profiting from a cheap and replaceable labor force. The collaborative efforts between the SFDA and the Mayor's Task Force have resulted in an expansion of our investigative efforts to businesses suspected of trafficking for labor and workers' compensation insurance fraud.

The importance of this collaboration became evident when a local San Francisco regulatory agency developed information that a construction contractor was recruiting workers from south of the California border and transporting them to work in the San Francisco Bay Area. This information was communicated to the members of the Mayor's Task Force as well as to a federal law enforcement agency. When investigators from the SFDA and members of the Mayor's Task Force conducted a site visit at the business facility, they discovered evidence of sleeping quarters that could be locked from the outside. The SFDA investigator interviewed the owners and discovered evidence of payroll fraud and premium fraud when the documents submitted to the carrier were compared to the documents provided during the interview. The federal agency was also focusing on an employee suspected to be the transporter of the immigrants to the San Francisco

Bay Area.

b) Massage establishments

The SFDA, by working closely with the Mayor's Task Force, has also learned that many identified business establishments suspected of human trafficking for commercial sex are also involved in committing insurance fraud. These businesses are not insured for workers' compensation insurance, which is a misdemeanor violation of the Insurance Code. The SFDA has discovered that these types of businesses are often falsely declaring to the City's Department of Public Health that they have the proper insurance when they are securing their business permit. Filing false documents is a felony under the Penal Code. Furthermore, to avoid paying higher premiums, they are misclassifying their businesses as strictly massage establishments when they should be classified as bath houses, which changes the value of the premiums paid on their policy. The SFDA has multiple investigations pending, discussed in further detail in Attachment B, addressing employers who are filing false declarations with the Department of Public Health to secure business permits and misrepresenting the status of their workers' compensation policies. These investigations can result in the filing of felony criminal charges.

In one case, the owner of a massage establishment had filed a declaration with the San Francisco County Department of Public Health stating that the owner had a proper workers' compensation insurance policy in effect and that it would be properly maintained during the business's operation. However, an SFDA inspector learned that the policy was not a workers' compensation policy, but a liability and property damage only policy for a different San Francisco massage establishment that was cancelled when that business was shut down by DPH. This case resulted in a felony arrest.

In another case, the owner of a massage parlor claimed that he had and would maintain workers' compensation insurance at the time of filing his permit to operate. When he subsequently reapplied for his operating permit, he claimed that he had and would self-insure for workers' compensation insurance, when in fact the business failed to meet the criteria that would have rendered self-insurance a possibility.

The SFDA has employed investigative protocols in partnering with the Mayor's Task Force. When the San Francisco Police Department's Special Victims Unit (working in conjunction with members of the Mayor's Task Force) executes a search warrant on a massage establishment suspected of human trafficking, SFDA inspectors are added to the search warrant and the seach team so they can look for evidence of workers' compensation insurance fraud. Prior to the execution of the search warrant, the SFDA inspector conducts WCIRB searches to determine whether the establishment has any evidence of a workers' compensation insurance policy. If there is a policy in effect, the inspector will contact the carrier and request the business's policy file as a basis for a possible premium fraud investigation. Simultaneously, the inspector will also reach out to DIR, a partnering agency with the SFDA. DIR can conduct an independent regulatory investigation and has the ability to issue a cease and desist order to stop business operations if it finds the workers' compensation policy is not properly in effect. At the time of executing the warrant, the investigative team searches for payroll records, employee lists, financial statements, and other evidence that would indicate felony premium fraud or violations of Insurance Code

§3700.5. Further, they can assess immediate fines to the owner, based on their on-site investigation, if they identify evidence of wage theft by the employers.

The SFDA recognizes that an operation can cause a business to immediately close down, potentially leaving victims of human trafficking who depended on the owners for food and shelter with no readily available support system. We also understand that these victims may fear retaliation from employers who discourage cooperating with law enforcement investigations. To address this, we make sure that the SFDA's Victim Services Division is available for any operations where our investigation, together with that of DIR, may lead to the employer immediately closing its business and also to victims who want to break away from forced labor or sex work. The Victim Services Division is able to provide resources and support to potential victims of human trafficking. The Division can also help minimize the control the employers may have over these victims, decreasing the chance they will not cooperate in the prosecution of the employer.

Furthermore, as mentioned above, the SFDA has recently proposed the creation of a Human Trafficking Unit, which would effectively identify and prosecute labor and sex traffickers, and disrupt the criminal organizations that drive trafficking. The proposed Human Trafficking Unit is an essential step toward rooting out this modern day form of slavery and holding offenders accountable. On February 28, 2018 the Mayor's Task Force voted to prioritize advocacy for a specialized Human Trafficking Unit at the District Attorney's Office. Once this Human Trafficking Unit is fully realized at the SFDA, the Program would work in conjunction with the Unit to prosecute labor traffickers who violate workers' compensation laws.

2) The Roofing Compliance Working Group

As previously mentioned, the SFDA is now part of the DIR RCWG, a multi-agency effort to combat the various issues related to the underground economy and improve California's business environment. The SFDA has partnered with DIR's RCWG, a multi-agency task force created to combat the underground economy and improve California's business environment. A collaboration of state and local agencies, and the labor sector, RCWG's objectives include a rapid response to complaints of workplace health and safety hazards in the roofing industry, as well as investigations of complaints related to payroll, misclassification of workers' activities, and appropriate workers' compensation insurance. We believe that this affiliation will allow the SFDA to both: (1) immediately act upon tips to force employers into compliance, and (2) harvest/develop criminal investigations within the underground economy.

Working closely with SCIF, an SFDA Program prosecutor requested a listing of insured roofing companies that were reporting no payroll or staff. Based on our investigative experience and conversations with members of the RCWG, when an employer pulls multiple permits for roofing activity and reports little or no payroll, this may indicate that the employer is misrepresenting its activities to secure lower insurance premiums. SCIF, at the request of the SFDA, identified at least 40 roofing companies that were insured but claimed to have no employees. By requesting the insurance files, building permits from SFDBI, and payroll records from EDD, the SFDA inspector can efficiently investigate possible premium fraud violations with minimal resources expended. Additional investigation may include: (1) observing job sites to

assess the employees' activities; and (2) interviewing employees, bookkeepers, site managers, and property owners to confirm employee staffing and wages paid. Also, the Program has employed two new tactics that have required minimal effort and have resulted in success: (1) requesting the carrier to provide records of prior workers' compensation claims for employers claiming no employees; and (2) using pretext recorded phone calls to suspected contractors to extract statements and admissions that could be used for the criminal prosecution. The SFDA has learned that an array of tactics can be easily applied to identify employers committing premium fraud, even though their own carriers have not suspected fraud.

In the investigation leading to the recent premium fraud convictions of the owners of Ace Roofing, Yong Chon and Douglas Guinn, the SFDA successfully employed the strategy described above. Although this case began with the suspected bribing of an auditor, it forged the template for investigating employers claiming no payroll or employees. In this case, an employee reported an industrial injury when the employer was claiming no payroll. The SFDA inspector reviewed the permit records at SFDBI for roofing and construction projects in San Francisco, monitored social media postings, conducted on-site interviews, made pretext phone calls to the suspects, and reviewed SCIF's audits and records. As a result, the inspector – along with investigators from other agencies – successfully executed simultaneous arrest and search warrants in San Francisco and in San Mateo County.

A pending investigation mentioned in Attachment B was a referral that came from the RCWG involving visible safety violations. SFDA investigators interviewed employees and obtained the SCIF policy. The SFDA investigator discovered that, although the company claimed to have no employees, it obtained multiple permits for roofing jobs in San Francisco since 2011. Further, EDD payroll reports indicated the company only recently registered and the payrolls only reported minimal amounts. Finally, further investigation also revealed that a contractor had been selling the use of his license to another unlicensed contractor.

3) The SFDA's Employer Compliance Program

The SFDA continues to have a very active Employer Compliance Program based on Labor Code §3700 et. seq. The SFDA uses both a targeted and a random method for identifying businesses. The Employer Compliance Program works with an SFDA volunteer to randomly select San Francisco County employers from local agencies and from online sources to send out proof of insurance requests.

Once identified or selected, the Employer Compliance Program volunteer then sends a letter requesting proof that the employer is properly insured. In our experience, most employers provide proof quickly or bring themselves into compliance and provide proof during this period. If an employer does not provide proof during the subsequent 10 day period, the Employer Compliance Program inspector visits the employer's business and personally serves the non-compliant employer with a copy of compliance letter, and has the employer sign an acknowledgment so that notice will not be an issue at trial. The inspector also conducts a recorded interview at this time. In the event that the employer still refuses to become compliant, the inspector will draft and serve an arrest warrant for the employer. The SFDA believes that an actual arrest will have a higher deterrent value than a citation.

Because roofing job sites may only be active for a few days, our Employer Compliance Program DA inspectors now immediately visit work sites throughout the City to investigate workers' compensation insurance coverage upon receiving tips from our partners in the RCWG.

4) San Francisco District Attorney's Insurance Fraud Hotline

The San Francisco District Attorney's Office maintains a Workers' Compensation Insurance Fraud Hotline to handle complaints and tips from the general public. The hotline gives the general public direct access to the SFDA.

In fact, the previously mentioned investigation and recent arrests in the cases of *People v. Belfrey* and *People v. Gregoire* were the direct result of a hotline complaint. Our hotline provided direct access for the carrier to report suspicious activities quickly. Within 24 hours of the hotline call, an assistant district attorney was speaking with an investigator from the victim carrier. Although the carrier suspected insider fraud, our office conducted the investigation that established that Gregoire used her company as an unauthorized provider, or vender, of lien negotiations. Through these unauthorized lien negotiations, she charged large commissions, at times more than that cost of the lien being negotiated. The victim carrier paid more than half a million dollars for these unauthorized services.

C. Public Employees

The majority of workers' compensation claims for employees of the City and County of San Francisco are managed in-house by employees of the City's Workers' Compensation Division (WCD).

1) SFDA's Partnership with WCD and the City Attorney's Office

The SFDA has reached out to the new WCD workers' compensation claims manager in order to maintain our productive partnership. Further, about one-third of the City's claims are managed on behalf of the City by Intercare, a third party administrator. SFDA attorneys and investigators communicate directly with the City's claims examiners to quickly assess the merits of a fraud submission and advance the investigation. Finally, the SFDA works closely with the City Attorney's Office to identify viable criminal prosecutions among the civil workers' compensation cases that are being litigated by the City Attorney's Office.

As referenced in the Problem Statement above and described in Attachment B, the SFDA has investigated a former laundry worker at a City hospital who is suspected of misrepresenting his true physical condition in order to obtain higher permanent disability pay. This was a case that was initially reviewed by our office and rejected; however, the investigation was reopened when additional civil litigation resulted in a deposition where the suspect may have perjured himself. An arrest warrant has been issued and is currently outstanding.

As referenced in Attachment B, the SFDA is currently investigating a claimant from the San Francisco Police Department who is allegedly misrepresenting the true extent of his injuries and is working at a second job while he is receiving disability payments. The SFDA is working with the City Attorney's Office and the SFPD in connection with that investigation.

2) SFDA's Partnership with SFMTA, the City Attorney's Office, and Probe Investigative Services

We continue to have an excellent collaborative partnership with the San Francisco Municipal Transit Agency (SFMTA). SFMTA, a department of the City and County of San Francisco, is responsible for the management of all ground transportation in San Francisco. SFMTA keeps people connected through the San Francisco Municipal Railway (MUNI), the nation's seventh largest public transit system. With an annual operating budget of $831 million and a staff of more than 5,100 employees, SFMTA is one the City's largest employers. The agency directly manages five types of public transit in San Francisco (motor coach, trolley coach, light rail, historic streetcar, and cable car).

Upon review of the City's statistical data tracking claims in the City, 40% of claims from SFMTA are centered from two transportation locations: the Potrero Electric Trolley Transportation Unit and the Woods Motor Coach Transportation Unit. The SFDA will be partnering with the City Attorney's Office to conduct training with employees within these two specific divisions of SFMTA regarding the civil and criminal consequences of committing workers' compensation fraud. Our goals are twofold: (1) to deter employees who would consider committing fraud in the future; and (2) to develop informants (whistle-blowers) regarding any existing fraud.

We also continue to work very closely with Probe Information Services (the SIU for Intercare and SFMTA) and SFMTA's workers' compensation department to educate them to identify workers' compensation claims that may be associated with insurance fraud. The SFDA staff communicates directly with Probe's in-house SIU in order to streamline the process by which Probe refers suspected fraud claims by SFMTA employees to our office.

The SFDA has received suspected fraud referrals involving MUNI drivers or MUNI fare inspectors who claimed to suffer a work related injury, where MUNI's video surveillance did not support their claims. This partnership has already resulted in a well-publicized arrest of a MUNI driver for workers' compensation fraud, as well as the investigation of two other claims that have been investigated.

The SFDA has also partnered with the City Attorney's Office to investigate the large janitorial company mentioned above and in Attachment B, as well as the massage parlors the Mayor's Task Force on Anti-Human Trafficking is focusing on.

2. What are your plans to meet any announced goals of the Insurance Commissioner and the Fraud Assessment Commission? If these goals are not realistic for your county, please state why they are not, and what goals you can achieve. What is your strategic plan to accomplish the goals?

- **Joint Plans and Memoranda of Understanding**

The SFDA has a Memorandum of Understanding with the Department of Insurance, Fraud Division, entitled Joint Investigative Plan. The stated goals of the Joint Investigative Plan are to ensure that our offices "operate in a cooperative effort to achieve successful fraud prosecutions in the County of San Francisco, to "avoid duplicating efforts," and "maximize the use of limited

resources." By following the Joint Investigative Plan, we have achieved these goals. The SFDA will continue to follow the Joint Investigative Plan to these ends.

The SFDA has also joined in a Memorandum of Understanding with the Northbay High-Impact Workers' Compensation Fraud Consortium consisting of the Counties of Alameda, Contra Costa, Solano, Napa, Marin, and Sonoma, as well as the Department of Insurance. The Consortium emphasizes identifying complex workers' compensation fraud cases that may be multi-jurisdictional in order to more effectively investigate and prosecute these cases. Furthermore, the Consortium works to educate and share information about current trends and patterns related to complex fraud cases in the region with SIUs, regulatory agencies, public entities, and other law enforcement agencies.

In March 2018, the SFDA entered into a Joint Plan of Action on Combating Workers' Compensation Fraud and a Data Sharing Agreement with DIR in order to share designated information to combat workers' compensation fraud. The purpose of the Joint Plan of Action was to formalize the process of identifying the information to be shared between the SFDA and DIR and coordinating the effort of identifying suspected workers' compensation fraud.

- **Balanced Caseload**

The SFDA strives to maintain a balanced caseload and has been successful in so doing. We are investigating several cases where restaurants, construction companies, and other businesses are operating in the underground economy while committing premium fraud, as well as defrauding employees through various means, including wage theft and denial of benefits.

The SFDA is prosecuting claimant fraud by employees of private businesses as well as by employees working for the City and County of San Francisco. In so doing, we are not only taking on a problem that causes a negative fiscal impact on the workers' compensation system, but we are also combatting the misuse of public funds.

The SFDA is making great efforts to discover and bring into compliance willfully uninsured employers within the underground economy through our continued Employer Compliance Program and the Roofing Compliance Task Force.

- **Performance and Continuity Within the Program**

We are well aware of the need to ensure that the grant money we receive is being used wisely. The SFDA only assigns experienced prosecutors and investigators to the grant-funded positions. As a result, we are better able to choose which referrals merit investigation and quickly shut down those that do not.

Additionally, we plan to adjust how we allocate the funds we receive by funding more investigative hours compared to attorney hours. In so doing we will be able to investigate the large premium fraud and employer-defrauding-employee cases much more efficiently.

- **Outreach**

The SFDA fully understands the deterrent effect of a coordinated and aggressive outreach program. We work closely with our office's director of communications to ensure that our workers' compensation fraud arrests are publicized via press releases.

Through the SFDA's collaboration with several other district attorney's offices in the Bay Area, our prosecutors and investigators are able to share "best practices" with their peers.

The SFDA has also found that our Employer Compliance Program continues to be a useful form of outreach. Now in its third year, we continue to bring numerous employers into compliance with California's insurance requirements. During this process, we receive tips from both employers in compliance and employers out of compliance regarding other businesses in their area that are not properly insured. In light of the City's recent building boom, our current focus has been in the particularly high-risk roofing industry. However, we also plan to expand our Employer Compliance Program into other San Francisco industries where the underground economy thrives.

3. What goals do you have that require more than a single year to accomplish?

The SFDA has begun working with Alameda County and some counties in Southern California to combat the issues related to the underground economy operations that span multiple jurisdictions. In our experience, these investigations are very complex and take a large amount of coordination and planning. As a result, these initiatives will likely take more than a single year to accomplish.

The SFDA is also working with Orange County investigators and prosecutors to review a medical provider case in connection with a state-wide fraud scheme. We are reviewing the Orange County prosecution to determine how we can adapt their investigative findings to advance our investigation, and also to conduct future medical provider fraud investigations. We recognize that this investigation is an example of Southern California organized crime expanding their medical provider fraud schemes into Northern California. We expect to utilize our relationships with DIR and NICB to continue to develop strategies and expertise in ferreting out medical provider fraud in San Francisco. Initiating such investigations from the ground up takes a substantial amount of time, as it involves: finding patterns and anomalies in the data, reaching out to carriers to spot similar activities, developing probable cause for search warrants from an assessment of all of the data reviewed, executing multiple search warrants at multiple locations, and developing probable cause for arrest. Based on our experience – and what we are learning from counties that have been effective in these widespread and complex prosecutions – we are aware that embarking on this type of operation and arriving at a successful prosecution is likely to take longer than a year.

4. Training and Outreach

- **List the training received by each county staff member in the workers' compensation fraud unit during Fiscal Years 2016-2017 and 2017-2018.**

Our workers' compensation prosecution team regularly attends fraud trainings in Northern California, and recognizes that attending fraud trainings given by law enforcement and industry

experts is an excellent way to enhance interagency cooperation and promote outreach.

During fiscal year 2016-2017, two funded Program attorneys attended the four day California District Attorney Association Insurance Fraud Conference in Orange County. In addition, both funded Program attorneys and the supervisor of our Economics Crime Unit attended the 28th Annual Anti-Fraud Conference in Monterey, California. A funded Program attorney attended the day long "Healthcare Fraud 411" conference in Rancho Cordova sponsored by Blue Shield. A funded Program attorney and a Program investigator attended Forensic Accounting sponsored by the Anti-Fraud Alliance. A Program investigator attended the Investigation of Premium Fraud training put on by SCIF. Both Program attorneys, the Economic Crimes Unit Supervisor and two Program investigators attended the Detection of Medical Provider Fraud and Premium Fraud conference in February of 2017. A Program attorney and the Economic Crimes Unit Supervisor attended the Premium Fraud, Human Trafficking, Underground Economy training put on by Homeland Security and sponsored by the Alameda County District Attorney's Office.

During fiscal year 2017-2018, the new Program manager attended the four day California District Attorney Association Insurance Fraud Symposium in Orange County. In December of 2017, two funded attorneys attended a two hour training in "Compounding Pharmaceuticals: Billing Misrepresentations," provided by the Anti-Fraud Alliance.

In addition, a funded Program attorney and a Program inspector attended the 29th Annual Anti-Fraud Conference in Monterey, California. The training involved multiple relevant topics such as use of forensic accountants, compound pharmaceuticals and billing misrepresentations, and developing an investigative outline for provider fraud. The three-day training also provided opportunity to network with multiple representatives and investigators from carriers impacted by fraud.

In February of 2018, all of the Program funded attorneys, the two funded inspectors, and the Program manager attended a training by the Northbay High Impact Workers' Compensation Fraud Consortium which provided detailed, practical information about how to draft warrants in care home premium fraud investigations. The training was provided by an attorney and investigator from another county who were experienced in these types of operations. After the searches were conducted, the offices conducted a "de-briefing" to review what did, and did not, work in the operations. Both of these trainings as well as the operations themselves were beneficial in raising the experience level of everyone involved.

- **Describe what kind of training/outreach you provided in Fiscal Year 2016-2017 and 2017-2018 to local Special Investigative Units, public and private sectors to enhance the investigation and prosecution of workers' compensation insurance fraud; and /or coordination with the Fraud Division, insurers, or other entities.**

In August 2016, a training was conducted by an SFDA prosecutor for 40 claims adjusters working for Intercare Holdings Insurance Services in Rocklin, California. The prosecutor discussed successful strategies he used to prosecute fraud cases as well as the ways that he evaluated cases that were referred for prosecution. The funded prosecutor had given this training before, but found that it is always valuable to speak with seasoned claims adjusters to unearth good cases for

prosecution.

A training about identifying workers' compensation fraud and the crime of not having workers' compensation insurance was given by our office to 100 inspectors and workers at the San Francisco Department of Public Health in December 2016.

In addition to the above mentioned trainings, our office continues its outreach efforts through our Employer's Compliance Program (Labor Code sections 3700 and 3700.5) and our multilingual fraud hotline. Through our Employer Compliance Program we have educated local employers and brought them into compliance by having them show proof of proper workers' compensation insurance.

Our outreach efforts continue via our fraud hotline. This hotline has been in operation for over three years and is an unqualified success. The hotline greets callers in English, Spanish, Cantonese, Mandarin, Tagalog, and Russian, and provides an anonymous way for callers to report workers' compensation fraud. The hotline is monitored daily by SFDA inspectors, who respond to any report of fraud within 24 hours.

Finally, the Northbay High Impact Workers' Compensation Fraud Consortium (Consortium) was created in 2017. A Memorandum of Understanding exists between CDI's Benicia Regional Office and the District Attorney's Offices of San Francisco, Alameda, Contra Costa, Solano, Napa, Marin, and Sonoma Counties. Through collaborative efforts, the exchange of information, and the sharing of resources, the Consortium's goal is to be more effective within the region in combatting complex workers' compensation fraud. Part of the Consortium's mandate is to reach out to SIUs and other agencies to provide training and identify current trends and schemes in the area of complex workers' compensation fraud. In March 2017, the Consortium conducted a one-day training involving topics including medical provider fraud, forensic accounting analysis of billing services, and premium fraud. There were more than 220 individuals, from private and governmental entities.

The Consortium presented its second annual "Premium and Medical Provider Fraud" Conference in Dublin, California on February 22, 2018. This training served to provide information on the latest trends and successes in detecting, reporting, investigating, and prosecuting complex premium and medical provider fraud. The featured speakers included Don Marshall, the Vice President and National Director of the Zenith Insurance Company's Anti-Fraud Program; and Mi Kim, the Chief of DIR's Anti-Fraud Unit. Chief Kim discussed using data analytics to uncover provider fraud. This day-long free training was attended by more than 220 individuals, representing several agencies and SIUs.

- **Describe what kind of training/outreach you plan to provide in Fiscal Year 2018-2019 to local Special Investigative Units, public and private sectors to enhance the investigation and prosecution of workers' compensation insurance fraud; and /or coordination with the Fraud Division, insurers, or other entities.**

In the upcoming fiscal year, our workers' compensation prosecution team hopes to continue our training efforts with the California District Attorneys Association and the Anti-Fraud Alliance

by presenting trainings at both of their fraud conferences. Additionally, as a member of the Consortium, our goal is to again host a one-day training for SIUs and law enforcement investigators to discuss issues involving complex workers' compensation fraud cases. Furthermore, we will continue to reach out to local SIUs so that we can provide them with the information they need to successfully work with us to investigate and prosecute their cases in San Francisco County.

5. Describe the county's efforts and the district attorney's plan to obtain restitution and fines imposed by the court to the Workers' Compensation Fraud Account as the legislative intent specifies.

The SFDA seeks restitution in every prosecution in which a victim suffers a loss. Restitution is a Constitutional right. Moreover, we recognize that justice is not served until a victim is made whole again. As part of any resolution of a prosecution, the SFDA seeks to have the defendant pay as much restitution as possible prior to any settlement. Also, once sentenced, the defendant is required to pay restitution as a condition of probation. Any post-sentencing request by the defendant to seek a reduction from a felony to a misdemeanor will be objected to if restitution is still outstanding. Finally, the SFDA has a restitution unit that helps victims gather the documentation necessary to prove their losses. Once restitution is ordered, this unit also obtains criminal restitution orders that specify the amount of restitution the defendant owes the victim, which may be enforced by the victim as a civil judgment.

6. Identify the performance objectives that the county would consider attainable and would have a significant impact in reducing workers' compensation insurance fraud.

a) We anticipate initiating 15-20 new investigations during FY 2018-19. We expect our outreach and developing partnerships will continue to provide us with new sources of leads.

b) Assuming our investigations yield sufficient evidence, we could anticipate initiating 8-10 new prosecutions during FY 2018-19. We expect to accomplish this by: (1) working closely with the Fraud Division on new referrals; (2) identifying and investigating cases from our own programs; and (3) obtaining referrals from partnering agencies such as the RCWG and the Mayor's Task Force.

7. If you are asking for an increase over the amount of grant funds received last fiscal year, please provide a brief description of how you plan to utilize the additional funds.

We are seeking an increase in funding for this year from $758,121 to $847,734. This proposed budget anticipates having two very senior inspectors dedicating 80% of their time to combating workers' compensation fraud. Given the needs of our current cases, we intend to reallocate our limited resources so that our investigative needs can be met first. Our pending investigations, coupled with the expansion of our approach focusing on employers committing premium fraud and suspected human trafficking activity and our partnerships with members of the RCWG, the Consortium, DIR, DPH, SCIF, and EDD, mandate that resources be prioritized for investigations.

Because we are focusing on better methods to detect and investigate workers' compensation fraud quickly and efficiently, the SFDA can anticipate a larger investigative and prosecutorial caseload in the future. The very experienced senior prosecutors who are currently staffing the unit have decades of combined experience in prosecuting workers' compensation violations and bring exceptional value to the team.

In the coming year, the SFDA will provide several sources of unfunded resources, including the managing attorney who oversees investigations, prosecutions, and program protocols; the Economic Crimes Unit lieutenant who oversees investigations; the additional district attorney inspectors who provide assistance with search warrant operations; and the paralegals and other support staff who facilitate the operations of the unit. Moreover, the program is seeking volunteer fraud examiners who will work in our office and assist with reviewing our most complex cases so that we can move forward more efficiently and effectively with those investigations and prosecutions.

Finally, the SFDA will continue to apply our multifaceted approach to identifying medical provider fraud cases. The identification, investigation, and eventual prosecution of these complex frauds require a committed and intensive approach that can be successful through the requested additional funding.

8. Local district attorneys have been authorized to utilize Workers' Compensation Insurance Fraud funds for the investigation and prosecution of an employer's willful failure to secure payment of workers' compensation as of January 2003. Describe the county's efforts to address the uninsured employers problem.

As stated above, the SFDA continues to have a very active Labor Code §3700 enforcement program, referred to as the Employer Compliance Program. Once an employer has been identified or selected, the Employer Compliance Program sends a letter demanding proof that the employer is properly insured. If an employer does not provide proof during the subsequent 10 day period, an SFDA inspector visits the employer's business and personally serves the non-compliant employer with a copy of compliance letter, and has the employer sign an acknowledgment so that notice will not be an issue at trial. The inspector also conducts a recorded interview at that time. In the event that the employer still refuses to come into compliance, the inspector will draft and serve an arrest warrant for the employer. The SFDA believes that actual arrests will have a higher deterrent value than citations.

FORM 10

BUDGET CATEGORY AND LINE-ITEM DETAIL A. Personnel Service – Salaries/Employee Benefits					
Positions	**Bi-weekly Salary & Benefits Rate**	**# pay periods**	**FTE**	**Sub-total**	**COST**
8177 Trial Attorney, Step 16	$8,729	26	.5	$113,483	$113,483
Social Security	$8,249			$4,125	
Social Security - Medicare	1.45%			$1,645	
Health Insurance	$3,261			$1,631	
Dependent Coverage	$11,771			$5,886	
Retirement	23.92%			$27,145	
Unemployment Ins.	0.27%			$306	
Dental	$1,517			$759	
Total Benefits					$41,496
8177 Trial Attorney, Step 16	$8,125	26	.5	$105,629	$105,629
Social Security	$8,249			$4,125	
Social Security - Medicare	1.45%			$1,532	
Health Insurance	$3,261			$1,631	
Dependent Coverage	$11,771			$5,886	
Retirement	23.92%			$25,267	
Unemployment Ins.	0.27%			$285	
Dental	$1,517			$759	
Total Benefits					$39,482
8177 Trial Attorney, Step 15	$7,680	26	.5	$99,836	$99,836
Social Security	$8,249			$4,125	
Social Security - Medicare	1.45%			$1,448	
Health Insurance	$3,261			$1,631	
Dependent Coverage	$11,771			$5,886	
Retirement	23.92%			$23,881	
Unemployment Ins.	0.27%			$270	
Dental	$1,517			$759	
Total Benefits					$37,997

8550 DAI, Step 6	$5,014	26	.8	$104,282	$104,282
Social Security -					
Medicare	1.45%			$1,512	
Health Insurance	$3,084			$2,467	
Dependent Coverage	$11,579			$9,263	
Retirement	31.08%			$32,411	
Unemployment Ins.	0.27%			$282	
Dental	$1,520			$1,216	
Total Benefits					$47,151
8550 DAI, Step 6	$4,919	26	.8	$102,314	$102,314
Social Security -					
Medicare	1.45%			$14847	
Health Insurance	$3,084			$2,467	
Dependent Coverage	$11,579			$9,263	
Retirement	31.08%			$31,799	
Unemployment Ins.	0.27%			$276	
Dental	$1,520			$1,216	
Total Benefits					$46,505
TOTAL FTE & COST					**$738,176**

FORM 11

BUDGET CATEGORY AND LINE-ITEM DETAIL **B. Operating Expenses**		
Description	**Calculation**	**COST**
Lease of Office Space @ 732 Brannan	$14,394 per person X 3.1 FTE	$44,622
Audit Expense	1% of personnel cost	$7,382
Travel & Training Expenses	Mileage, registration, per diem, air travel, hotel, ground transportation	$5,000
Indirect Cost/Administrative Overhead	10% of direct salary	$52,554
TOTAL		**$109,558**

FORM 12

BUDGET CATEGORY AND LINE-ITEM DETAIL C. Equipment	
Description	**COST**
None requested	$0
CATEGORY TOTAL	**$0**
PROGRAM TOTAL	**$847,734**
INTEREST TOTAL	**$0**

FORM 13

EQUIPMENT LOG

Equipment Log for FY 2017-2018
County of San Francisco

Equipment Ordered	Equipment Cost	Date Ordered	Date Received	Serial Number	Equipment Tag Number

Rows can be inserted as needed.

IXl No equipment purchased.

I certify this report is accurate and in accordance with the approved Grant Award Agreement.

Name: Kelly Burke Title: Managing Attorney

Signature: _____ Date: April ?:.£ 2018

ATTACHMENT A

SAN FRANCISCO DISTRICT ATTORNEY'S OFFICE
DEPARTMENT OF INSURANCE, FRAUD DIVISION

JOINT INVESTIGATIVE PLAN

Goals

The purpose of this Joint Plan is to insure that the Department of Insurance's Fraud Division and the San Francisco District Attorney's Office will continue to operate in a cooperative effort to achieve successful insurance fraud prosecutions in the County of San Francisco. Members of both offices will meet with each other on a regular basis to share information and to coordinate activities. By this agreement, it is hoped that both agencies will avoid duplicating efforts, and will maximize the use of the limited resources of both offices.

Insurance Code Section 1871 requires that a joint operational plan be in effect between the Fraud Division and each local district attorney's office.

This Joint plan shall be effective from July 1, 2018 until June 30, 2019, and shall supersede the joint plan currently in effect.

Objectives

1. Utilize Fraud Division and County resources in a coordinated manner to reduce the impact of workers' compensation fraud and other related criminal activity.

2. Develop investigative and prosecution strategies that will significantly deter incidents of workers' compensation fraud.

3. Investigate and prosecute individuals, professionals, businesses, and enterprises that commit or attempt to commit workers compensation fraud or other related activity.

4. Work together to educate employers and employees and the general public about the costs of fraud in terms of loss of profits, loss of jobs, and high costs of payouts.

5. Form alliances with entities and agencies in both the public and private sector whose common goal is the detection, investigation and prosecution of workers' compensation fraud, employer fraud, insider fraud, and med/legal fraud.

Receipt and Assignment of Investigations

All procedures now in effect in this area will remain in effect in the next fiscal year. The Insurance Code requires that suspected fraudulent workers' compensation claims be reported to both the Fraud Division and to the local district attorney. As a practical matter, this does not always occur. Simple investigations will therefore be conducted by the agency that first receives the report. If, for some reason, the primary agency is unable to initiate or complete an investigation, the secondary agency may assist or take over the investigation. Complex investigations will be handled jointly by both agencies with the Fraud Division generally as the lead investigator. If needed, a separate investigative plan may be drafted to fit a particular investigation.

In matters where an apparently simple case might require extensive time and effort, both offices will work together to expeditiously complete the investigation to bring the matter to a successful conclusion.

Regular monthly meetings will continue to be conducted at the Benicia regional office of the Fraud Division. The chief of the Benicia office and investigators from that office will meet with attorneys from the San Francisco Economic Crimes Unit to discuss new cases and the status of ongoing investigations. Initial determination will be made whether the matter appears to be appropriate for further investigation, or should be closed immediately. This will avoid a needless waste of valuable investigative resources. The insurance company which referred a case that is rejected will be notified of the rejection. Should the insurance company request information about a rejection, the Fraud Division and the assigned Assistant District Attorney will make himself or herself available to discuss the file.

In an additional effort to avoid unnecessary duplication of investigative efforts, when an insurance company, private investigator, employer or third party administrator asks for a meeting with the Assistant District Attorney or the Fraud Division to present a "documented referral," both offices will be invited to be present. If one agency is unable to attend such meeting, the other member agency will advise whether the referral merits the opening of an investigation.

Once an investigation is opened, an investigator and an attorney will be assigned and an investigative plan, including a proposed timeline, will be initiated. All parties agree that any timeline is a projection and may be modified as the investigation dictates.

In addition to regular case review meetings, the manager of the District Attorney's Economic Crimes Unit and the chief of the Benicia Fraud Division are in frequent, regular contact by phone, e-mail and in person. These regular meetings are meant to keep both agencies informed about issues relating to the common goal of fighting insurance fraud.

Investigations

Investigators from the Benicia Fraud Division and district attorney investigators will use all of their skill and resources to develop cases and to pursue investigations. In addition, investigators and prosecutors from both agencies will use outreach and education in the business

community to develop sources for potential fraud referrals. Investigators from both offices have a long standing personal working relationship and a tradition of mutual aid. It is generally understood that most investigations will be conducted by the Fraud Division. If one agency or the other needs assistance, all reasonable efforts will be made to render that assistance. Once a case is filed, it is also generally understood that a district attorney investigator will handle follow up investigative work.

Ongoing investigations will be discussed at the regular meetings between the agencies. A San Francisco prosecutor is assigned to each investigation to assist with any legal issues that might arise and to insure that all elements of the case are present to meet charging requirements. That prosecutor is directly available to the investigator throughout the course of the investigation. This team concept will reduce unnecessary investigative efforts and will guarantee that a matter will be terminated at the earliest possible time if it becomes apparent that no further amount of work will result in a prosecution.

In the event that a complex investigation and prosecution will involve extensive efforts by both agencies, or will require the assistance of outside allied agencies such as EDD, the Medical Board, Franchise Tax or the like, a memorandum of understanding and a joint investigative plan may be created to delineate the roles and responsibilities of each agency.

Undercover Operations

Undercover investigations are conducted in the San Francisco area. All undercover operations will be conducted in a professional manner giving priority to officer and public safety. The progress of any ongoing undercover investigation will also be a topic at the regular review meetings and in conversations between the manager of the Economic Crimes Unit and the chief of the Benicia office.

If the Fraud Division undertakes the goal of conducting a joint undercover operation, they will do so only after the mutual agreement of the District Attorney's Office. Prior to the commencement of any joint undercover operation involving both the Fraud Division and members of the District Attorney's Office, a separate joint investigative plan will be drafted setting forth the roles of investigators from both agencies, the estimated time frame of the investigation, the duties of each agency with respect to collection and storage of evidence, secretarial duties, and the like.

If, in the opinion of either agency, the integrity of the investigation, the safety of officers, or the safety of the public is at risk, the investigation will be terminated.

It is also agreed between the two agencies that the conduct of any joint undercover investigation will be treated with the highest priority, and that any personnel participating in the investigation will be given complete support during their involvement in the operation.

Informants

There may be occasions when an informant may be utilized to develop and investigate a case. The use of informants will be consistent with the policies of each agency, with procedures agreed upon by members of the two agencies, and consistent with the laws of the State of California.

Filing Requirements

Both agencies understand that the charging of a suspect with criminal conduct is the sole duty of the district attorney. San Francisco has adopted the filing protocol of the California District Attorneys' Association (CDAA). Copies of that protocol are located in both offices. In most insurance fraud matters, cases are filed as felonies. The Assistant District Attorney has the discretion to select other options available in the county.

Before a case is filed, the district attorney must be satisfied that there is sufficient admissible evidence present to prove a case beyond a reasonable doubt to a judge or jury. Cases must contain:

Complete investigative reports and supporting documents including search warrants, videos, photos, and the like;

Copies of all items in the possession of the investigator, or, if voluminous, a description of such items and where they may be viewed;

A list of all actual and potential witnesses, including exculpatory witnesses, together with a criminal history check on each civilian witness, and information about any inducements or agreements regarding their statements or potential testimony;

A complete description of all suspects.

Training

Both agencies will work together to provide training to insurance industry personnel, third party administrators, self-insured, employers, employee organizations and the general public. Both agencies have outreach plans in effect, and both agencies will continue to work together to host training sessions. A schedule of training opportunities will be discussed at each case review meeting. Both the Fraud Division and the District Attorney will respond as promptly as possible to requests for training sessions.

In addition to outreach, San Francisco Insurance Fraud personnel and members of the Benicia Fraud Division periodically meet to discuss any new filing techniques, and to share intelligence on fraud activity in Northern California.

Problem Resolution

Prosecutors and investigators from both agencies have enjoyed a close working relationship. As a result, very few disputes arise which cannot be resolved at the lowest possible level. It is anticipated, however, that there may be a need for resolution of a disagreement at a higher level. As in the past, the matter will be handled between the chief of the Benicia office and the manager of the district attorney's Insurance Fraud Unit. Charging decisions will be the ultimate decision of the district attorney.

DATED: April 24, 2018

John Arguello
Captain, Benicia Regional Office
Department of Insurance, Fraud Division

Dated: April 24, 2018

Kelly Burke
Managing Attorney, Economic Crimes Unit San Francisco District Attorney's

TO: **Angela Calvillo, Clerk of the Board of Supervisors**

FROM: **Lorna Garrido, Grants and Contracts Manager**

DATE: **January 10, 2019**

SUBJECT: **Accept and Expend Resolution for Subject Grant**

GRANT TITLE: **Workers' Compensation Insurance Fraud Program**

Attached please find the original* and 1 copy of each of the following:

_X_ Proposed grant resolution; original* signed by Department, Mayor, Controller

_X_ Grant information form, including disability checklist

_X_ Grant budget

_X_ Grant application

_X_ Grant award letter from funding agency

___ Ethics Form 126 (if applicable)

___ Contracts, Leases/Agreements (if applicable)

___ Other (Explain):

Special Timeline Requirements:
Please schedule at the earliest available date.

Departmental representative to receive a copy of the adopted resolution:

Name: Lorna Garrido Phone: (415) 553-9258

Interoffice Mail Address: DAT, 850 Bryant Street, Room 322

Certified copy required Yes ☒ No ☐

(Note: certified copies have the seal of the City/County affixed and are occasionally required by funding agencies. In most cases ordinary copies without the seal are sufficient).

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 FEB 26 PM 1:27
BY

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- [x] 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- [ ] 2. Request for next printed agenda Without Reference to Committee.
- [ ] 3. Request for hearing on a subject matter at Committee.
- [ ] 4. Request for letter beginning :"Supervisor _____ inquiries"
- [ ] 5. City Attorney Request.
- [ ] 6. Call File No. _____ from Committee.
- [ ] 7. Budget Analyst request (attached written motion).
- [ ] 8. Substitute Legislation File No. _____
- [ ] 9. Reactivate File No. _____
- [ ] 10. Topic submitted for Mayoral Appearance before the BOS on _____

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- [ ] Small Business Commission
- [ ] Youth Commission
- [ ] Ethics Commission
- [ ] Planning Commission
- [ ] Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Stefani

Subject:

Accept and Expend Grant - California Department of Insurance, Workers' Compensation Insurance Fraud Program - $801,148

The text is listed:

Resolution authorizing the Office of the District Attorney to accept and expend a grant in the amount of $801,148 from the California Department of Insurance for the Workers' Compensation Insurance Fraud Program for the grant period July 1, 2018 through June 30, 2019.

Signature of Sponsoring Supervisor:

For Clerk's Use Only