



RICARDO LARA
CALIFORNIA INSURANCE COMMISSIONER

November 5, 2019

Eugene G. Clendinen
Chief Administrative and Financial Officer
San Francisco County District Attorney's Office
850 Bryant Street
San Francisco, CA 94103

RE: Executed Original of the Grant Award Agreement for the Fiscal Year 2019-20
Workers' Compensation Insurance Fraud Activity Interdiction Program

Dear Eugene G. Clendinen:

San Francisco County was awarded \$850,327 for the Fiscal Year 2019-20 Workers' Compensation Insurance Fraud Activity Interdiction Program.

Please find the following three documents enclosed:

- Executed Original of the Fiscal Year 2019-20 Grant Award Agreement
- Summary of Important Deadlines
- After Award Administrative Requirements

Sincerely,

Janis Perschler

Janis Perschler
Manager, Local Assistance Unit

Enclosures

cc: Supriya S. Perry, Managing Attorney/Program Director

**INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

GRANT AWARD AGREEMENT
Fiscal Year 2019-20
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, 2019** through **June 30, 2020**.

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 **\$850,327**. 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.

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| <p>Official Authorized to Sign for Applicant/Grant Recipient</p> <p style="text-align: center;"></p> <hr/> <p>Name: George Gascón Title: District Attorney</p> <p>Address: 850 Bryant Street, Suite 322 San Francisco, CA 94112</p> <p>Date: <u>9-20-19</u></p> | <p>RICARDO LARA Insurance Commissioner</p> <p style="text-align: center;"></p> <hr/> <p>Name: George Mueller Title: Deputy Commissioner</p> <p>Date: <u>10/17/19</u></p> |
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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

10/21/19
Date

**WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
AFTER AWARD
SUMMARY OF IMPORTANT DEADLINES
FISCAL YEAR 2019-2020**

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 | <input type="checkbox"/> |
| With RFA or by Dec. 31, 2019 | Board of Supervisors Resolution | Original or certified copy is required | <input type="checkbox"/> |
| Feb. 3, 2020 | Mid-Year Program Report Six Month DAR (FORM 07) FY 2019-2020 | Submitted online | <input type="checkbox"/> |
| Aug. 28, 2020 | Annual Program Report Year End DAR (FORM 07) FY 2019-20 | Submitted online | <input type="checkbox"/> |
| Aug. 31, 2020 | <p>Estimate of Unexpended Funds and Carry Over Utilization Request</p> <p>FY 2019-20 into FY 2020-21</p> <p><i>A written justification must be submitted if you wish to utilize the estimated carry over.</i></p> | <p>The justification should include:</p> <ul style="list-style-type: none"> • Justification for the use of funds • Budget showing how the funds will be used <p>If the carry over exceeds 25%, the justification must include an explanation of the extenuating circumstances resulting in the carry over.</p> | <input type="checkbox"/> |
| Nov. 2, 2020 | Annual Expenditure Report FY 2019-20 | Submitted by the County <u>separate</u> from the Financial Audit Report | <input type="checkbox"/> |
| Nov. 2, 2020 | Financial Audit Report FY 2019-20 | Financial Audit Guidelines are provided at the end of Section III | <input type="checkbox"/> |

CALIFORNIA DEPARTMENT OF INSURANCE FRAUD DIVISION



WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM

**REQUEST FOR APPLICATION
FISCAL YEAR 2019-2020**

**SECTION III
ADMINISTRATIVE REQUIREMENTS
AFTER AWARD**

ATTENTION

Instructions for confidential information

Pursuant to California Insurance Code Section 1872.83(d), the application for funding and related documents are public records and subject to public disclosure under Public Records Act ("PRA") requests and subpoenas.

Information concerning active or inactive criminal investigations, shall be treated as confidential and must be put only in Attachment B. Do not submit confidential investigation information in any other part of this application.

***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 2019-2020**

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**ADMINISTRATIVE REQUIREMENTS AFTER AWARD
WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
FISCAL YEAR 2019-2020**

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, 2019 and end on June 30, 2020.

A. ACCOUNTING SYSTEM

The County will maintain an accounting system for grant expenditures that conforms to generally accepted accounting principles and practices and allows CDI to determine whether the county district attorney's office spent its grant funds for the purposes of the applicable insurance fraud program.

Accounting systems include such practices as:

- Ensure adequate separation of duties
- Use fiscal policies and procedures that ensure grant expenditures comply with statute, regulation and guidelines set herein
- Maintain evidence of receipts of grant revenue received from CDI
- Maintain source documentation to support claimed expenditures (invoices, receipts, travel expense claims, detailed time keeping records that demonstrate time spent on eligible program activities, etc.)
- Include account reconciliations
- Maintain all other records necessary to verify account transactions
- Maintain documentation to confirm interest income earned from program funds was used to further local program purposes.

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, 2019 and end on June 30, 2020. 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, 2019**.

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 2019-2020 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 authorized official.

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

- After the Insurance Commissioner or his designee signs the GAA, 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 3, 2020**.

Insurance Code Section 1872.83(i) requires CDI to submit a biannual information request to those district attorneys who have applied for and received funding through the annual assessment process. District attorneys shall provide the information required to produce the Mid-Year Program Report, which 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 31, 2020**.

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 (1) specify and justify in writing to CDI how the funds will be used at the end of the program period and (2) submit 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 includes 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 28, 2020**.

The Annual Program Report is the second collection of the annual statistical information required in Section 1872.83 of the California Insurance Code. California Code of Regulations, Title 10, Section 2698.59(d)(2), 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 the Department of Industrial Relations, Employment Development Department, etc.

ANNUAL EXPENDITURE REPORT

The Annual Expenditure Report is due **by November 2, 2020**.

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 2, 2020**.

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

Sections 2698.59(f), 2698.67(g)(h), and 2698.98.1(g)(h) of the California Code of Regulations authorizes CDI to perform audits or reviews of the Insurance Fraud Grant Programs that it administers. To maximize the effectiveness and efficiency of these audits or reviews, and to minimize the disruption to the county's operation, CDI will usually conduct the audits or reviews of the Workers' Compensation Insurance Fraud, Automobile Insurance Fraud, Organized Automobile Fraud Activity Interdiction, Disability and Healthcare Insurance Fraud, Life and Annuity Consumer Protection Program, and/or High Impact Insurance Fraud Programs at the same time.

The principle objective of the CDI audit or review is to evaluate whether the county district attorney's office spent its grant funds for the purposes of the applicable insurance fraud program and that the county complied with applicable laws, regulations, and program administrative requirements. Additionally, CDI may perform such additional audits or

reviews of any local program as CDI may deem necessary and shall have access to all reports, working papers, correspondence, or other documents, including audit reports and audit working papers related to the audit report or local program.

The CDI Fraud Grant Audit Program (FGAP) is the unit that will perform the audits. FGAP is part of the CDI Enforcement Branch Headquarters, Support and Compliance Section. The Support and Compliance Chief reports directly to the Enforcement Branch Deputy Commissioner.

FGAP audit procedures typically will include, but are not limited to, the following:

- Determine that 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;
- Determine that personnel time charged to the program is limited to personnel funded by the grant, that the time is spent on program investigative and prosecutorial activities, and is properly supported by detailed time keeping records;
- Determine that operating and equipment expenditures (non salary and benefit expenditures) charged to the program were used for program activities;
- Determine that equipment expenditures charged to the program are only for items specifically approved by CDI in the county's program budget;
- Determine that any equipment purchased by the grant is in the custody and use of the personnel funded by the grant;
- Verify that the number of investigations, arrests, prosecutions, convictions, and outreach events reported in the program report is accurately stated and supported by source documents.

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 2019-2020

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 COUNTY TO
SUBMIT RESTITUTION, FINES, AND PENALTIES
COLLECTED PURSUANT TO CIC § 1872.83(B)(4)
FISCAL YEAR 2019-2020**

**County Should 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: Workers' Comp
- 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.