File No. 200097 Committee Item No. 9
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee **Date** February 12, 2020

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** February 7, 2020
Completed by: Linda Wong **Date** _____

FILE NO. 200097 RESOLUTION NO.

[Accept and Expend Grant - Retroactive - California Department of Insurance - Workers' Compensation Insurance Fraud Program - $850,327]

Resolution retroactively authorizing the Office of the District Attorney to accept and expend a grant in the amount of $850,327 from the California Department of Insurance for the Workers' Compensation Insurance Fraud Program for the grant period of July 1, 2019, through June 30, 2020.

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 FY2019-2020 Annual Appropriation Ordinance that approval of recurring grant funds contained in departmental budget submissions and approved in the FY2019-2020 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 (Workers' Compensation-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 $850,327; 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 Workers' Compensation-

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

WHEREAS, The adopted budget for FY2019-2020 is $801,148; and

WHEREAS, The amount of $49,179 is required to be appropriated to equal the total amount of $850,327 awarded to the Office of the District Attorney for the 2019-20 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 $53,241; now, therefore, be it

RESOLVED, That should the Office of the District Attorney receive more or less money than the awarded amount of $850,327, 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 Workers' Compensation-California Insurance Code, Section 1872.83, California Code of Regulations, Title 10, Section 2698.55 et seq. in the amount of $850,327 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:

Suzy Loftus

Interim District Attorney

Approved: _____

for London N. Breed

Mayor

Approved: _____

by 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: **(628) 652-4035**

4. Grant Approval Status (check one):

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

5. Amount of Grant Funding Approved or Applied for: **$850,327**

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, 2019** End-Date: **June 30, 2020**

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? **$53,241**
    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. The City and County of San Francisco Budget and Appropriation Ordinance includes this recurring grant. However, it 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: 12-6-19

JG
(Signature Required)

Department Head or Designee Approval of Grant Information Form:

Sheila Arcelona
(Name)

Assistant Chief, Administration and Finance
(Title)

Date Reviewed: 12-6-19

(Signature Required)

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

CALIFORNIA DEPARTMENT OF INSURANCE
PROTECT • PREVENT • PRESERVE
Enforcement Branch Headquarters
2400 Del Paso Road, Suite 250
Sacramento, California 95834
Tel: (916) 854-5760 • Fax: (916) 854-5848

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.

Official Authorized to Sign for Applicant/Grant Recipient	**RICARDO LARA** Insurance Commissioner
Name: George Gascón Title: District Attorney Address: 850 Bryant Street, Suite 322 San Francisco, CA 94112 Date: 9-20-19	Name: **George Mueller** Title: Deputy Commissioner Date: 10/17/19

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	☐
With RFA or by Dec. 31, 2019	**Board of Supervisors Resolution**	Original **or** certified copy is required	☐
Feb. 3, 2020	**Mid-Year Program Report** Six Month DAR (FORM 07) FY 2019-2020	Submitted online	☐
Aug. 28, 2020	**Annual Program Report** Year End DAR (FORM 07) FY 2019-20	Submitted online	☐
Aug. 31, 2020	**Estimate of Unexpended Funds and Carry Over Utilization Request** FY 2019-20 into FY 2020-21 *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.	☐
Nov. 2, 2020	**Annual Expenditure Report** FY 2019-20	Submitted by the County ***separate*** from the Financial Audit Report	☐
Nov. 2, 2020	**Financial Audit Report** FY 2019-20	Financial Audit Guidelines are provided at the end of Section III	☐

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

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.

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Nov. 2, 2020	**Annual Expenditure Report** FY 2019-20	Submitted by the County ***separate*** from the Financial Audit Report	☐
Nov. 2, 2020	**Financial Audit Report** FY 2019-20	Financial Audit Guidelines are provided at the end of Section III	☐

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.

CITY AND COUNTY OF SAN FRANCISCO, OFFICE OF THE DISTRICT ATTORNEY

GEORGE GASCÓN
DISTRICT ATTORNEY

April 23, 2019

Janis Perschler
Manager, Local Assistance Unit
California Department of Insurance, Enforcement Branch
2400 Del Paso Road, Suite 250
Sacramento, CA 95834

Dear Ms. Perschler,

Enclosed please find the original fiscal year 2019-2020 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.

For fiscal year 2019-2020, the District Attorney's proposed budget will include an expenditure of up to $923,990 for the investigation and prosecution of workers' compensation insurance fraud. A San Francisco Board of Supervisors Resolution authorizing the acceptance and expenditure of grant funding is forthcoming and will be submitted no later than December 31, 2019. A draft of the proposed language is included in Form 4 of the application.

Our year-end report for fiscal year 2018-2019 is in the process of being completed. Our office will forward the report to you once it is finalized. Due to a high level of program activity this fiscal year, we do not anticipate having carry-over funds.

Thank you for your attention to this request. Should you have any questions or need additional information, please feel free to contact Supriya Perry of my office at (415) 551-9586.

Very truly yours,

George Gascón
District Attorney

850 Bryant Street, San Francisco, California 94103 • Tel. (415) 553-1752 • http://www.sfaov.org/da/

FORM 02

GRANT APPLICATION TRANSMITTAL
WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
Grant Period: July 1, 2019 to June 30, 2020

Office of the District Attorney, 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 California Insurance Code.

Contact: Supriya S. Perry

Address: 732 Brannan St., San Francisco, CA 94103

Telephone: (415) 551-9586

Funds Being Requested: $ 923,990

Estimated Carryover Funds: $ 0

Supriya S. Perry
Program Director

Eugene G. Clendinen
Financial Officer

District Attorney's Signature

Name: George Gascón

Title: District Attorney

County: San Francisco

Address: 850 Bryant Street

San Francisco, CA 94103

Telephone: (415) 553-1752

Date: April 22, 2019

WORKERS' COMPENSATION INSURANCE FRAUD GRANT APPLICATION

SAN FRANCISCO - FISCAL YEAR 2019-2020

TABLE OF CONTENTS

FORM 01

GRANT APPLICATION CHECKLIST AND SEQUENCE
SAN FRANCISCO, FISCAL YEAR 2019-2020

THE APPLICATION MUST INCLUDE THE FOLLOWING:

		YES	NO
1.	GRANT APPLICATION TRANSMITTAL (FORM 02)	☒	☐
2.	PROGRAM CONTACT FORM (FORM 03)	☒	☐
3.	Original or certified copy of the BOARD RESOLUTION (FORM 04) included? If NOT, the cover letter must indicate the submission date. (*Please see cover letter.*)	☒	☐
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
SAN FRANCISCO PROGRAM CONTACT FORM
FISCAL YEAR 2019-2020

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

   a. Name: Supriya S. Perry

   b. Title: Managing Attorney/Program Director

   c. Address: 732 Brannan Street

      San Francisco, CA 94103

   d. E-mail address: supriya.perry@sfgov.org

   e. Telephone Number: (415) 551-9586 Fax Number: (415) 551-9594

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

   a. Name: Eugene G. Clendinen

   b. Title: Chief Administrative and Financial Officer

   c. Address: 850 Bryant Street

      San Francisco, CA 94103

   d. E-mail address: eugene.clendinen@sfgov.org

   e. Telephone Number: (415) 553-1895 Fax Number: (415) 553-9700

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

   a. Name: Supriya S. Perry

   b. Title: Managing Attorney/Program Director

   c. Address: 732 Brannan St.

      San Francisco, CA 94103

   d. E-mail address: supriya.perry@sfgov.org

   e. Telephone Number: (415) 551-9586 Fax Number: (415) 551-9594

FORM 04

BOARD OF SUPERVISORS RESOLUTION
CITY AND COUNTY OF SAN FRANCISCO
FISCAL YEAR 2019-2020

The following is preliminary and draft language of the Resolution that the SFDA will submit for the San Francisco Board of Supervisors to consider and approve regarding the acceptance and expenditure of grand funding for FY 2019-2020.

[Accept and Expend Grant - California Department of Insurance, Workers' Compensation Insurance Fraud Program – $_____]

Resolution authorizing the Office of the District Attorney to accept and expend a grant in the amount of $_____from the California Department of Insurance for the Workers' Compensation Insurance Fraud Program for the grant period July 1, 2019 through June 30, 2020.

WHEREAS, The San Francisco 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 FY20__-20__Annual Appropriation Ordinance that approval of recurring grant funds contained in departmental budget submissions and approved in the FY20__-20__ budget are deemed to meet the requirements of the San Francisco 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 $_____ 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 FY2019-2020 is $_____; and

WHEREAS, The amount of $_____ is required to be appropriated to equal the total amount of $_____ awarded to the Office of the District Attorney for the 2019-20 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 $_____; and now, therefore, be it

RESOLVED, That should the Office of the District Attorney receive more or less money than the awarded amount of $_____, 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 $_____ to enhance investigation and prosecution of workers' compensation insurance fraud cases; and be it further

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.

FORM 05

CITY AND COUNTY OF SAN FRANCISCO: PLAN QUALIFICATIONS FISCAL YEAR 2019-2020

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) Overview of SFDA Program Successes in the Investigations, Arrests And Prosecution of Workers' Compensation Insurance Fraud Offenders

The San Francisco District Attorney's Office Workers' Compensation Insurance Fraud Program (SFDA) recognizes the well-established fact that workers' compensation insurance fraud is one of the fastest growing types on insurance fraud and costs insurers and employers billions of dollars each year. The SFDA strives to undertake a multi-faceted approach to combating workers' compensation fraud, and recognizes that this fraud victimizes individual claimants, law-abiding employers, and taxpayers. The SFDA has developed strategies and tactics to combat insurance fraud that are specific to San Francisco. The SFDA measures success, not only by convictions secured, restitution recovered, and criminal fines and penalties assessed, but also by expediency in reviewing fraud referrals, the ability to forge strategic partnerships to effect thorough investigations and maintaining consistency in charging decisions.

The SFDA understands the value of keeping a balanced caseload that attacks fraud at every level and against various actors including unlawful activity by employers, claimants, medical providers, insurance insiders, and third-party fraudsters. The most complex investigations and prosecutions encompassing 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 inspectors and prosecutors, in conjunction with our ability to collaborate with other agencies to augment investigative resources and skill.

In addition to swift and efficient criminal prosecution, the SFDA recognizes that public safety is enhanced by implementing measures that promote crime prevention and deterrence. As such, the SFDA has successfully instituted a compliance check program aimed, in the first instance, at bringing employers into compliance with workers' compensation regulations and requirements, and thereby avoiding prosecution.

Specific areas of the SFDA program are discussed below and include: premium fraud, medical provider fraud, claimant fraud, the compliance program, and the relatively new areas of voucher fraud and Personnel Employer Organizations.

B) Premium Fraud Investigations

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.

In one current case, the SFDA and CDI are working together to prosecute a 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. In *People v. Gina Gregori, et al. (GMG),* the 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 several occasions she changed the company name and changed the listed owner from herself to a family member, presumably to make it appear as though it were a newly established company and thus obtain lower premiums. The SFDA prosecutor successfully litigated motions that secured court orders 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, including 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 currently pending in San Francisco Superior Court.

The SFDA continues to work with the California Contractor State Licensing Board (CSLB), the Division of Occupational Safety and Health (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.

In January 2019, the SFDA filed a complaint in *People v. Kai Cheng Tang dba Amherst Associates Construction Management Inc.,* also a complex, collaborative premium fraud investigation. Initially, Amherst Construction was fined $20,000 by the Department of Industrial Relations (DIR) for failure to provide wage statements to employees. SCIF subsequently conducted an audit of the company's workers' compensation policy. Between 2010 and 2015, Amherst Construction reported to SCIF that they had no employees. However, according to SCIF's review, Amherst underreported payroll from 2010 through 2015, resulting in an estimated premium loss of $249,987. An SFDA inspector prepared and served multiple search warrants for Amherst's banking records to identify payroll. The investigation also required locating and interviewing uncooperative employees, and coordinating efforts with investigators from DIR, CSLB and SCIF. This case is currently pending preliminary hearing.

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. Rather than solely 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 sought assistance from volunteer forensic auditors who are looking for experience working on premium fraud cases.

In March of 2018, a SFDA prosecutor presented to the San Francisco Chapter of the Association of Certified Fraud Examiners' (ACFE) at their Spring Fraud Conference. Approximately 120 individuals were in attendance. 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 provides these document-intensive cases with needed expertise and analysis at no cost. From April 2018 to February 2019, one ACFE volunteer professional reviewed and analyzed financial documents pertaining to a very complex premium fraud case.

SFDA also currently enlists the aid of a business major, graduate student intern who is a business major skilled in financial accounting to review thousands of pages of financial documents to determine amounts of restitution owed to employees and insurance carriers related to an active premium fraud case.

SFDA provides other unallocated resources in the form of paralegals, and highly-skilled DA inspectors from other divisions. For example, SFDA recently hired a highly-qualified, senior-level DAI. This inspector has over thirty years of law enforcement experience, including specifically in the investigation of workers' compensation fraud, and is a certified computer forensic analyst. Although assigned to our Special Prosecutions Unit, he has been available for advice and guidance related to SFDA premium fraud cases. Further, his prior experience in workers' compensation fraud investigations resulted in SFDA identifying and investigating premium fraud in other white-collar crime division cases.

An additional premium fraud investigation involves a high-end restaurant that is suspected of not paying appropriate sales taxes to a state regulatory tax agency and of committing workers' compensation premium fraud. 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 have interviewed former employees to determine the wages that are owed to the employees. The estimated payroll is being compared to the restaurant's various insurance policies to assess the premium loss amounts. We anticipate an arrest warrant will issue in this case soon. (Attachment B, 2016-197-001.)

In recent 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. Employers who exploit the cheap labor of immigrants will invariably underreport their payroll and their number of employees to their insurer. Such employers can be held criminally liable for premium fraud charges.

i) Massage Establishments

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.

The SFDA has worked with members of the Mayor's Task Force and has also learned that many identified business establishments suspected of human trafficking for commercial sex are also involved in insurance fraud. The SFDA inspectors have discovered that these businesses are often not insured for workers' compensation. Yet, to obtain a business permit, the business owners often file false 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 investigations pending, discussed in further detail in Attachment B, that concern 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, a 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 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. This case went to preliminary hearing and is currently on the trial calendar.

ii) Care Home Facilities

Last year the members of the Golden Gate 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 that 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 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. This case was prosecuted and resulted in a felony guilty plea and our office obtaining more than $60,000 in victim restitution and fines to CDI.

This successful prosecution had resulted in further collaboration between CDI and the SFDA to identify and investigate care home providers who are failing to comply with their workers' compensation insurance obligations. Three new care home investigations have recently been opened.

iii) Roofing Industry

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 Roofing Compliance Working Group (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 various labor groups, RCWG's objectives include responding rapidly 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 inspectors to: (1) immediately act upon tips to enforce employers' compliance with workers' compensation insurance mandates; and (2) develop criminal investigations of insurance fraud within the underground economy. By joining the RCWG, the SFDA is able to better respond to allegations that 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 the same employers who commit payroll and premium fraud. 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.

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 RCWG, CAL/OSHA, DIR, and EDD to quickly investigate suspect employers. In addition, SFDA 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 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 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, the 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.

C) Medical Provider Investigations and Prosecutions

Consistent with the stated goals and objectives of the Insurance Commissioner, the SFDA has developed strategies to detect, investigate, and prosecute medical provider fraud. Medical provider fraud is gradually migrating its way to the Bay Area from Southern California. The SFDA has identified industries in San Francisco 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 symposia, and talking with insurers and self-insureds about suspicious providers 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.

One medical provider investigation involves a Southern California doctor prescribing a topical compound cream 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. Our office is working to determine whether that same kickback scheme applies to the suspect provider's Northern California patients. (Attachment B, 2015-345-001.)

In another matter, the SFDA received information arising out of an Alameda County medical provider fraud case that has led to our opening two new investigations into medical providers who appear to be billing for suspect procedures and prescriptions. These investigations are in their early stages, but appear promising. (Attachment B, 2019-025-001 and 2018-214-003.)

D) 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 relies minimally 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, a SFPD 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.

On August 17th, 2018, SFDA inspectors participated in a joint operation with DIR to check the compliance of three massage parlors in San Francisco. Two citations of $10,000 and $6,000, respectively, were issued to two massage parlors by the Department of Industrial Relations (DIR) for worker's compensation violations. Both massage parlors were served with notices to "discontinue their labor operations" until they became compliant regarding their workers' compensation insurance obligations. A third business was ordered to appear in front of DIR officers to explain various inconsistencies found at the site.

In another matter, on January 28, 2019 the SFDA filed multiple misdemeanor violations for failure to obtain workers' compensation insurance and failure to comply with contractors' licensing requirements in *People v. Hasani Abeeku Jackson.* According to case records, on January 14, 2018, the defendant entered into a verbal construction contract with the victim and was paid an excessive deposit. Defendant presented a business card for a construction company that included a contractor's license that was not his own, and when he performed the work at issue he did not carry worker's compensation insurance for his employees. This case is set for preliminary hearing on April 18, 2019.

E) Claimant Fraud

The highest percentage of FD-1s the SFDA receives relate to suspected claimant fraud. The most success in terms of the prompt prosecution of these cases comes from receiving completed investigations in the form of documented case referrals. The SFDA considers a well-documented case referral to be one that comes to our office with deposition transcripts, an investigation file including surveillance video, medical reports, QME evaluations, and other evidence and corroboration sufficient to prove fraud beyond a reasonable doubt. The SFDA is committed to working with SIUs and with CDI to improve procedures so that these cases can be expediently filed.

In one current claimant fraud investigation, the claimant reported barely being able to walk, drive, lift most objects, or be in a car for more than a few minutes. However, the claims of injuries and limitations by the injured worker in this case do not match the activities shown on the *sub rosa* video. Video shows the injured worker driving a boat, connecting the boat to a hitch, and lifting things into the boat and into the bed of a truck. The SFDA received the insurance file from the City and County of San Francisco and was in prompt contact with the third-party investigation agency. Our inspector reviewed the file, the associated documents, and the surveillance report and video in order to prepare an arrest warrant in this case. The arrest warrant will be filed within a few weeks. (See Attachment B, 2017-069-001.)

F) Voucher Fraud

A 2017 DIR white paper noted the existence of a new scheme in which workers' compensation claimants are being defrauded of Supplemental Job Displacement Benefits (SJDB). "Voucher" fraud, as it is more commonly referred to, can occur when a fraudulent educational or skill retraining entity purports to "help" a claimant obtain a voucher for benefits, but fails to provide any real retraining or service, improperly uses voucher funds, and/or obtains kickbacks for referrals. One such entity headquartered in San Francisco is currently under investigation by multiple Bay Area district attorneys' offices. (See Attachment B, 19BW003394.)

G) Resolved Cases

In the past two years, we have successfully resolved several fraud cases.

People v. Andrew Giovannini

The SFDA resolved a complex medical provider fraud case against defendant Andrew Giovannini. The original complaint in *People v. Gonzalo Fierro and Andrew Giovannini* charged defendant Giovannini (the fraudster medical doctor) and the claimant Fierro, with having conspired to defraud an insurance company and a self-insured entity, the City and County of San Francisco (CCSF), by exaggerating the claimant's physical symptoms and by failing to disclose the claimant's pre-existing injuries. As a result of our criminal filing, the Medical Board of California instituted an investigation and the defendant Giovannini agreed to never again practice medicine in California. On July 20, 2018, defendant Giovannini pled guilty to a charge of conspiracy to commit workers' compensation insurance fraud in violation of California Insurance Code § 1871.4(a)(2). Giovannini has paid restitution to CCSF in the amount of $51,000, as well as additional restitution to a separate insurance carrier. Prosecution against the claimant defendant Fierro is ongoing.

People v. Don Juan Santos and Mickey Jean Fuller (Make Ready Maintenance Inc.).

On April 17, 2018, the SFDA filed multiple misdemeanor violations of Labor Code §3700.5(a) and Business and Professions Code §§7121.6(a), 7121.6(a), and 7028(a) in *People v.*

Don Juan Santos and Mickey Jean Fuller (Make Ready Maintenance Inc.). This case is also an example of SFDA identifying workers' compensation insurance fraud through cross-functional investigations, specifically with our Special Prosecution Unit and CSLB. Defendant Santos operated a construction company as an undisclosed principal (someone who is prohibited from owning a licensed construction company) whose license had been revoked since 2003. The complaint alleges Fuller and Santos failed to provide workers' compensation insurance for employees from February 19, 2017 to May 14, 2017. On November 16, 2018, defendant Santos pled guilty to violations of Labor Code §3700.5 and B&P Code §7028(c). Charges against Fuller and the business were dismissed. Santos' sentence included three years of probation and 90 days county jail.

People v. Antonio Bondoc

After a review of care homes by CDI in San Francisco, CDI identified one that had reported very divergent numbers: they had reported roughly 30% of the payroll reported to EDD, to SCIF. 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 regarding premium fraud. The owners and employees of the care home were interviewed by CDI. The loss amount from SCIF is approximately $32,000. This investigative operation was conducted by members of CDI, SFDA, and other agencies working collaboratively. On Nov 6, 2018, defendant pled guilty to Insurance Code §11880 as a felony for three years of probation,184 hours of community service, and participation in Veteran's Court. Defendant paid $33,020 in full restitution to SCIF at time of plea. The parties agreed that should Defendant comply with all the terms of his sentence, the prosecution would not object at a future date to Defendant moving for a reduction of the felony to a misdemeanor. Defendant was sentenced in accordance with these terms on December 18, 2018, and paid an additional $32,589 as a fine to CDI.

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

Another large complex fraud case we resolved this year involved the owners of cSolutions Insurance Company who stole 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. For over two years, Ramos and Trisko, doing business as cSolutions, 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. 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 was jointly prosecuted by both offices in San Francisco County.

On March 20, 2019, both Defendants were sentenced pursuant to a plea agreement where they pled guilty to three felonies: violations of PC 487(a) - Grand theft; PC 182(a)(4) - Conspiracy to commit Theft; and Insurance Code 1733 - Breach of fiduciary as an insurance broker. The Defendants were placed on five years of probation with the following terms: one year in the county jail; payment by each of $20,000 towards restitution and the outstanding balance will be ordered by the court; subject to warrantless search; and the Defendants are not to negotiate or effect contracts of insurance other than for their own personal liability.

People v. Francis Doherty

The SFDA recently resolved this complex premium fraud and wage theft case. There are forty 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 inspectors found the company's true payroll records as well as a fake set of accounting books.

The prosecution of this matter was very complex in that the investigation involved: (1) a loss of more than $250,000, (2) voluminous pages of reviewable material, (3) multiple search warrants to different locations, and (4) involved more than twenty witnesses. The investigation included investigators from CDI, the San Francisco District Attorney's Office, and the Office of Labor Standards Enforcement.

This matter was resolved on February 27, 2019. The defendant pled guilty to two violations of Insurance Code 1170(a), premium fraud. Sentencing is scheduled for April 10, 2019 with the understanding of the following terms: Defendant will serve three years probation, tender $20,000 towards restitution at sentencing and the balance will be ordered by the court and be subject to warrantless search.

H) Notable Current Prosecutions

People v. Kai Cheng Tang d.b.a Amherst Associates Construction Management Inc.

In January 2019, our office filed charges of insurance premium fraud, theft and perjury against defendants *Amherst Associates Construction Management (Amherst Construction)* and its owner *Kai Cheng Tang*. This is a complex premium fraud case that was developed with CDI. In January 2015, Amherst Construction was fined $20,000 by DIR. SCIF then audited the company's workers' compensation policy. Between 2010 and 2015, Amherst Construction reported to SCIF that they had no employees. However, according to SCIF's review, Amherst underreported payroll from 2010 through 2015, resulting in an estimated premium loss of $249,987.

An SFDA inspector prepared and served multiple search warrants for Amherst's banking records in order to identify payroll. The investigation also required locating and interviewing

uncooperative employees as well as coordinating and working with investigators from DIR, CSLB and SCIF. The owner-defendant surrendered on January 18, 2019. This case has been arraigned, and this case is currently awaiting preliminary hearing.

People v. B & A Bodyworks and Towing

This case involves a company that underreported payroll in 2013-2015, totaling $828,200, resulting in a premium loss to SCIF of more than $90,000. An injured worker was allegedly sent to B&A's "personal chiropractor." The injured worker contacted SCIF after getting treatment from the VA The SFDA inspectors prepared multiple search warrants, and an arrest warrant. On April 3, 2019, the defendant was arrested, and evidence was seized from four locations through a multi-agency operation that included the SFDA, CDI, and CHP.

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

This is a 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 SCIF since 2009. The owner submitted falsified 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 fraudulently lower her 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. This allows the employees to continue to work and be paid, while preventing the defendant from profiting from the company's operations. To date, three search warrants have been executed and six locations have been searched including 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. Phukab Montakarn AKA Siam Orchid

Siam Orchid is a massage parlor operating in San Francisco. San Francisco requires that owners of massage parlors obtain workers' compensation insurance before they can obtain a permit for the business to operate. Massage parlors in San Francisco are required to complete permit applications at the SFDPH. Included in these applications is a certification under penalty of perjury that the business has a current workers' compensation insurance policy. The owner of Siam Orchid falsely asserted to the San Francisco Department of Public Health that she had workers' compensation insurance to obtain her business permit. During a site visit by our inspector, the owner admitted that she did not have workers' compensation insurance. The preliminary hearing in this case occurred on November 2018, and the defendant is now awaiting jury trial on a charge of filing a false document.

People v. Catherine Gregoire (Claims Litigation Management Solutions); People v. Adela Delores Belfrey

This is a complex provider fraud prosecution involving conspiracy to commit fraud, forgery, claims adjuster fraud, identity theft, grand theft, and money laundering.

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 victim insurance 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.

This case involved more than 200,000 pages of discovery, 10 search warrants, and over $528,000 in money fraudulent obtained from the insured. Defendants bank accounts have been frozen and seized pursuant to Penal Code §186.11(e). The defendant's bank accounts have been frozen and seized pursuant to Penal Code §186.11(e). To date, over $35,000 of defendant's assets have been frozen. The defendant is awaiting preliminary hearing.

People v. Hasani Jackson

On January 28, 2019 the SFDA filed multiple misdemeanor violations for failure to secure workers' compensation insurance, and comply with contractors' licensing standards and requirements, in *People v. Hasani Jackson.* On January 14, 2018, defendant Jackson entered into a verbal construction contract with the victim and was paid an excessive deposit. Defendant presented a business card for a construction company that included a contractor's license that was not his own, and when he performed the work at issue did not carry workers' compensation insurance for his employees. This case is set for preliminary hearing on April 18, 2019.

I) 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.

i) Golden Gate High Impact Workers' Compensation Fraud Consortium

With the inception of the Golden Gate High Impact Workers' Compensation Fraud Consortium (Consortium, formerly North Bay High Impact Workers' Compensation Fraud 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 Third Annual "Premium and Medical Provider Fraud" Conference in Dublin, California on February 28, 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.

ii) SFDA Fraud Trainings

A training was held for employees of Republic Indemnity Insurance Company in a variety of positions, including management and claims. An SFDA prosecutor assisted in the training, which covered a variety of topics, including the difference between fraud and abuse, elements of fraud, different types of fraud, including claimant, provider, employer and insider fraud, as well as the use of cappers. The training, held in June 2018, was attended by several members of the SFDA insurance fraud prosecution team, each of whom strived to answer questions posed by SIU participants about criminal prosecutions of these cases, including statute of limitations and restitution issues.

A seasoned prosecutor from the SFDA was among a panel of experts at a Fraud Seminar on the topic of Workers' Compensation Fraud that was sponsored by Arthur J. Gallagher Risk Management Services on October 11, 2018. The panel drew approximately 80 attendees including employers, insurance adjusters, and investigators affiliated with Arthur J. Gallagher's services. The SFDA prosecutor discussed a range of topics including identifying a fraudulent Workers' Compensation claim, and a prosecutor's perspective in assessing a fraudulent claim. Although primarily focused on claimant fraud, issues related to employer, provider and insider fraud were also discussed in the presentation and lengthy question and answer session.

Most recently, an SFDA attorney collaborated with two other experienced prosecutors from Marin County and Alameda County to present a session on taking effective depositions in criminal fraud cases. This presentation was given at the annual Anti-Fraud Alliance Conference in Monterey held between April 16 and 19, 2019. The presenters provided their insights on how to effectively prepare for a deposition, as well as examples of how to control a witness and deal with common tactics, including evasive responses, the "forgetful" deponent, and how to handle medical provider deponents. The training sought to reinforce the importance of obtaining a complete and detailed statement from any deponent, which serves the dual purposes of truth finding in the investigative process and improving the quality of the information sought should criminal prosecution be necessary.

iii) Outreach Campaign

During FY 2018-2019, the SFDA recognized a need to intensify outreach efforts with the goals of raising public awareness and encouraging reporting of workers' compensation fraud. The new SFDA Economic Crimes Unit manager/workers' compensation insurance fraud program manager has prioritized developing and launching a City-wide public service campaign aimed at increasing the reporting of workers' compensation insurance fraud to the SFDA and the SFPD. The SFDA has partnered with the San Francisco District Attorney's public policy team to

obtain proposals for content development, campaign strategies, and best practices. The campaign is on target to launch in the Summer of 2019.

2) Unfunded Contributions to the Workers' Compensation Fraud Program

The SFDA commits unfunded resources to fight insurance fraud. The SFDA has relied heavily on the unfunded assistance of paralegals 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 inspector and prosecutor are assigned to each case and permits the supervising attorney to monitor the progress of any open investigation. An unfunded paralegal has also created a spreadsheet to assist with the functionality of that database.

Also, the SFDA has utilized 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.

As noted above, the SFDA provides unfunded contributions by engaging volunteer financial accountants, forensic analysts, and graduate school students to review and analyze financials documents in workers' compensation premium and provider fraud cases.

Every resource in our office is made available to assist in the prosecution of workers' compensation insurance fraud cases. For example, in April 2019, the SFDA filed an arrest warrant and a complaint in *People v. B & A Autobody and Towing*. Based on the investigation and surveillance, the SFDA determined that there were four locations where relevant evidence would likely be seized. For this operations plan, the SFDA drew upon a total of 39 law enforcement personnel, including its own DAI, and also CHP, and CDI investigators. Specifically, 19 SFDA inspectors, most from other divisions of the office, assisted in this operation. In addition, 14 CDI inspectors, 6 CHP officers, and members of SFPD, Burlingame Police Department, and the San Mateo Sherriff's Office were crucial in safely executing the warrants and arresting the defendant. Given the volumes of evidence seized, the SFDA will also contribute several paralegals and interns an unfunded resources to manage the evidence in this case.

Finally, in addition to partnering with the policy team to create the blueprint for a workers' compensation fraud reporting outreach campaign, the SFDA has also reached out to sister county public service agencies to obtain cost-free services for the campaign. The specifics of those services are currently being discussed but is indicative of the SFDA's commitment to growing its workers' compensation fraud prosecution program through cost-effective and sustainable methods.

3) CONTINUITY OF PERSONAL 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 33-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 on how to investigate and prosecute complex cases, and how to prepare search warrants.

Another SFDA attorney is an experienced felony trial attorney who has been prosecuting insurance fraud for two years. A veteran trial prosecutor with more than 16 years of 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.

Yet another seasoned prosecutor with over 25 years of experience is assigned to the Program. He 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, he was instrumental in establishing the North Bay (now Golden Gate) High Impact Workers' Compensation Fraud Consortium, which sprang from meetings and trainings he organized with workers' compensation prosecutors within the Bay Area counties.

Finally, SFDA has committed additional prosecutorial resources to the program by enlisting two junior-level, well-qualified trial attorneys to prosecute insurance fraud. These trial attorneys come to white collar prosecution after having spent recent, significant time trying general felonies in the San Francisco Superior Court system. They benefit from being trained by and collaborating with the more seasoned SFDA prosecutors, and the program benefits in terms of knowledge transfer and continued growth and development.

There is no set policy to rotate members into or out of the Economic Crimes Unit. We have, however, experienced turnover due to our inspectors' strong analytical and organizational skills making them attractive to other teams within our organization. The SFDA is committed to addressing the issue of personnel consistency, especially with respect to program inspectors. The SFDA has greatly benefitted by having two highly experienced and skilled inspectors investigating workers' compensation insurance fraud throughout this past fiscal year.

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 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 North Bay (now, Golden Gate) 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. Representatives from the following agencies have attended Consortium meetings and discussed ways in which they could assist us in our fight against insurance fraud: CDI, 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 2019, the Consortium hosted a free all-day training in Dublin, California, attended by approximately 170 individuals 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 that 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 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 and our Special Prosecutions Unit 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 including San Mateo County, Alameda County, and Santa Clara County in the fight against insurance fraud. We assist 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.

5) Frozen Assets

In a complex premium fraud case, SFDA seized a Mercedes SUV valued at $80,000, in February 2018, which by stipulation the victim took possession of, could sell, and $80,000 would be credited towards future restitution owed.

FORM 06(a)

CITY AND COUNTY OF SAN FRANCISCO PLAN: STAFFING FISCAL YEAR 2019-2020

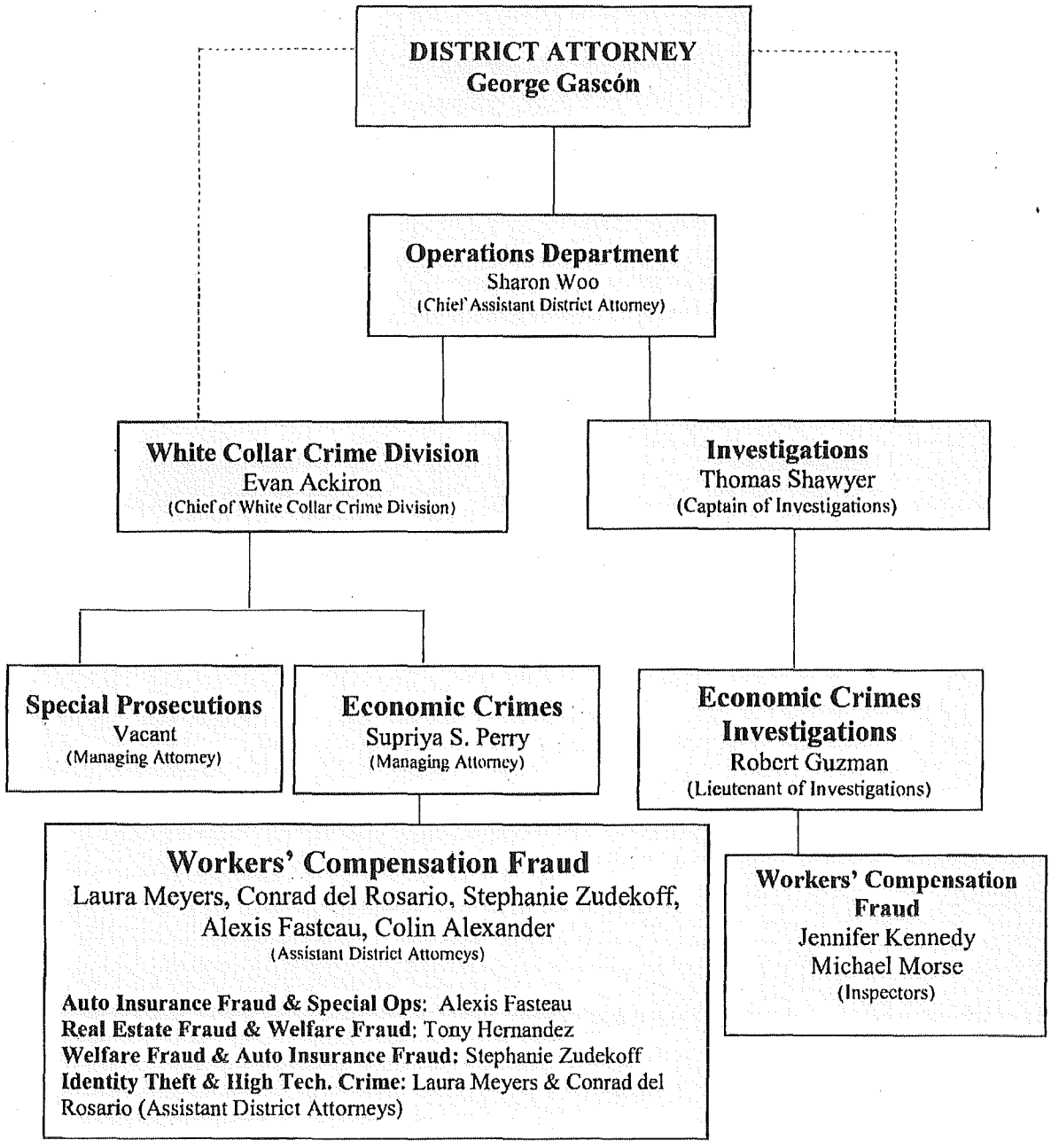
COUNTY OF SAN FRANCISCO		
Prosecutors	**% Time**	**Time With Program Start Date/End Date**
Laura Meyers	50	1995 to present (with some gaps)
Conrad del Rosario	50	March 2011 to present
Alexis Fasteau	35	March 2016 to present
Stephanie Zudekoff	25	August 2018 to present
Colin Alexander	15	July 2018 to present

COUNTY OF SAN FRANCISCO		
Inspectors	**% Time**	**Time With Program Start Date/End Date**
Michael Morse	85	February 2018 to present
Jennifer Kennedy	85	January 2017 to present

FORM 06(b)

CITY AND COUNTY OF SAN FRANCISCO PLAN: ORGANIZATIONAL CHART, FISCAL YEAR 2019-2020

Organizational Chart



FORM 07

CITY AND COUNTY OF SAN FRANCISCO DISTRICT ATTORNEY PROGRAM REPORT, FISCAL YEAR 2019-2020

Statistical information for the San Francisco District Attorney's Workers' Compensation Insurance Fraud program for July 1, 2018 through April 15, 2019 will be submitted online per the application instructions.

FORM 08

CITY AND COUNTY OF SAN FRANCISCO PLAN: PROBLEM STATEMENT, FISCAL YEAR 2019-2020

The San Francisco District Attorney's Workers' Compensation Insurance Fraud program (SFDA) 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 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.

1) 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 the 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.

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.

2) THE UNDERGROUND ECONOMY

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 massage parlor when in fact it should be otherwise classified (i.e., 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 more than 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 as their primary language.

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.

A) Human/Labor Trafficking

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, provision for basic needs, trauma recovery, and 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 2018 report issued by the Mayor's Task Force on Anti-Human Trafficking in San Francisco (compiling data through 2016), 18 government and community-based agencies identified 529 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 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 with the Mayor's Task Force, the SFDA has recognized the problem of workers being transported to San Francisco for labor or commercial sex. The SFDA will continue to partner with the SFDA Crime Strategies Unit, Victims' Service Division, and the Mayor's Task Force to identify strategies to combat fraud that is supported by the existence of the underground economy.

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 an SFDA 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) Care Home Facilities

The SFDA and CDI continue to partner on several "from the ground up" operations that impact the care home industry, where problems associated with the underground economy are prevalent. Rather than being simple reactive, i.e., following up on referrals from outside sources, these investigations are developed from the "ground up" by obtaining documents from various agencies, as well as reviewing publicly available information, analyzing the data, and determining if sufficient evidence supports an investigation into whether an employer is failing to obtain workers' compensation insurance at all, or is making misrepresentations to pay less premiums than is warranted based on the type of business and the number of workers employed by it.

E) Employers Unwilling to Pay Employees their Required Wages

On July 1, 2019, the San Francisco minimum wage will increase from $15/hour to $15.59/hour. Further, the San Francisco administrative code requires an increase in this rate on an annual basis keyed to the Consumer Price Index. Employers who are unwilling to pay their employees the required wages will likely 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.

F) San Francisco's unique demographic and 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.

3) THE CITY AS A SELF-INSURED EMPLOYER OF PUBLIC EMPLOYEES

The City and County of San Francisco is a public, self-insured employer with approximately 30,000 public employees, 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 public 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)

The SFDA just opened an investigation 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. (Attachment B, 2018-113-001)

The SFDA investigated a case involving a San Francisco police officer claiming permanent disability while assisting with his wife's spearfishing business. We closed the investigation. (Attachment B, 2018-113-002)

2. San Francisco Sheriff's Department (SFSD)

The SFDA and CDI investigated a San Francisco deputy sheriff who claimed 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 suggested potential workers' compensation fraud. The investigation was closed in September 2018, due to insufficient evidence. (Attachment B, 2018-010-001)

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. (FY 2017-2018, not included in Attachment B.)

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, the SFDA closed the workers' compensation investigation. (FY 2017-2018, not included in Attachment B.)

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. As a result of the criminal filing, the suspect doctor had his license to practice medicine revoked by the Medical Board of California, and pled guilty to a felony. The case against the claimant is currently pending and involves subpoenaed documents from 55 medical providers and 20 insurance carriers.

5. San Francisco General Hospital (SFGH)

The SFDA inspector has investigated a former laundry worker in the Environmental Services Department at SFGH for workers' compensation fraud. 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. (Attachment B, 2015-212-002)

6. Taxi Cab Industry

San Francisco is a business center and 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, the 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.

FORM 09

CITY AND COUNTY OF SAN FRANCISCO PLAN: PROGRAM STRATEGY
FISCAL YEAR 2019-2020

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 care homes, roofing businesses, massage establishments, and industries benefiting from the underground economy; 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.

i) 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.

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.

ii) 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 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.

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 list of providers of interest and seven factors common to convicted providers to DA offices with whom it has a MOU. The SFDA has already executed an MOU with DIR to share data in order to ferret out medical provider fraud in San Francisco.

In August 2018, the new SFDA program manager and two inspectors of the SFDA team met with two members of the DIR data analytics team. The meeting provided the SFDA team with further, county-specific insights into the capabilities of data analytics to aid in the successful prosecution of insurance fraud cases. After the meeting, the SFDA obtained County-specific data from DIR. This data was analyzed by the SFDA inspectors and follow up material was requested. The SFDA inspectors are following leads developed from this data, specifically in medical provider fraud cases. The SFDA will continue to work with DIR to explore best practices for identifying fraud and developing cases using DIR data analytics.

iii) Reviewing *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.

We 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. Some of the qui tam actions currently being reviewed and monitored are described in Attachment B. (See 2018-228-005, 2018-228-008, 2018-228-009.)

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.

i) 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. 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 inspectors 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 inspector 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 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 for example, bath houses, which would change the value of the premiums paid on their policy. The SFDA investigates employers who are filing false declarations with the Department of Public Health to secure business permits and who are 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 SFDPH. This case resulted in a felony arrest.

ii) 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 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 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 inspectors 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. The SFDA inspectors interviewed employees and obtained the SCIF policy. The SFDA inspector 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. (Attachment B, 2018-044-001.)

iii) 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.

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.

iv) 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 recent years, two cases, *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).

i) The 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. The SFDA attorneys and inspectors communicate directly with the City's claims examiners to quickly assess the merits of a fraud submission and advance the investigation. Finally, the SFDA also works 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.

ii) The 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 resulted in a well-publicized arrest of a MUNI driver for workers' compensation fraud, as well as the investigation of two other claims.

2) WHAT ARE YOUR PLANS TO MEET THE 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?

A) 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 Golden Gate 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.

B) Balanced Caseload

The SFDA strives to maintain a balanced caseload and has been successful in so doing. We are investigating several cases in which 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.

C) 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 assigns experienced prosecutors and inspectors 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.

D) Outreach

The SFDA fully understands the deterrent effect of a coordinated and aggressive outreach strategy. 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 inspectors 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. Two such industries include the tree-trimming industry and the home care/assisted living industry.

Finally, we are currently well positioned to launch a first of its kind workers' compensation fraud reporting outreach campaign in San Francisco during FY 19-20. We are collaborating with our office's public policy department, as well as other public and private agencies to create a public service campaign aimed at encouraging individuals to report workers' compensation insurance fraud. By making available a toll-free number that is accessible to San Francisco's multi-lingual community, the SFDA hopes to raise public awareness and increase reporting.

3) WHAT GOALS DO YOU HAVE THAT REQUIRE MORE THAN A SINGLE YEAR TO ACCOMPLISH?

The SFDA is focused on its medical provider fraud investigations. The data analytics material from DIR has resulted in the identification of several suspect providers. Because they are typically very complex and data-driven, the investigation of these cases often spans multiple fiscal years. Initiating these 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, 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.

The SFDA continues to work with CDI, Alameda County and some counties in Southern California to combat the issues related to the underground economy operations that span multiple jurisdictions. The SFDA is also launching investigations in the relatively new areas of voucher fraud and Professional Employee Organization related fraud, and knows that the complexity and breadth of these investigations will require more than a single fiscal year to complete.

4) TRAINING AND OUTREACH

- **List the training received by each county staff member in the workers' compensation fraud unit during Fiscal Years 2017-2018 and 2018-2019.**

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.

FY 2017-2018

During fiscal year 2017-2018, the SFDA managing attorney attended the 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 February of 2018, all the funded attorneys, the two funded inspectors, and the 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.

In addition, in April 2018, 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.

FY 2018-2019

During fiscal year 2018-2019, the new SFDA manager, two program attorneys, and one program inspector attended the four-day California District Attorney Association Insurance Fraud Symposium held from October 15 to 18, 2018, in Orange County, California.

On September 25, 2018, the manager, two program attorneys, and both program inspectors attended the Anti-Fraud Alliance third quarter training meeting. This meeting focused on organized criminal activity in the context of automobile insurance fraud, while detailing best practices for the investigation and prosecution of all forms of insurance fraud.

On October 11, 2018, one program attorney presented at the Gallagher Bay Area Claims Advocacy Group training on Workers' Compensation insurance fraud, with three other program attorneys and inspectors in attendance.

On December 4, 2018, five SFDA program members attended the Anti-Fraud Alliance fourth quarter training which focused on issues of legal ethics, and featured a panel of practicing attorneys, a judge, and a mediator.

In February 2019, two program attorneys and one inspector attended the Golden Gate Consortium's third annual training on medical provider and premium fraud in Dublin, California.

Most recently, in April 2019, the program manager, and two program attorneys attended the 30th Annual Anti-Fraud Alliance Conference in Monterey, California. One program attorney presented at the training. The three-day training provides prosecutors' offices an annual opportunity to network with multiple representatives and inspectors from carriers impacted by fraud.

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

A seasoned prosecutor from the SFDA was among a panel of experts at a Fraud Seminar on the topic of Workers' Compensation Fraud that was sponsored by Arthur J. Gallagher Risk Management Services on October 11, 2018. The panel drew approximately 80 attendees including employers, insurance adjusters, and inspectors affiliated with Arthur J. Gallagher's services. The SFDA program prosecutor discussed a range of topics including identifying a fraudulent Workers' Compensation claim, and a prosecutor's perspective in assessing a fraudulent claim. Although primarily focused on claimant fraud, issues related to employer, provider and insider fraud were also discussed in the presentation and lengthy question and answer session.

Most recently, an SFDA attorney collaborated with two other experienced prosecutors from Marin County and Alameda County to present a session on taking effective depositions in suspected fraud cases. This presentation drew numerous participants at the annual Anti-Fraud Alliance Conference in Monterey held between April 16 and 19, 2019. Topics covered included the legal elements of various charges involved in workers' compensation fraud prosecutions, including perjury and the importance of proving materiality. The presenters provided their insights on how to effectively prepare for a deposition, as well as examples of how to control a witness and deal with common tactics, including evasive responses, and the "forgetful" deponent. The training sought to reinforce the importance of obtaining a complete, and detailed statement from any deponent, both for truth finding in the investigative stages, and to successfully resolve cases.

In addition to the above-mentioned trainings, our office continues its outreach efforts through our Employer's Compliance Program (Labor Code §§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 coverage.

Our outreach efforts continue via our fraud hotline. This hotline has been in operation for over three years. 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 are expected to respond to a report of fraud within 24 hours.

Finally, the Golden Gate High Impact Workers' Compensation Fraud Consortium (previously North Bay High Impact Workers' Compensation Fraud 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.

The Consortium presented its third annual "Premium and Medical Provider Fraud" Conference in Dublin, California on February 28, 2019. This training provided information on issues related to successful investigation techniques, discovery issues, and a wage theft case study. The Consortium meets regularly to discuss significant issues, and to prepare for and plan events such as this training.

- **Describe what kind of training/outreach you plan to provide in Fiscal Year 2019-2020.**

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, we will reach out to the City's workers' compensation insurance administrative entities to develop a training focusing on issues particular to San Francisco's self-administered insurance system. As a member of the Consortium, we will work to plan and 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 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. 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 10 – 12 new investigations during FY 2019-20. 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 6-8 new prosecutions during FY 2019-2020. 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.

For fiscal year 2018-2019, the SFDA requested $847,734 in funding, and was awarded $801,148 (an initial grant of $779,319, and a supplemental award of $21,829). This amount is exclusive of carry-over. We are seeking an increase in funding for this year from $847,734 to $923,990. This proposed budget anticipates continuing to have two very senior inspectors dedicating 85% of their time to combating workers' compensation fraud. It includes more attorney participation in the prosecution of workers' compensation insurance fraud, and a more robust compliance and outreach program. 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 include provider fraud and premium fraud and our partnerships with members of CDI, the RCWG, the Consortium, DIR, SFDPH, 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. The junior prosecutors are an integral part of the current program and its future success.

In the coming year, the SFDA will provide several sources of unfunded resources, including the Economic Crimes Unit 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.

The SFDA has requested funding specifically and solely for the purpose of increasing outreach efforts, including a first ever large-scale outreach campaign, and for training and conference participation.

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.

The SFDA is seeking to partner with licensing agencies such as the CSLB to continue to identify uninsured employers. Further, our goal is to evaluate all fraud case referrals to ensure compliance with workers' compensation insurance laws. To affect this, the SFDA is educating inspectors throughout our White Collar Crimes Division to identify and charge Labor Code §3700 violations, if and when appropriate.

This strategy has yielded results. On January 28, 2019 the SFDA filed multiple misdemeanor violations of Labor Code §3700.5(a) and Business and Professions Code §§ 7159(a)(3), 7027.3 and 7028(a) in *People v. Hasani Abeeku Jackson.* According to case records, on January 14, 2018, the defendant entered into a verbal construction contract with the victim and was paid an excessive deposit. Defendant presented a business card for a construction company that included a contractor's license that was not his own, and when he performed the work at issue did not carry worker's compensation insurance for his employees. This case is set for preliminary hearing on April 18, 2019.

In August 2018, DIR and the SFDA jointly engaged in a successful compliance check operation of three San Francisco massage parlors. DIR issued two citations of $10,000 and $6,000, respectively to two of the massage parlors. The third was ordered to appear in front of DIR officers to explain various inconsistencies found at the site. Follow up on two of the three parlors is pending, but our program inspector confirmed that one obtained workers' compensation insurance for a full policy year effective August 23, 2018, and in September 2018, registered with EDD. (See Attachment B, 2018-241-002 to 2018-241-004.)

The SFDA and CDI recently met to discuss investigation strategies related to suspected noncompliance of businesses in the care home industry. Three new investigations have been launched, which are documented in Attachment B. (See 2019-098-001 to 2019-098-003.)

FORM 10

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
BUDGET: PERSONNEL SERVICES
SAN FRANCISCO, FISCAL YEAR 2019-2020

Workers Compensation Insurance Fraud

7/1/19-6/30/20

Positions	Biweekly Salary	Pay periods	FTE	Amount	Total Budget
8177 Trial Attorney, Step 16	**$ 8,991**	**26.2**	**0.50**	**$ 117,783**	**$ 117,783**
Social Security	$ 8,240			$ 4,120	
Social Sec. - Medicare	1.45%			$ 1,708	
Health Ins	$ 9,738			$ 4,869	
Retirement	19.37%			$ 22,815	
Unemployment Ins	0.26%			$ 310	
Long Term Disability	0.19%			$ 229	
Dental Rate	$ 666			$ 333	
Total Benefits	29%				$ 34,384
8177 Trial Attorney, Step 16	**$ 8,369**	**26.2**	**0.50**	**$ 109,635**	**$ 109,635**
Social Security	$ 8,240			$ 4,120	
Social Sec. - Medicare	1.45%			$ 1,590	
Health Ins	$ 24,527			$ 12,263	
Retirement	19.37%			$ 21,236	
Unemployment Ins	0.25%			$ 275	
Long Term Disability	0.21%			$ 229	
Dental Rate	$ 1,997			$ 999	
Total Benefits	37.13%				$ 40,712
8177 Trial Attorney, Step 5	**$ 5,423**	**26.2**	**0.25**	**$ 35,520**	**$ 35,520**
Social Security	$ 8,240			$ 2,060	
Social Sec. - Medicare	1.45%			$ 515	
Health Ins	$ 13,602			$ 3,400	
Retirement	19.62%			$ 6,969	
Unemployment Ins	0.26%			$ 93	
Long Term Disability	0.33%			$ 116	
Dental Rate	$ 534			$ 133	
Total Benefits	37.41%				$ 13,286

8177 Trial Attorney, Step 16	**$ 8,205**	**26.2**	**0.30**	**$ 64,491**	**$ 64,491**
Social Security	$ 8,240			$ 2,472	
Social Sec. - Medicare	1.45%			$ 935	
Health Ins	$ 8,344			$ 2,503	
Retirement	19.37%			$ 12,492	
Unemployment Ins	0.27%			$ 172	
Long Term Disability	0.22%			$ 144	
Dental Rate	$ 666			$ 200	
Total Benefits	29.33%				$ 18,918
8177 Trial Attorney, Step 7	**$ 5,834**	**26.2**	**0.15**	**$ 22,927**	**$ 22,927**
Social Security	$ 8,240			$ 1,236	
Social Sec. - Medicare	1.45%			$ 332	
Health Ins	$ 13,602			$ 2,040	
Retirement	19.62%			$ 4,498	
Unemployment Ins	0.26%			$ 59	
Long Term Disability	0.30%			$ 69	
Dental Rate	$ 1,404			$ 211	
Total Benefits	36.83%				$ 8,445
8550 DAI, Step 6	**$ 5,213**	**26.2**	**0.85**	**$ 116,092**	**$ 116,092**
Social Sec. - Medicare	1.45%			$ 1,683	
Retirement	19.62%			$ 22,777	
Unemployment Ins	0.26%			$ 307	
Dental Rate	$ 666			$ 566	
Total Benefits	21.82%				$ 25,333
8550 DAI, Step 6	**$ 5,115**	**26.2**	**0.85**	**$ 113,922**	**$ 113,922**
Social Sec. - Medicare	1.45%			$ 1,652	
Health Ins	$ 17,159			$ 14,586	
Retirement	19.62%			$ 22,352	
Unemployment Ins	0.26%			$ 294	
Dental Rate	$ 1,997			$ 1,698	
Total Benefits	35.62%				$ 40,582
Subtotal Salary					$ 580,370
Subtotal Benefits					$ 181,660
TOTAL SALARY & BENEFITS			**3.40**		**$ 762,030**

FORM 11

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
BUDGET: OPERATING EXPENSES
SAN FRANCISCO, FISCAL YEAR 2019-2020

OPERATING EXPENSES		
		Budget
Lease of Office Space ($18,243/FTE)	$18,243	$ 62,028
Audit Expense		$ 20,570
CDAA Membership		$ 825
Travel and Training Expenses		$ 10,000
Materials & Supplies		$ -
Outreach		$ 10,000
Transcription		$ 500
Indirect Cost (10% of direct salary)	10%	$ 58,037
TOTAL OPERATING		**$ 161,960**

FORM 12

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
BUDGET: EQUIPMENT
FISCAL YEAR 2019-2020

EQUIPMENT	
None Requested	$ -
TOTAL EQUIPMENT	**$ -**

SFDA PROGRAM – GRAND TOTAL	**$ 923,990**

FORM 13

WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM
BUDGET: EQUIPMENT LOG
FISCAL YEAR 2019-2020

COUNTY NAME: SAN FRANCISCO

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

☒ **No equipment purchased.**

I certify this report is accurate and in accordance with the Grant guidelines.

Name: Supriya Perry Title: Managing Attorney

Signature: _____ Date: 4.23.2019

ATTACHMENT A

SAN FRANCISCO DISTRICT ATTORNEY'S OFFICE AND DEPARTMENT OF INSURANCE, FRAUD DIVISION, JOINT INVESTIGATIVE PLAN

A. Statement of Goals

The purpose of this Joint Plan is to ensure 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, 2019 until June 30, 2020, and shall supersede the Joint Plan currently in effect.

B. Joint 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 and other related criminal activity.

4. Work together to educate employers and employees and the general public about the costs of fraud in terms of compromised public safety, 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.

C. 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 Golden Gate regional office of the Fraud Division. The Captain of the Golden Gate regional 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 Captain of the Golden Gate regional office 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.

D. Investigations

Investigators from the Golden Gate regional office 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 assigned to each investigation will assist with any legal issues that might arise and will work to ensure that all elements of the case are present to meet charging requirements. That prosecutor should be directly available to the investigator throughout the course of the investigation. This team concept will serve to 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.

E. 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 Captain of the Golden Gate regional 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.

F. 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.

G. Filing Requirements

Both agencies understand that the charging of a suspect(s) 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 the 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:

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

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

3. 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;

4. A complete description of all suspects.

H. Certified Minute Orders of Convictions

Pursuant to 1871.9 of the California Insurance Code, the California Department of Insurance (CDI) is required to post workers' compensation conviction information on its internet website for each person convicted of a violation involving workers' compensation insurance, services or benefits. The San Francisco District Attorney's Office agrees to provide CDI with certified minute orders on all workers' compensation convictions. The Golden Gate regional office will ensure the certified minute orders are forwarded to the Fraud Division Headquarters.

I. 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 Golden Gate regional office periodically meet to discuss any new filing techniques, and to share intelligence on fraud activity in Northern California.

J. 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 expeditiously 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 Captain of the Golden Gate regional office and the manager of the district attorney's Insurance Fraud Unit. Charging decisions will be the ultimate decision of the district attorney.

Dated: 4/11/19

Eric Williams
Captain, Golden Gate Regional Office
California Department of Insurance, Fraud Division

Dated: 4/11/2019

Supriya S. Perry
Managing Attorney, Economic Crime Unit
Office of the District Attorney, San Francisco

FY19-20 Workers' Compensation Insurance Fraud Budget

7/1/19-6/30/20

Positions	Biweekly Salary	pay periods	FTE	Amount	FY18-19 Carry Over	FY19-20 Award	Total Budget
8177 Trial Attorney (C. del Rosario), Step 16	**$ 8,991**	**26.2**	**0.45**	**$ 106,004**		$ 106,004	**$ 106,004**
Social Security	$ 8,240			$ 3,708			
Social Sec. - Medicare	1.45%			$ 1,537			
Health Ins	$ 9,738			$ 4,382			
Retirement	19.37%			$ 20,533			
Unemployment Ins	0.26%			$ 279			
Long Term Disability	0.19%			$ 206			
Dental Rate	$ 666			$ 300			
Total Benefits	29%					$ 30,945	$ 30,945
8177 Trial Attorney (L. Meyers), Step 16	**$ 8,369**	**26.2**	**0.50**	**$ 109,635**		$ 109,635	**$ 109,635**
Social Security	$ 8,240			$ 4,120			
Social Sec. - Medicare	1.45%			$ 1,590			
Health Ins	$ 24,527			$ 12,263			
Retirement	19.37%			$ 21,236			
Unemployment Ins	0.25%			$ 275			
Long Term Disability	0.21%			$ 229			
Dental Rate	$ 1,997			$ 999			
Total Benefits	37.13%					$ 40,712	$ 40,712
8177 Trial Attorney (S. Zudekoff), Step 5	**$ 5,423**	**26.2**	**0.22**	**$ 31,258**		$ 31,258	**$ 31,258**
Social Security	$ 8,240			$ 1,813			
Social Sec. - Medicare	1.45%			$ 453			
Health Ins	$ 13,602			$ 2,992			
Retirement	19.62%			$ 6,133			
Unemployment Ins	0.26%			$ 82			
Long Term Disability	0.33%			$ 102			
Dental Rate	$ 534			$ 117			
Total Benefits	37.40%					$ 11,692	$ 11,692
8177 Trial Attorney (A. Fasteau), Step 16	**$ 8,205**	**26.2**	**0.25**	**$ 53,743**		$ 53,743	**$ 53,743**
Social Security	$ 8,240			$ 2,060			
Social Sec. - Medicare	1.45%			$ 779			
Health Ins	$ 8,344			$ 2,086			
Retirement	19.37%			$ 10,410			
Unemployment Ins	0.27%			$ 143			
Long Term Disability	0.22%			$ 120			
Dental Rate	$ 666			$ 166			
Total Benefits	29.33%					$ 15,764	$ 15,764
8177 Trial Attorney (C. Alexander), Step 7	**$ 5,834**	**26.2**	**0.10**	**$ 15,285**		$ 15,285	**$ 15,285**
Social Security	$ 8,240			$ 824			
Social Sec. - Medicare	1.45%			$ 222			
Health Ins	$ 13,602			$ 1,360			
Retirement	19.62%			$ 2,999			
Unemployment Ins	0.26%			$ 40			
Long Term Disability	0.30%			$ 46			
Dental Rate	$ 1,404			$ 140			
Total Benefits	36.84%					$ 5,631	$ 5,631
8550 DAI (J. Kennedy), Step 6	**$ 5,213**	**26.2**	**0.80**	**$ 109,263**		$ 109,263	**$ 109,263**
Social Sec. - Medicare	1.45%			$ 1,584			
Retirement	19.62%			$ 21,437			
Unemployment Ins	0.26%			$ 289			
Dental Rate	$ 666			$ 532			
Total Benefits	21.82%					$ 23,842	$ 23,842
8550 DAI (M. Morse), Step 6	**$ 5,115**	**26.2**	**0.80**	**$ 107,221**		$ 107,221	**$ 107,221**
Social Sec. - Medicare	1.45%			$ 1,555			
Health Ins	$ 17,159			$ 13,728			
Retirement	19.62%			$ 21,037			
Unemployment Ins	0.26%			$ 276			
Dental Rate	$ 1,997			$ 1,598			
Total Benefits	35.62%					$ 38,194	$ 38,194
Subtotal Salary					$ -	$ 532,409	$ 532,409
Subtotal Benefits					$ -	$ 166,780	$ 166,780
TOTAL SALARY & BENEFITS			**3.12**		**$ -**	$ 699,189	**$ 699,189**

FY19-20 Workers' Compensation Insurance Fraud Budget

7/1/19-6/30/20

				Amount	FY18-19 Carry Over	FY19-20 Award	Total Budget
Lease of Office Space ($18,243/FTE)	$18,243			$ 56,920		$ 56,920	$ 56,920
Audit Expense				$ 20,552		$ 20,552	$ 20,552
CDAA Membership				$ 825		$ 825	$ 825
In-State Travel and Training Expenses				$ 9,100		$ 9,100	$ 9,100
Materials & Supplies							$ -
Outreach				$ 10,000	$ 2,768	$ 10,000	$ 12,768
Transcription				$ 500		$ 500	$ 500
Indirect Cost (10% of direct salary)	10%			$ 53,241		$ 53,241	$ 53,241
TOTAL OPERATING					**$ 2,768**	$ 151,138	**$ 153,906**
Equipment							
none requested							$ -
TOTAL EQUIPMENT							**$ -**
GRAND TOTAL					**$ 2,768**	$ 850,327	**$ 853,095**

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

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

DATE: **December 6, 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: (628) 652-4035

Interoffice Mail Address: DAT, 350 Rhode Island Street, North Building, Suite 400N

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
2020 JAN 28 PM 2:38
Time stamp
or meeting date AK

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

- ☐ 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):

Supervisor Ahsha Safai

Subject:

Accept and Expend Grant -- Retroactive -- California Department of Insurance, Workers' Compensation Insurance Fraud Program -- $850,3287

The text is listed:

Resolution retroactively authorizing the Office of the District Attorney to accept and expend a grant in the amount of $850,327 from the California Department of Insurance for the Workers' Compensation Insurance Fraud Program for the grant period July 1, 2019 through June 30, 2020.

Signature of Sponsoring Supervisor: [ ]

For Clerk's Use Only