

# Item 1: Applicant Grant Request & Contact Information Form

<b>WORKERS’ RIGHTS ENFORCEMENT GRANT</b> <b>Item 1: Applicant Grant Request and Contact Information Form</b> <b>August 1, 2024 to July 31, 2025</b>	
<b>Grantee:</b> Office of the San Francisco District Attorney	
County or City: City and County of San Francisco	
<b>Funds Requested</b> (cannot exceed \$750,000): \$233,476.	
<b>Person with day-to-day operational responsibility for the program.</b>	
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<b>Financial Officer or Person Responsible for the Grant Funds Financial Accounting.</b>	
Name	Eugene Clendinen
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# Items 2-6 Narrative Questions

## 2. PROBLEM STATEMENT

Please provide a thorough description of the wage theft problem in your jurisdiction. Include exploitative labor industry trends, barriers workers confront in reporting violations and obstacles to holding perpetrators accountable.

(Answer should include items such as supporting data and evidence, sources and causes, economic and social impacts, and unique aspects to your jurisdiction.)

The City and County of San Francisco has a vibrant economy fueled by a world-leading technology sector, and – according to the U.S. Census Bureau – a labor market characterized by a high level of income inequality. The mean income of the highest quintile of earners is 28 times the mean income for the lowest quintile of earners.<sup>1</sup> Wage theft disproportionately affects low-income workers' ability to house and feed their families. According to studies cited by the Employment Policy Institute, 17% of eligible low-wage earners reported being paid less than the minimum wage in the 10 most populous states in the country and were cheated out of \$3,300 annually for year-round workers. That amounts to almost one-quarter of their earnings.<sup>2</sup> Moreover, in San Francisco rent, food, and gasoline are all significantly more expensive than in many other parts of the country. The effects of wage theft on low wage-earners' ability to care for their families is amplified in San Francisco by the extremely high cost of living.

San Francisco has a robust civil labor standards enforcement regime. It is one of the few cities in California with a dedicated Office of Labor Standards Enforcement and provides civil enforcement of San Francisco's minimum wage and other labor ordinances. The OLSE opened 402 new cases during the fiscal year 2022-2023, resolved 400 cases, and collected \$20 million in restitution (back wages, benefits, penalties, and interest) for 14,094 workers.<sup>3</sup>

However, even with the robust civil enforcement provided by the OSLE, just 6% of the workers for whom the OLSE obtained restitution during the 2022-23

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<sup>1</sup> U.S. Census Bureau, Income Inequality in San Francisco County, CA [2020RATIO006075], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/2020RATIO006075> March 24, 2024.

<sup>2</sup> Economic Policy Institute, More than \$3 billion in stolen wages recovered for workers between 2017 and 2020 (December 22, 2021), retrieved from <https://www.epi.org/publication/wage-theft-2021/> March 25, 2024.

<sup>3</sup> City and County of San Francisco Office of Labor Standards Enforcement Annual Report Fiscal Year 2022-23 (OLSE 2022-23 Annual Report) at pp. 5-7, retrieved from [https://www.sf.gov/sites/default/files/2023-11/OLSE%20FY%2022-23%20Annual%20Report%20Booklet\\_0.pdf](https://www.sf.gov/sites/default/files/2023-11/OLSE%20FY%2022-23%20Annual%20Report%20Booklet_0.pdf) March 25, 2024.

fiscal year were from the most vulnerable population – workers affected by minimum compensation violations.<sup>4</sup> Moreover, even where civil enforcement by the OLSE occurs, employers may not be deterred from further wage theft. The District Attorney’s Office recently encountered an instance involving new activities by an employer who had settled with the OLSE less than a month before.

Anecdotal evidence suggests that wage theft from low-income workers in San Francisco is a particular problem in the food services, hospitality, personal services, domestic services, and construction (non-public works) sectors. The anecdotal evidence also suggests that these sectors employ significant numbers of people who, because of their immigration status, are reluctant to come forward when their wages are stolen. And San Francisco has a substantial population of these residents. According to the Public Policy Institute of California, San Francisco had an estimated 35,000 undocumented immigrants in 2013 (the last year for which The Public Policy Institute appears to have estimates).<sup>5</sup>

Thus, although San Francisco has a vigorous civil labor standards enforcement infrastructure, the most vulnerable workers continue to suffer unaddressed wage theft. Civil enforcement sometimes does not provide sufficient deterrence to ongoing wage theft from this population. Fines and penalties can be considered part of the cost of doing business. A lack of criminal enforcement can reinforce the perception that wage theft from the most vulnerable is a low-risk form of exploitation.

Currently the San Francisco District Attorney’s Office’s Worker Rights Unit consists of one Assistant District Attorney, without a dedicated investigator for the Unit. Timely criminal investigation of suspected wage theft is hampered by not having dedicated investigative resources for the task. The District Attorney’s Office is applying for this grant to strengthen its ability to conduct outreach, investigate, and criminally prosecute targeted instances of the most egregious wage theft affecting vulnerable members of our workforce, and in this manner create a deterrent effect that will support and enhance the ability of the City’s current civil efforts to enforce labor laws.

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<sup>4</sup> OLSE 2022-23 Annual Report at p. 5 states that 936 of the 14,094 workers for whom the OLSE recovered restitution were in cases involving minimum wage & paid sick leave or minimum compensation & health care accountability violations.

<sup>5</sup> Public Policy Institute of California, Undocumented Immigrants in California Fact Sheet – March 2017, retrieved from <https://www.ppic.org/publication/undocumented-immigrants-in-california/> March 25, 2024.

### 3. WAGE THEFT EXPERIENCE

Describe your efforts and experience in investigating, prosecuting, and/or reducing wage theft and exploitative labor practices against workers in your jurisdiction. Include description of non-traditional strategies implemented to reach vulnerable population and obtain favorable outcome.

In April, 2020 the San Francisco District Attorney's Office announced the formation of the Worker Rights Unit to investigate crimes committed by employers against workers. The Unit was initially staffed by a talented former employment-rights civil attorney and brought groundbreaking cases against gig-economy platforms. A joint civil prosecution with the Los Angeles District Attorney's Office against Handy Technologies, Inc. for misclassification of workers performing house-cleaning and handyman services resulted in a stipulated judgment providing for injunctive relief, civil penalties of \$1.2 million and restitution of \$4.8 million to the affected workers, (*The People of the State of California v. Handy Technologies, Inc.* (S.F. Sup. Ct. Case No. CGC-21-590442) Stipulated Final Judgment and Permanent Injunction filed 5/18/23.) The Office also filed a civil enforcement again against DoorDash, Inc. for misclassification of its delivery drivers throughout California (*The People of the State of California v. DoorDash, Inc.* (S.F. Sup. Ct. Case No. CGC-20-584789). The litigation is stayed pending the California Supreme Court's decision in *Castellanos v. State of California* (S279622) on the constitutionality of Proposition 22.

The Office has also brought a criminal prosecution stemming from a wealthy couple's labor trafficking of a foreign-born nanny. The felony complaint alleges human trafficking in violation of Penal Code § 236.1(a); conspiracy; three felony Unemployment Insurance Code violations and three misdemeanor violations of the Labor Code. The prosecution is being conducted jointly by attorneys from the Office's Special Prosecutions Unit and the Worker Rights Unit.

The initial attorney for the Worker Rights Unit returned to private wage-and-hour plaintiff's-side practice, and a former member of the Office's Special Prosecutions Unit returned to the Office after 3 ½ years as a court commissioner in San Mateo County where he presided over criminal and civil calendars. This attorney spent 18 years as a commercial litigator followed by six years in the District Attorney's Office before joining the bench. While in private practice he also represented employees in employment disputes and a commissioned salesperson before the DLSE on the employee's claim for unpaid commissions and expenses.

Although the Office maintains a telephonic hotline where people can report economic crimes, insurance fraud, and worker rights violations, the Office plans to expand its outreach to the affected worker population. As described below, there are myriad community groups working with affected populations in San Francisco. These groups are trusted by their constituents. The Strategic Plan below envisions establishing and strengthening ties with these organizations, as well as with the Department of Labor Standards Enforcement and San Francisco's local Office of Labor Standards Enforcement.

#### **4. APPLICANT'S STRATEGIC PLAN**

Provide a detailed "blueprint" summary of the strategic plan you will implement with the grant funds requested to reduce wage theft and worker abuses detailed in your Problem Statement.

The Worker Rights Unit has, since its inception, focused significant efforts on civil enforcement of wage-and-hour laws. These types of prosecutions are not heavily dependent upon sworn investigative personnel for their success. With the requested grant funds applied to investigative resources, the Office would be better equipped for the timely investigation and prosecution of more criminal wage theft cases than is currently possible. The Strategic Plan Blueprint envisions:

- Conducting outreach to community groups that serve vulnerable low-wage-earning populations, as well as labor unions. This outreach would include in-person meetings with the Worker Rights Unit attorney and investigator to develop relationships that encourage these community leaders to think of the District Attorney's Office when their constituents are confronting criminal exploitation.
- Strengthening the Office's existing ties to the Division of Labor Standards Enforcement and to the City's Office of Labor Standards Enforcement, again through in-person meetings with the Worker Rights Unit attorney and investigator where possible.
- Providing information to the San Francisco Police Department to enable its economic crimes investigators to become more educated about wage theft and to bring more cases to the District Attorney's Office. In many jurisdictions Police traditionally consider underpayment of wages to be a "civil matter." Education concerning the coercive and exploitative features of certain relationships in which wage theft thrives can encourage more investigation by the Police. Even where investigation by the SFPD might not be possible due to the

acute shortage of officers,<sup>6</sup> this outreach to the SFPD could lead to more referrals where the investigative resources in the Police Department might be lacking but the need to investigate is recognized.

- Addressing the current investigative backlog. The lack of dedicated investigative resources currently hampers the Worker Rights Unit's ability to timely investigate criminal wage-theft complaints.
- Utilizing the resources made possible by the requested grant funds to facilitate the effective intake, triage, and investigation of criminal referrals from the above-mentioned community groups and governmental organizations.

## 5. COLLABORATION WITH COMMUNITY PARTNERS

Identify the community partners and government agencies you plan to work with and how this partnership will enhance your ability to reduce wage theft and worker abuses.

### **Government Agency Partners:**

- Department of Industrial Relations Division of Labor Standards Enforcement.  
Strengthening the ties that already exist with the DLSE would facilitate the referral of criminal investigations involving San Francisco workers that the Division might not be in a position to investigate because of its own criminal investigative resource constraints.
- San Francisco Office of Labor Standards Enforcement  
The OLSE does not have criminal enforcement powers. Strengthening ties between the OLSE and the District Attorney's Office will facilitate additional referrals of potentially criminal matters by the OLSE. The requested grant funds would enable the District Attorney's Office's ability to deploy more investigative resources to these referrals than is currently possible.
- San Francisco Police Department  
As described in the Strategic Plan section of the application, education about criminal wage theft could enable additional investigation by the Police Department, or at least the recognition and referral of matters that would otherwise go uninvestigated due to the shortage of Police Department officers.

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<sup>6</sup> According to an article in the San Francisco Chronicle, the city is still about 600 officers short of the 2,182 officers recommended a recent city-commissioned staffing analysis. (San Francisco Chronicle, New S.F. police recruits reach three-year high, Mayor Breed says, Updated July 28, 2023. Retrieved from <https://www.sfchronicle.com/sf/article/new-san-francisco-police-hires-reach-three-year-18263146.php> March 25, 2024.

### **Community Partners and Labor Unions with Existing Working Relationships**

- La Raza Central Legal, San Francisco. La Raza Central Legal's Worker Rights Program has focused on protecting the rights of low-wage and immigrant workers for 30 years. La Raza advocates on behalf of very-low wage workers including domestic workers, restaurant workers, car wash workers, construction workers and other low wage immigrant workers. The current Worker Rights Unit ADA has developed a working relationship with the current La Raza Executive Director in connection with a recent criminal investigation.
- Nor Cal Carpenter's Union. The Carpenter's Union's Labor Compliance field representatives investigate worker rights abuses and have been the source of investigative leads for the Office's Worker Rights Unit. Strengthening the relationship with this Union can also lead to contacts with other trade unions that investigate workplace rights abuses.

The additional investigative resources that would be made possible by the requested grant funds will enable the Worker Rights Unit to investigate matters referred by community organizations and labor unions more expeditiously. The ability to respond expeditiously is critical to developing the trust necessary to strengthen working relationships that encourage community organization and union leaders to view the District Attorney's Office as a partner.

### **San Francisco Community Organizations That Are Prospective Partners.**

El Centro Legal La Raza is just one of a number of community organizations that serve the most vulnerable of workers in San Francisco. Other community organizations also disseminate information on worker rights in low-income and immigrant communities in San Francisco and encourage workers to file complaints regarding violations of the law. Prospective partners include:

- Asian Law Caucus
- Dolores Street Community Services
- Filipino Community Center
- South of Market Community Action Network
- Trabajadores Unidos Workers United

The goal of developing relationships with these prospective partners is not to replace their existing channels to the civil enforcement mechanism of the OLSE. Rather, it is to help their leaders view the District Attorney's Office as a resource for helping the workers they serve deal with the most coercive and exploitative situations they face.

## 6. EXPECTED OUTCOMES

Detail the results and achievements expected after 12 months (Year 1) with the grant funds requested.

The Expected Outcomes that would be enabled by the grant funds would be threefold.

- First, the Worker Rights Unit would be able to clear the current backlog of investigations whose expeditious resolution is being hampered by the lack of existing investigative resources.
- Second, the Worker Rights Unit would be able to implement a systematic intake and triage system for the timely investigation and prosecution of new criminal wage-theft referrals.
- Third, the Office's ability to expeditiously investigate matters brought to it by existing and potential community partners would strengthen relationships with existing partners and facilitate the development of the trust necessary for those organizations to view the District Attorney's Office as a reliable partner when their constituents are faced with criminally coercive and exploitative conditions.



## Item 7 Budget Form

<b>WORKERS’ RIGHTS ENFORCEMENT GRANT            BUDGET: PERSONNEL, CRIME PREVENTION, ADMINISTRATIVE COSTS            FISCAL YEAR 2024-2025</b>					
APPLICANT NAME: San Francisco District Attorney’s Office					
<b>A. PERSONNEL SERVICES: Salaries and Employee Benefits</b>	<i>COST</i>				
8550 DA Investigator – 1 Full Time equivalent (100 Percent) Salary \$161,432 POST Premium 8% \$12,915 Benefits \$48,011 Total Cost \$222,358	\$222,358				
<b>B. ANNUAL AUDIT: ADMINISTRATIVE CHARGE</b>	<i>COST</i>				
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Annual Audit</td> <td style="width: 40%;">Price</td> </tr> <tr> <td colspan="2">5% of personnel budget line-item</td> </tr> </table>	Annual Audit	Price	5% of personnel budget line-item		\$11,118
Annual Audit	Price				
5% of personnel budget line-item					
<b>A.B. PERSONNEL, AUDIT TOTAL</b>	\$233,476				
This budget request is to cover the cost of one full-time-equivalent investigator in order to accomplish the goals described in the grant application narrative.					