

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, CA 95814**

WORKSHOP TEXT OF REGULATION

INSURANCE FRAUD GRANT STANDARDIZATION AND MODERNIZATION

December 4, 2025

REG-2025-00031

California Code of Regulations
Title 10. Investment
Chapter 5. Insurance Commissioner
Subchapter 9. Insurance Fraud
Article 3. Program for Investigation and Prosecution of Workers' Compensation Insurance Fraud.

Amend: Section 2698.51. Definitions.

For the purposes of these regulations:

- (a) "Application" means the written document submitted to the Commissioner by which a local district attorney requests program funding, including a plan setting forth the district attorney's intended use of funds to enhance investigation and prosecution of workers' compensation insurance fraud.
- (b) "Assessment" means the surcharge collected from insurers and self-insured employers to support the program to enhance investigation and prosecution of workers' compensation fraud.
- (c) "Case" means the file set up by the ~~California Department of Insurance~~ Fraud Division (formerly, the Bureau of Fraudulent Claims) and/or the ~~California Department of Insurance~~ Investigations Division Bureau, and/or the district attorney in the course of and for the purpose of investigation, development of evidence and prosecution of individual or consolidated activities of suspected workers' compensation fraud.
- (d) "Claim" means the request for payment of workers' compensation benefits which has been submitted to an insurer as defined in Section 1877.1(c) of the Insurance Code.
- (e) "Commissioner" means the Insurance Commissioner of the state of California.
- (f) "County Plan" means the plan submitted to the Commissioner as part of the application process by the local district attorney which details the projected use of the funds sought pursuant to these regulations.

- (g) “Department” means the California Department of Insurance.
- (h) “District Attorney” means the prosecuting officer of a California county jurisdictional district.
- (i) ~~“Fraud Division” means the California Department of Insurance Fraud Division, formerly known as the Bureau of Fraudulent Claims. The former Bureau was designated a Division subsequent to the implementation of CIC sections 1872.8 *et seq.* The California Department of Insurance Investigations Bureau is responsible for investigating premium fraud.~~
- (j) “Funding cycle” means a period of one fiscal year.
- (k) “Grantee” means a grant-funded applicant.
- (j) ~~“Incidental Expenses” means those costs incurred by the California Department of Insurance and the California Department of Industrial Relations to administer the program and may include Fraud Assessment Commission expenses, costs of collection of assessments, administrative support of the Fraud Division program component, management of the distribution and oversight of monies allocated to the district attorneys.~~
- (m) “Investigation Division” means the California Department of Insurance Investigation Division.
- (k) “Local Program Funding” means that portion of the funds collected and distributed to district attorneys pursuant to section 1872.83 of the Insurance Code.
- (l) “Premium Fraud”, also commonly called “employer fraud”, are those acts of fraud, including and not limited to under-reporting payroll, misclassification of employees' duties, experience modification evasion, committed by or at the direction of an employer, for the purpose and with the effect of reducing premium liability.
- (mp) “Program” means those activities conducted by the Department, the Department of Industrial Relations, and any other agency which are necessary to fund or administer enhanced investigation and prosecution of workers' compensation insurance fraud through assessments on insurers as defined in Section 1877.1(c) of the Insurance Code and the distribution of funds to the Fraud Division to district attorneys for the purpose of investigation and prosecution of workers' compensation insurance fraud.
- (nq) “Prosecution,” for purposes of allowable use of grant program funds, means instituting and conducting a criminal action against an offender through final judgment and sentencing, and may include associated proceedings related to diversion, deferred adjudication, and restitution, but does not include post-sentencing proceedings such as appeals.

- (nr) “Regulations” means these regulations, California Code of Regulations, Title 10, Chapter 5, Subchapter 9, Article 3.
- (es) “Suspected Fraudulent Claim” means a claim referred to the Fraud Division because the insurer, employer or claims administrator suspects, knows or reasonably believes that the claim involves a person who has committed a fraudulent act related to workers' compensation insurance.

NOTE: Authority cited: Section 1872.83, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Sections 1872.83 and 1872.9, Insurance Code.

Amend: Section 2698.52. Application Procedure.

- (a) A Request for Application (RFA) shall be distributed annually ~~on or before April 1,~~ to each county district attorney in the state and shall include county data indicators, as outlined in Section 2698.54, which form the basis for each district attorney's base allocation.
- (b) The RFA shall specify a deadline for submission of ~~a~~Applications to the Commissioner, which shall be at least 30 days after distribution of the RFA.
- (c) ~~Any district attorney who fails to submit an application, or whose application is not received by the Commissioner at the address specified in the RFA, by the deadline date and time set forth in the RFA, shall not be considered for funding.~~ Applications received after the date and time set for submission will not be considered for funding.
- (d) Applications for funding submitted by the district attorneys shall list the County Plan and budget elements as outlined in Sections 2698.55 and 2698.56. ~~and shall include a Table of Contents to facilitate plan review.~~
- (e) Two or more counties may coordinate planning and submit ~~a~~Applications addressing a multi-county area so long as each individual county plan identifies its proportion of the budget.
- (f) At such time as the Fraud Assessment Commission makes funds available through initiating an assessment to augment fund availability, the Review Panel, as established by Section 2698.55 of these regulations, shall analyze ~~a~~Applications for the purpose of assisting the Commissioner in making funding determinations using the criteria set forth in Section 2698.54 of these regulations. The Commissioner shall make the Commissioner's determination and shall obtain the advice and consent of the Fraud Division and the Fraud Assessment Commission, as to the most effective distribution of moneys.

NOTE: Authority cited: Section 1872.83, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.83, Insurance Code.

Amend: Section 2698.53. Funding Procedure.

- (a) Funding shall be in the form of a Grant Award Agreement and shall require an enabling resolution approving and authorizing execution of the agreement by the county Board of Supervisors.
- (b) Funding shall be distributed ~~on an annual basis in July~~ at least once per calendar year based upon the collection of assessments, and funding shall be contingent upon the adoption of each annual State Budget Act, ~~and the collection of assessments~~. The duration of a grant, otherwise known as a funding cycle, shall be one fiscal year.
- (c) Any portion of distributed funds not used ~~for~~ by a Grantee program local program purposes at the termination of each ~~program period~~ Funding cycle as specified in the Request for Application shall be returned to the Workers' Compensation Fraud Account in the Insurance Fund to be reprogrammed for use in the subsequent program years for local program purposes Local Program Funding. Following submission of the annual report set forth in section 2698.59, Grantees Counties shall provide the Department with an estimate of unused funds within sixty (60) days after the termination of the program period and shall complete the transfer of unused funds in accordance with an invoice issued by the Department to the Insurance Fund within thirty (30) days after the completion of the final audit.
- (d) ~~A district attorney who has undertaken investigations and prosecutions which will continue into a subsequent year may carry over into the subsequent year distributed but unused funds not exceeding twenty five percent (25%) of the total annual finding, provided that the district attorney specifies and justifies in writing to the Commissioner how those funds will be used (1) at the end of the program period and (2) at the time of the subsequent application. In the event that distributed, but unused, funds exceed twenty five (25%) of the previous total annual funding, due to extenuating circumstances, the Commissioner shall consider and approve requests for carry over to the extent that the district attorney provides justification.~~

NOTE: Authority cited: Section 1872.83, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.83, Insurance Code.

Amend: Section 2698.54. Criteria for Distribution of Funds to the District Attorneys.

Each district attorney's allocation shall consist of two parts: a base allocation and a program award, ~~both made as a result of the evaluation of the county plans.~~

- (a) The base allocation shall be made from fifty percent (50%) of the total funds and allocated according to the following "caseload estimate", an estimate of the district attorney's proportional share of the state's workers' compensation fraud investigation and prosecution caseload:

- ~~(a)(1)~~ (1) The county's proportion of the state's annual average number of workers engaged in wage and salary employment for the most recent year of report shall receive the greatest weight and shall account for sixty-six percent (66%) of the base allocation funding. The employment data source is the Employment Development Department Annual Planning Information.
- ~~(b)(2)~~ (2) The county's proportion of the state's workers' compensation ~~s~~Suspected ~~f~~Fraudulent ~~e~~Claims as reported to the ~~California~~ Department of Insurance over the previous three years shall account for thirty-four percent (34%) of the base allocation funding. ~~The source for data on the number of suspected fraudulent claims reported to the Division is the California Department of Insurance.~~
- (b) The program award shall be distributed from the remaining fifty percent (50%) of the available funds. Each district attorney's program award shall be based on the evaluation of the Application by the Fraud Division and the Review Panel, as set forth herein.
- (1) Fraud Division will evaluate each Application based on the following criteria:
- (A) An administrative review to evaluate whether the Application is complete, complies with Request for Application requirements, and whether data provided in the Application are accurate;
- (B) The County Plan, as defined in section 2698.55;
- (C) The goals of the Commissioner and the Fraud Assessment Commission as set forth in the Request for Application; and
- (D) Past performance as described in section 2698.59(f).

In addition, Fraud Division will consider past compliance or performance issues, and steps taken to address or remediate such issues.

- (2) The Application shall be evaluated by a Review Panel to be comprised of two members of the Fraud Assessment Commission, the Chief of the Fraud Division or the Chief of the Fraud Division's designee, the Director of the Department of Industrial Relations or the Director of the Department of Industrial Relations' designee, and an expert in consumer crime investigation and prosecution to be designated by the Commissioner.

NOTE: Authority cited: Section 1872.83, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.83, Insurance Code.

Amend: Section 2698.55. County Plan.

~~Each district attorney's program award shall be based on the evaluation of the County Plan. The County Plan shall be evaluated by a Review Panel to be comprised of two members of the Fraud~~

~~Assessment Commission, the Chief of the Fraud Division or the Chief of the Fraud Division's designee, the Director of the Department of Industrial Relations or the Director of the Department of Industrial Relations' designee, and an expert in consumer crime investigation and prosecution to be designated by the Commissioner.~~

The County Plan shall include but need not be limited to the following elements detailing the county's qualifications and the manner in which the district attorney will use the funds to investigate and prosecute workers' compensation insurance fraud:

(a) Qualifications.

(1) A description of the district attorney's experience in investigating and prosecuting workers' compensation insurance fraud. Relationships with other public or private entities which may be useful to the program should also be included. Specific activity during the past two years should be detailed as follows:

- (A) Number of investigations initiated, specifying number of identified suspects per investigation;
- (B) Number of warrants or indictments issued, specifying number of suspects and/or defendants;
- (C) Number of arrests made;
- (D) Number of convictions obtained, specifying number of defendants, number obtained by trial verdict and number obtained by plea or settlement;
- (E) Amount of fines and penalty assessments ordered and collected, specifying number of defendants; and
- (F) Amount of restitution ordered and collected, specifying number of defendants and victims.

(2) The panel shall consider each applicant county's population size in proportion to its historic commitment of resources to insurance fraud investigation and prosecution.

(b) Plan. The district attorney's plan for investigation and prosecution of workers' compensation fraud, including, at a minimum, the following elements:

(1) Problem Statement. A description of the extent and nature of the problem in the county, including its sources and causes, its economic and social impact, its unique aspects, if any, and what is needed to resolve the problem. Supporting data, evidence, or indicators of fraudulent activity related to workers' compensation insurance should be included. The data and information may be

derived from third party administrators, self-insured employers, other local law enforcement entities, insurers or the Fraud Division or the Investigation Division Bureau of the California Department of Insurance.

- (2) Program Strategy. This section shall specify how the district attorney will use program funds to address the problem defined above including:
- (A) Outreach. A description of the manner in which the district attorney will educate the public on the nature and consequences of insurance fraud; the training and sharing of best practices with industry stakeholders and allied law enforcement agencies; and how the district attorney will develop the district attorney's caseload, including the source(s) for referrals of cases for investigation and/or prosecution, whether directly from the Division and/or directly from self-insured employers, third-party administrators, and insurers or a combination;
 - (B) Personnel. The number, position titles and position justification of personnel to be funded fully or in part through grant funds, including descriptions of the qualifications of personnel to be assigned to the program and an organization chart identifying positions to be funded;
 - (C) Program Coordination. A description of the manner in which the district attorney plans to coordinate involved sectors, including employers, insurers, medical and legal provider communities, the Fraud Division and the Investigation BureauDivision of the California Department of Insurance;
 - (D) Management Plan. The detailed plan and schedule of the steps the district attorney will complete in achieving the objectives of the program and a discussion of how the program will be organized and what internal quality control and budget monitoring procedures will be employed. This part should also include how this program will be integrated with any other anti-fraud program(s) maintained within the district attorney's office;
 - (E) Staff Development. The plan for ongoing training of personnel on the workers' compensation system and the investigation and prosecution of fraud. Staff development may be addressed through coordination with the Fraud Division, insurers, or other entities.
- (3) ~~Objectives. This section shall outline the district attorney's anticipated achievements in the following areas:~~
- (A) ~~Estimated number of investigations to be initiated during the grant period, including a separate estimate of the number resulting from carryover investigations; and~~

(B) ~~Estimated number of prosecutions to be initiated during the grant period.~~

NOTE: Authority cited: Section 1872.83, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.83, Insurance Code.

Amend: Section 2698.56. Budget Proposal.

The proposed budget forms the basis for program management and audit and must be presented in line-item detail and cover the period from July 1 through June 30. The budget may include a line item for an independent audit to be completed at the end of the program period. The district attorney's budget shall include, but need not be limited to, the following:

- (a) Those salaries and benefits which are computed at the county salary and benefit schedule.
- (b) Operation support costs.
 - (1) Estimated costs shall be listed by line item.
 - (2) Itemized costs shall conform to county policy regarding appropriateness of expenditures.
 - (3) Allowable costs are those costs incurred in district support of local program activities, including program related travel, equipment costs proportional to their program-related use, facilities cost, expert witness fees, and audits.
- (c) A Indirect costs, including those costs not readily itemized but necessary to the local program operation may not exceed ten percent (10%) of personnel salaries (excluding benefits and overtime) or five percent (5%) of total direct program costs (excluding equipment). Counties must have on file an approved indirect cost allocation plan specifying how the rate was established, supported by formal accounting records to substantiate the charges. Indirect costs may not include any line item charged as a direct cost.
- (d) Non-allowable budget items include:
 - (1) Real property purchases and improvements;
 - (2) Aircraft or motor vehicles, except the purchase of motor vehicles ~~which is~~ specifically requested and justified to, and approved in advance by, the ~~Commissioner~~ Department;
 - (3) Interest payments;
 - (4) Food and beverages, except as purchased in connection with program-related travel. Food and beverage costs shall not exceed the applicant's per diem schedule;

- (5) Weapons or ammunition unless included as part of a benefit package;
 - (6) Reserve funds for future purchases;
 - (7) Promotional goods or items for giveaways;
 - (8) Lump sum leave salary paid at retirement or county leave buy-back salary costs;
 - (9) Costs, time or resources committed to investigation or litigation of civil qui tams, prior to a determination by the district attorney to institute a criminal investigation or Prosecution arising from the factual allegations of a civil qui tam action.
 - (10) Legislative efforts.
- (e) Program funds must be used to support enhanced investigation and prosecution of workers' compensation insurance fraud and shall not be used to supplant funds which, in the absence of program funds, would be made available for any portion of the local workers' compensation insurance fraud program. ~~Budget modifications are allowable so long as they do not change the grant award amount.~~
 - (f) Budget modifications are allowable ~~soas~~ long as they do not change the grant award amount. Budget modifications must be pre-approved in writing by the Department.

NOTE: Authority cited: Section 1872.83, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.83, Insurance Code.

Amend: Section 2698.57. Funding Recommendations.

Based on the Review Panel's evaluation of each ~~county's Application~~ County Plan, the Panel will forward funding recommendations to the Commissioner. If the ~~county~~ County Plan fails to respond adequately to the required items as specified in Sections 2698.55 and 2698.56, the Panel may recommend funding at the district attorney's base allocation level; however, the Panel shall consider the importance of establishing a program presence in a county to increase community awareness and deter workers' compensation fraud. However, Applications which fail to meet the specified criteria may be recommended for no funding.

NOTE: Authority cited: Section 1872.83, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.83, Insurance Code.

Amend: Section 2698.58. Fraud Assessment Commission Review and Consent.

- (a) Before funds can be distributed to the District Attorneys, the Commissioner shall make a determination, based on the recommendation of the Review Panel and with the advice and consent of the Fraud Division as to the most effective distribution of moneys, and shall forward the Commissioner's decision on the funding distribution to the Chair of the

Fraud Assessment Commission within ~~five business~~ twenty-one (21) days of the ~~receipt~~date of the Review Panel's recommendation on funding for the Commission's advice on and consent to the funding distribution. The Fraud Assessment Commission shall notify the Commissioner in writing within ten business days of receipt of the Commissioner's decision whether it agrees or if it does not agree with the recommended funding distribution.

- (b) In the event that the Commission does not agree with the Commissioner's recommended funding distribution, the Commission shall set forth, in writing, the basis upon which its consent has been withheld and shall forward such written decision to the Commissioner within ten business days along with a written request for reconsideration. If the Commission indicates that it does not agree with the Commissioner's funding distribution, the Commissioner shall reconsider the distribution based upon the written advice of the Commission.
- (c) After reconsideration of the distribution, the Commissioner shall forward to the Commission, within ten business days, the Commissioner's written recommendation upon reconsideration. If the Commission withholds its consent to the Commissioner's reconsidered funding distribution, the Commission shall set forth, in writing, the basis upon which its consent has been withheld and shall forward such written decision within ten business days, ~~along with a request for submission of a revised County Plan, to the District Attorney(s) submitting the disapproved County Plan.~~

NOTE: Authority cited: Section 1872.83, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.83, Insurance Code.

A SEMIMONTHLY PUBLICATION FOR THE WORKERS' COMP EXECUTIVE
Amend: Section 2698.59. District Attorney Reporting and Commissioner's Audit.

Each district attorney receiving regular annual funds and/or augmentation funds pursuant to Section 1872.83 shall submit an annual report at the close of the regular annual funding program period, within the deadlines specified in subsection (d), below, to the Commissioner on the local program and its accomplishments. Failure to submit the annual report shall be considered in subsequent funding decisions. At a minimum the report shall include the following items:

- (a) An Expenditure Report, which shall include the following:
 - (1) Personnel: salaries and benefits.
 - (2) Operations cost breakdown.
 - (3) Explanation of any significant variances from the district attorney's plan as approved.
- (b) A financial audit report prepared by an independent auditor who is a qualified state or local government auditor or independent public accountant licensed by the State of California or the County Auditor Controller. ~~The audit report shall certify that local~~

~~expenditures were made for the purposes of the program as specified in Section 1872.83 of the Insurance Code, the regulations as adopted, the guidelines in the Request for Application, and the County Plan.~~

- (1) The auditor shall use county policies and procedures as the standard for verifying appropriateness of personnel and support costs.
 - (2) In the event the program audit is included as part of an organization-wide audit, revenues and expenditures for the local program must be shown separately.
- (c) A Program Report, which shall include the following:
- (1) Number of investigations initiated related to workers' compensation insurance fraud, with number of defendants indicated;
 - (2) Number of arrests or civil suit filings related to workers' compensation insurance fraud, with number of defendants indicated;
 - (3) Number of convictions or civil awards related to workers' compensation insurance fraud, with number of defendants, number of trials, number of pleas and/or settlements indicated;
 - (4) Dollar savings realized as a result of workers' compensation insurance fraud case prosecutions, including fines and penalty assessments ordered and collected and restitution ordered and collected, with number of defendants indicated;
 - (5) 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) The deadlines for submission are as follows:
- (1) Expenditure Reports and Audit Reports must be submitted to the Commissioner no later than four (4) months after the close of the program period as specified in the Request for Application. A county may report an extension of time for the submission of the Expenditure and/or Budget Report in the event an organization-wide audit will delay the submission of either or both of the said reports.

- (2) Program Reports must be submitted to the Commissioner no later than two months after the close of the program period as specified in the Request for Application.
- (e) There shall be a grant liquidation period for ninety (90) days following the termination of the program period during which costs incurred but not paid may be paid and deducted from the program budget.
- (f) The Division will review the performance of local programs. A downward trend in statistics included in the Program Report as set forth in subsection 2698.59(c), and as otherwise reported to the Division, will result in the Division issuing a warning letter that requires: 1) a corrective action plan to be submitted to the Division within 45 days, and 2) a mid-year progress report. Failure to provide and/or implement a corrective action plan could result in decreased funding amounts or elimination from the program. Warning letters may be issued at the discretion of the Division for other reasons as well.
- ~~(f) The Commissioner may perform such additional audits or reviews of any local program as the Commissioner 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.~~
- (g) Except as provided in this section, audits under this program shall be performed in accordance with the standards set forth in the 2024 Revision of the Government Auditing Standards published by the Comptroller General of the United States, Government Accountability Office. The above Government Auditing Standards are incorporated herein by this reference.
- (h) The Commissioner shall perform the following audits and reviews:
- (1) Audit of each Grantee program at least once every two years.
- (2) Any additional audits or reviews of a Grantee program as are necessary for the effective and efficient administration of the program.
- (i) The Grantee shall cooperate with the Commissioner in the performance of the audits and reviews. The Grantee shall provide access to all documents related to the program and fiscal operation of the grant program as deemed necessary by the Commissioner. Refusal to cooperate with the Commissioner under this subsection may constitute good cause for redistribution of the grant funding.
- (j) Funds spent in a manner inconsistent with the requirements of these regulations or the Grant Agreement must be returned in accordance with any request of the Department.

NOTE: Authority cited: Section 1872.83, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.83, Insurance Code.

California Code of Regulations
Title 10. Investment
Chapter 5. Insurance Commissioner
Subchapter 9. Insurance Fraud
Article 4. Program for Investigation and Prosecution of Automobile Insurance Fraud

Amend: Section 2698.61. Definitions.

For the purposes of these regulations:

- (a) “Application” means the written document submitted to the Commissioner by which a local district attorney requests program funding, including a plan setting forth the district attorney's intended use of funds to enhance the investigation and prosecution of automobile insurance fraud.
- (b) “Assessment” means the annual fee paid by insurers for each vehicle insured under an insurance policy in the state to support enhanced investigation and prosecution of automobile insurance fraud.
- (c) “Case” means the file set up by the Fraud Division and/or the Investigation Division and/or the district attorney(s) in the course of and the suspected fraudulent claims for the purpose of investigation, development of evidence and prosecution of individual or consolidated activities of suspected automobile insurance fraud.
- (d) “Claim” means the request for payment of automobile insurance benefits which has been submitted to an insurer.
- (e) “Commissioner” means the Insurance Commissioner of the state of California.
- (f) “County Plan” means the plan submitted to the Commissioner as part of the application process by the local district attorney which details the projected use of the funds sought pursuant to these regulations.
- (g) “Department” means the California Department of Insurance.
- (h) “District Attorney” means the prosecuting officer of a California county jurisdictional district as provided in Government Code section 26500.
- (j) “Funding cycle” means a period of one fiscal year.
- (i) ~~“Fraud Division” or “Division” means the California Department of Insurance Fraud Division, formerly known as the Bureau of Fraudulent Claims. The Bureau was designated the Fraud Division subsequent to the enactment of CIC Section 1872.8.~~
- (jk) “Grantee” means a grant-funded applicant.

- (~~k~~l) “In force” means an insurance policy, covering note or binder that has been issued and put into effect on a vehicle in this state.
- (~~l~~m) “Incidental Expenses” means those costs incurred by the ~~California Department of Insurance~~ to administer the program and may include reasonable costs for collection of assessments, administrative support of the Fraud Division program component, management of the distribution and oversight of monies allocated to the district attorneys.
- (n) “Insurer” shall have the same meaning as used in Insurance Code section 23.
- (o) “Investigation Division” means the California Department of Insurance Investigation Division.
- (p) “Local Program Funding” means that portion of the funds collected and distributed to district attorneys pursuant to section 1872.8 of the Insurance Code.
- (~~m~~q) “Program” means those activities conducted by the Department, or any other agency, which are directed toward the enhanced investigation and prosecution of automobile insurance fraud and which require funding or administration through assessments and the distribution of funds to the Fraud Division, Department of California Highway Patrol and to district attorneys.
- (~~n~~) ~~“Insurer” shall have the same meaning as used in California Insurance Code section 23.~~
- (r) “Prosecution,” for purposes of allowable use of grant program funds, means instituting and conducting a criminal action against an offender through final judgment and sentencing, and may include associated proceedings related to diversion, deferred adjudication, and restitution, but does not include post-sentencing proceedings such as appeals.
- (~~o~~s) “Regulations” means these regulations, California Code of Regulations Title 10, Chapter 5, Subchapter 9, Article 4.
- (~~p~~t) “Suspected Fraudulent Claim” means a claim which has been referred to the Fraud Division because the insurer reasonably believes that the claim involves a person who has committed a fraudulent act related to automobile insurance.
- (~~q~~u) “Transaction Date” means the date, by month, day and year, on which a vehicle is added to the Automobile Assessment File.
- (~~r~~v) “Vehicle” shall have the same meaning as defined in Section 670 of the Vehicle Code and shall include commercial and non-commercial vehicles.
- (~~s~~w) “Vehicle identification number (VIN)” means a series of Arabic number and Roman letter that is assigned to a motor vehicle by its manufacturer for identification purposes.

NOTE: Authority cited: Section 1872.8, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.8, Insurance Code.

Amend: Section 2698.62. Setting of the Annual Fee.

- (a) Each insurer will be assessed and will pay a fee of twenty-five (\$.25) cents per vehicle for each quarter of a calendar year or any part thereof that it insures under a policy of insurance issued in this state. The assessment shall be made as provided in paragraph (b) of this section.
- (b) The Commissioner will invoice for the assessment specified in subsection (a) quarterly. The assessment shall be due on each vehicle, identified by its vehicle identification number for each quarter that a policy is in force on such vehicle and when a vehicle is added to or replaces one under an existing policy. Each quarterly assessment payment shall be submitted with a certification by an Officer of the insurer, under penalty of perjury under the laws of the State of California, that the number of vehicles reported therein is accurate and has been calculated in conformity with these regulations. The insurer shall, on request by the Commissioner, provide verification of the number of vehicles insured under a policy of insurance.
- (c) Subject to the prior written approval of the ~~d~~Department, an insurer may use a method to identify the vehicles subject to this assessment other than provided in subsection (b) if, prior to using such methodology, the insurer:
 - (1) demonstrates that it ~~can not~~cannot identify the vehicles it insures in this state by their individual vehicle identification number;
 - (2) submits a detailed description of proposed method,
 - (3) demonstrates the proposed alternative method is as accurate a method as that described in subsection (b) of this section, and
 - (4) agrees to use any method approved under this subsection until another method may otherwise be approved in writing by the ~~d~~Department.
- (d) In order to verify of the number of vehicles for which an assessment is due and has been paid under this section, each insurer shall maintain a file known as the Automobile Assessment File. The Auto Assessment File shall contain the vehicle identification, policy number and transaction date for every vehicle for which a policy of insurance was in force for each quarter or any part thereof. For group insurers, the information shall be maintained on an individual company basis. The data shall be kept in a computer format that allows for the insurer to place each ~~calendar~~calendar year quarter data on a computer media format in a format specified by the Commissioner. The data in the file shall be kept for a minimum of five years after each calendar year quarter.
- (e) A separate assessment need not be paid on a vehicle insured on:

- (1) A renewal policy issued within the same quarter of a calendar year, on the same vehicle by the same insurer or insurer with the same group.
- (2) A multi-peril, umbrella or excess coverage policy where the vehicle is already covered under a primary policy.
- (3) A road-side or mechanical breakdown policy that does not provide coverage for collision or other-than-collision (comprehensive) losses.
- (4) A vehicle for which a policy has been written but was not put in force.
- (f) Payment of the assessment shall be considered delinquent if not paid by the insurer within forty-five (45) days of the invoice date. Any amount not paid within this period shall be charged a late fee in accordance with CIC section 12995.
- (g) Notwithstanding subdivision (a) of this section, if the Commissioner determines that the amount to be collected will exceed the amount to be expended from the annual Budget Act appropriation to fund the program under this article, the Commissioner may discount the amount of the assessment to be collected to more closely meet the expenditures authorized by the annual Budget Act.

NOTE: Authority cited: Section 1872.8, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Sections 1872.8 and 12995, Insurance Code.

Amend: Section 2698.63. Application Procedure.

- (a) A Request for Application (RFA) shall be distributed annually to each county district attorney in the state.
- (b) The RFA shall specify a deadline for submission of Applications to the Commissioner, which shall be at least 30 days after distribution of the RFA.
- (c) ~~Any district attorney who fails to submit an application, or whose application is not received by the Commissioner at the address specified in the RFA, by the close of business on the deadline date set forth in the RFA, may be subject to delay in receiving any funding award. Any district attorney from whom an application is not received within the ninety day period following the deadline set forth in the RFA shall not be considered for funding.~~ Applications received after the date and time set for submission will not be considered for funding.
- (d) Applications for funding submitted by the district attorneys shall list the County Plan and budget elements as outlined in Sections 2698.65 and 2698.66. ~~and shall include a Table of Contents to facilitate plan review.~~

- (e) Two or more counties may coordinate planning and submit plans addressing a multi-county area ~~so~~as long as each individual county plan identifies that county's proportion of the budget.

NOTE: Authority cited: Section 1872.8, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.8, Insurance Code.

Amend: Section 2698.64. Funding Procedure.

- (a) Funding shall be in the form of a Grant Award Agreement and shall require an enabling resolution by the county Board of Supervisors approving and authorizing execution of the agreement.
- (b) ~~Subsequent to the initial grant award, f~~Funding shall be distributed at least once per calendar year based upon the collection of assessments, on a semi-annual basis, in July and January unless otherwise specified and justified in the Request for Application by the district attorney and funding shall be contingent upon the adoption of each annual State Budget Act, and the collection of assessments. The duration of a grant, otherwise known as a funding cycle, shall be one fiscal year.
- (c) Any portion of distributed funds not used ~~for~~ by a Grantee program~~local program purposes~~ at the termination of each annual ~~f~~Funding cycle shall be returned to the Insurance Fund to be reprogrammed for use in the subsequent program years for local program purposesLocal Program Funding. Following submission of the annual report set forth in section 2698.67, Grantees~~Counties shall provide the Department with an estimate of unused funds within sixty (60) days after the termination of the program period and shall remit payment of unused funds in accordance with an invoice issued by the Department~~complete the transfer of funds back to the Insurance Fund within thirty (30) days after the completion of the final audit.
- (d) ~~A district attorney who has undertaken investigations and prosecutions which will carryover into a subsequent program year may carryover into the subsequent year distributed but unused funds not exceeding twenty five percent (25%) of the total annual funding, provided that the district attorney files a written plan which specifies and justifies to the Commissioner how those funds will be used at the end of the program period and at the time of the subsequent application. In the event that, due to extenuating circumstances, distributed funds exceeding twenty five percent (25%) of the previous total annual funding are unused, the Commissioner shall consider and approve requests for carry over of the unused funds to the extent that the district attorney provides justification.~~

NOTE: Authority cited: Section 1872.8, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.8, Insurance Code.

Amend: Section 2698.65. ~~County Plan and~~ Criteria for Distribution of Funds to the District Attorney Grantee and County Plan.

In order to be considered for funding, ~~the a~~ local district attorney must submit a plan outlining the projected and prior use of funds for the purposes of the program. Available funds ~~Funds assessed after January 1, 1993~~ shall be distributed among these district attorneys who have submitted a plan in compliance with California Insurance Code section 1872.8 and these regulations. ~~Seventy percent (70%) of available funds will be distributed based on the applicant's proportionate share of the state's population, twenty percent (20%) will be distributed based on the applicant's proportionate share of the automobile insurance suspected fraudulent claims submitted to the Fraud Division during the prior three years and ten percent (10%) will be based on the Commissioner's analysis of the County Plan. The plan must be submitted within the statutory time frame and must include the following elements:~~

(a) Distribution of funds. Each district attorney's allocation shall consist of two parts: a base allocation and a program award.

(1) The base allocation shall be distributed from fifty percent (50%) of the available funds and shall be distributed among applicants according to the following formula:

(A) Seventy-eight percent (78%) of the base allocation funding shall be distributed to each applicant according to the applicant's proportionate share of the state's total population.

(B) Twenty-two percent (22%) of the base allocation funding shall be distributed to each applicant according to the applicant's proportionate share of the total suspected fraudulent claims for automobile insurance submitted to the Fraud Division during the prior three (3) years, according to the records maintained by the Department.

(2) The program award shall be distributed from the remaining fifty percent (50%) of the available funds based on review of the Applications.

(3) Applications will be evaluated and program awards will be determined based on the following criteria:

(A) An administrative review to evaluate whether the Application is complete, complies with Request for Application Requirements, and whether data provided in the Application are accurate;

(B) The County Plan, as defined in this Section;

(C) The Commissioner's goals as set forth in the Request for Application; and

(D) Past performance as described in section 2698.67(g).

In addition, Fraud Division will consider past compliance or performance issues, and steps taken to address or remediate such issues.

~~(b)~~ County Plan. The County Plan shall include but need not be limited to the following elements detailing the county's qualifications and the manner in which the district attorney will use the funds to investigate and prosecute automobile insurance fraud:

~~(b)(1)~~ Problem Statement. A description of the problem in the county, including how it arose, why it is important, its unique aspects, if any, and what is needed to resolve the problem, including supporting data, evidence, or indicators of fraudulent activity related to automobile insurance.

~~(b)(2)~~ Qualifications. A description of the applicant's experience in operating the auto insurance fraud program using funds authorized under Section 1872.8 of the Insurance Code since 1989 including:

~~(1)~~ The total amount of funds received by the local district attorney since 1989.

~~(2)(A)~~ The total amount expended to support the district attorney's investigation and prosecution of auto insurance fraud, including details of the following items:

~~(A)1.~~ Personnel costs including salaries and benefits.

~~(B)2.~~ Operations expenses, including space, equipment, travel and other expenses in support of the program.

~~(3)(B)~~ The results obtained through implementation of the program, including:

~~(A)1.~~ The number of investigations initiated or coordinated with other law enforcement agencies.

~~(B)2.~~ The number of arrests and convictions.

~~(C)3.~~ The number of indictments or complaints.

~~(D)4.~~ A comparison of the amounts originally claimed in cases determined to be fraudulent compared to payments actually made.

~~(e)(3)~~ Program Strategy:

~~(1)(A)~~ Outreach. A description of the manner in which the district attorney will educate the public on the nature and consequences of insurance fraud; the training and sharing of best practices with industry stakeholders and allied law enforcement agencies; and how the district attorney will develop the

district attorney's caseload, including the source(s) for referrals ~~offer~~ cases for investigation and/or prosecution, ~~whether directly from the Fraud Division, or from other law enforcement agencies and/or insurers.~~

~~(2)~~(B) Personnel. Justification for the number of personnel, position titles and position justification of personnel which will be funded fully or in part through grant funds, including descriptions of the qualifications of personnel to be assigned to the program and an organization chart identifying positions to be funded.

~~(3)~~(C) Program Coordination. A description of the manner in which the district attorney plans to coordinate involved sectors, including insurers, medical and legal provider communities, auto repair facility operators, the Fraud Division, the California Highway Patrol, local law enforcement and community safety agencies.

~~(4)~~(D) Management Plan. A detailed plan and schedule of the steps the district attorney will complete in achieving the objectives of the program and a discussion of how the program staff will be organized and what internal quality control and budget monitoring procedures will be employed. This part shall also include how this program will be integrated with any other anti-fraud program(s) maintained within the district attorney's office;

~~(5)~~(E) Staff development. The plan for ongoing training of personnel on the investigation and prosecution of automobile insurance fraud. Staff development may be addressed through coordination with the Fraud Division, insurers, or other entities.

~~(d) Objectives. This section shall outline the district attorney's anticipated achievements in the following areas:~~

~~(1) Estimated number of investigations to be initiated during the grant period, including separate estimate of the number resulting from carryover investigations; and~~

~~(2) Estimated number of prosecutions to be initiated during the grant period.~~

NOTE: Authority cited: Section 1872.8, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.8, Insurance Code.

Amend: Section 2698.66. Budget Proposal.

The proposed budget forms the basis for program management and audit and must be presented in line-item detail and cover a one-year program period from July through June. Annual budget levels shall be included in the RFA. The budget may include a line item for an independent audit

to be completed at the end of each annual program period or as specified in the RFA. The district attorney's budget shall include the following:

- (a) Salaries and benefits computed at the county salary and benefit schedule.
- (b) Operation support costs.
 - (1) Estimated costs shall be listed by line item.
 - (2) Itemized costs shall conform to county policy regarding appropriateness of expenses.
 - (3) Allowable costs are those costs incurred in direct support of local program activities, including program related travel, equipment costs proportional to program-related use of the equipment, facilities cost, expert witness fees and audits.
- (c) Indirect costs: indirect costs are those not capable of being assigned to a particular project or program, but necessary to the operation of the organization and the performance of the program. The costs of operating and maintaining facilities, accounting services, and administrative salaries are examples of indirect costs. Indirect costs shall not exceed 10 percent of personnel salaries (excluding benefits and overtime) or 5 percent of total direct program costs (excluding equipment).
- (d) Non-allowable budget items include:
 - (1) Real property purchases and improvements.
 - (2) Aircraft or motor vehicles, except the purchase of motor vehicles ~~which is specifically requested and justified to, and approved in advance by, the Commissioner Department.~~
 - (3) Interest payments.
 - (4) Food and beverages, except as purchased in connection with program-related travel. Food and beverages costs shall not exceed the applicant's per diem schedule.
 - (5) Weapons or ammunition unless included as part of a benefit package.
 - (6) Reserve funds for future purchases.
 - (7) Promotional goods or items for giveaways.
 - (8) Lump sum leave salary paid at retirement or county leave buy-back salary costs.

(9) Costs, time or resources committed to investigation or litigation of civil qui tams, prior to a determination by the district attorney to institute a criminal investigation or Prosecution arising from the factual allegations of a civil qui tam action.

(10) Legislative efforts.

- (e) Program funds must be used to support enhanced investigation and prosecution of insurance fraud and shall not be used to supplant funds which in the absence of program funds would be made available for any portion of the local automobile insurance fraud program.
- (f) Budget modifications are allowable ~~soas~~ long as they do not change the grant award amount. Budget modifications must be pre-approved in writing by the Department.
- (g) The annual and proposed use of these funds are subject to full public disclosure.

NOTE: Authority cited: Section 1872.8, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.8, Insurance Code.

Amend: Section 2698.67. District Attorney Reporting and Commissioner's Audit.

Each district attorney receiving funds pursuant to Section 1872.8 shall submit an annual report to the Commissioner regarding the local program and its accomplishments. Failure to submit the annual report shall affect subsequent funding decisions. The report shall include the following items:

- A SEMIMONTHLY PUBLICATION FOR THE WORKERS' COMP EXECUTIVE
- (a) An expenditure Report, which shall include information for the following:
 - (1) Personnel: salaries and benefits.
 - (2) Operations cost breakdown.
 - (3) Explanation of any significant variances from the county's plan as approved.
 - (b) A financial audit report prepared by an independent, qualified state or local government auditor or independent public accountant licensed by the State of California or the county Auditor Controller. ~~The audit report shall certify that local expenditures were made for the purposes of the program as specified in Section 1872.8 of the Insurance Code, these Regulations, the guidelines in the Request for Application and the County Plan.~~
 - (1) The auditor shall use county policies and procedures as the standard for verifying appropriateness of personnel and support costs.
 - (2) In the event that the program audit is included as part of an organization-wide audit, revenues and expenditures for the local program must be shown separately.

- (c) Except as provided in this section, ~~financial~~ audits under this program shall be performed in accordance with the standards set forth in the 2024 Revision of the Government Accounting Auditing Standards Revised (August 1999) published by the Comptroller General of the United States, General Accounting Government Accountability Office. The above General Accounting Government Auditing Standards Revised (1999) are incorporated herein by this reference.
- (d) A Program Report which shall include the following:
- (1) The number of investigations initiated related to automobile insurance fraud.
 - (2) The number of arrests related to automobile insurance fraud.
 - (3) The number of prosecutions related to automobile insurance fraud.
 - (4) The number of convictions related to automobile insurance fraud.
 - (5) The dollar savings realized as a result of automobile insurance fraud case prosecutions.
 - (6) A summary of the activity directed toward the reduction of automobile insurance fraud with the following:
 - (A) Fraud Division.
 - (B) Insurance companies.
- (e) The deadlines for submission are as follows:
- (1) Expenditure Reports and Audit reports must be submitted to the Commissioner no later than four (4) months after the close of the program period as specified in the Request for Application. A county may request an extension in the event an organization-wide audit will delay submission of the audit.
 - (2) Program Reports must be submitted to the Commissioner no later than two (2) months after the close of the program period as specified in the Request for Application.
- (f) There shall be a grant liquidation period of ninety (90) days following the termination of the program period during which costs incurred but not paid may be paid and deducted from the program budget.
- ~~(g) The Commissioner may perform such additional audits or reviews of any local program as the Commissioner may deem necessary and shall have access to all working papers,~~

~~correspondence, or other documents, including audit reports and audit working papers related to the audit report or local program.~~

- (g) The Division will review the performance of local programs. A downward trend in statistics included in the Program Report as set forth in subsection 2698.67(d), and as otherwise reported to the Division, will result in the Division issuing a warning letter which requires: 1) a corrective action plan to be submitted to the Division within 45 days, and 2) a mid-year progress report. Failure to provide and/or implement a corrective action plan could result in decreased funding amounts or elimination from the program. Warning letters may be issued at the discretion of the Division for other reasons as well.
- ~~(h) Notwithstanding any other provision of the law, the Commissioner shall perform a fiscal audit of the program administered under this section once every three years. The cost of a fiscal audit shall be shared equally between the department and the grantee.~~
- (h) The Commissioner shall perform the following audits and reviews:
- (1) Audit of each Grantee program at least once every two years.
- (2) Any additional audits or reviews of a Grantee program as are necessary for the effective and efficient administration of the program.
- (i) The Grantee shall cooperate with the Commissioner in the performance of the audits and reviews. The Grantee shall provide access to all documents related to the program and fiscal operation of the Grantee program as deemed necessary by the Commissioner.
- A Refusal to cooperate with the Commissioner under this subsection may constitute good cause for redistribution of the grant funding.
- (j) Funds spent in a manner inconsistent with the requirements of these regulations or the Grant Agreement must be returned in accordance with any request of the Department.

NOTE: Authority cited: Section 1872.8, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.8, Insurance Code.

California Code of Regulations
Title 10. Investment
Chapter 5. Insurance Commissioner
Subchapter 9. Insurance Fraud
Article 5. Organized Automobile Insurance Fraud Interdiction Program

Amend: Section 2698.70. Definitions.

For the purposes of these regulations:

- (a) “Applicant” means one or more district attorneys.

- (b) “Application” means a document submitted by an applicant for the purpose of requesting funding under this program.
- (c) “Assessment” means an annual fee paid by insurers for each vehicle insured under an insurance policy in the state to support the enhanced interdiction of organized automobile fraud activity.
- (d) “Commissioner” means the Insurance Commissioner of the California Department of Insurance.
- (e) “County Plan” means the plan submitted to the Commissioner as part of the application process by the local district attorney which details the projected use of the funds sought pursuant to these regulations.
- (~~e~~f) “Department” means the California Department of Insurance.
- (~~f~~g) “District Attorney” means the prosecuting officer of a California county as provided in Government Code section 26500.
- (~~g~~h) “Fraud Division” means the California Department of Insurance Fraud Division, ~~also known as the Bureau of Fraudulent Claims.~~
- (~~h~~i) “Funding Cycle” means a consecutive 12-month period within a grant period. The funding cycle will commence with the first month of a grant period.
- (~~i~~j) “Grant Award” means an award of funds to be used by the Grantee pursuant to Insurance Code sections 1874.8 and 1874.81.
- (~~j~~k) “Grant Period” means a consecutive 36-month period commencing with the month as provided in a grant award.
- (~~k~~l) “Grantee” means a grant-funded applicant.
- (~~l~~m) “Insurer” shall have the same meaning as provided under California Insurance Code section 23.
- (n) “Investigation Division” means the California Department of Insurance Investigation Division.
- (o) “Local Program Funding” means that portion of the funds collected and distributed to district attorneys pursuant to section 1874.8 of the Insurance Code.
- (~~m~~p) “Memorandum of Understanding” means a document, including any attachment or addendum, reflecting the agreed upon operational commitments and obligations between a ~~grantee~~ Grantee, the Fraud Division and the California Highway Patrol for a coordinated

effort aimed at the investigation and prosecution of organized automobile fraud activity including a description of specific program objectives.

- (nq) “Organized automobile fraud activity” shall have the same meaning as set forth in Section 1874.8, subdivision (g) of the Insurance Code.
- (or) “Program” means those activities conducted by the Fraud Division, the California Highway Patrol, and ~~grantees~~ Grantees which support the Organized Automobile Fraud Activity Interdiction Program.
- (s) “Prosecution,” for purposes of allowable use of grant program funds, means instituting and conducting a criminal action against an offender through final judgment and sentencing, and may include associated proceedings related to diversion, deferred adjudication, and restitution, but does not include post-sentencing proceedings such as appeals.
- (pt) “Vehicle” shall have the same meaning as defined in Section 670 of the Vehicle Code and shall include commercial and non-commercial vehicles.
- (qu) “In force” means an insurance policy, covering note or binder that has been issued and put into effect on a vehicle in this state.
- (rv) “Vehicle identification number (VIN)” means a series of Arabic numbers and Roman letters that is assigned to a motor vehicle for identification purposes.
- (sw) “Transaction Date” means the date, by month, day and year, on which a vehicle is added to the Automobile Assessment File.

NOTE: Authority cited: Sections 1874.8 ~~and 1874.81~~, Insurance Code. Reference: ~~Section 26500, Government Code;~~ Sections 1874.8 ~~and 12995~~, Insurance Code; ~~and Section 670, Vehicle Code.~~

Amend: Section 2698.72. Application Procedure and Contents.

- (a) A Request for Application (RFA) shall be distributed annually to each county district attorney in the state. The RFA shall specify a deadline for submission of aApplications to the Commissioner, which shall be at least 30 days after distribution of the RFA.
~~The Commissioner shall designate a date for the submission of an application requesting grant funding under this program. Notice of the date for submission shall be mailed to each district attorney at least 60 days before the date set for submission of an application. Applications received after the date and time set for submission will not be considered for funding.~~
- (b) An ~~a~~Application shall include:
 - (1) a ~~“strategic plan~~ County Plan” as more specifically described in section 2698.74.
 - (2) a “budget proposal” as more specifically described in section 2698.75.

- (3) a list of program contacts for the applicant that shall include the name, position, business address, telephone and fax number for each individual.
- (c) In addition to an ~~a~~Application, each applicant shall submit as a separate document a memorandum of understanding.
- (d) A joint ~~a~~Application addressing a multi-county area may be submitted. Joint ~~a~~Applications and accompanying documents as provided in subsection (a) shall, in addition to the items specified in subsection (b) of this section, address the use of funds by and between each participating county and designate a lead county for the purpose of receipt and distribution of the grant funding and to serve as the responsible entity for the administration of the grant.

NOTE: Authority cited: Sections 1874.8 ~~and 1874.81~~. Reference: Sections 1872.8(b)(1), 1874.8(d) ~~and (e) and 1874.81~~, Insurance Code.

Amend: Section 2698.73. Funding Procedure.

- (a) Funding of a grant shall be in the form of a grant award agreement. Each applicant whose ~~a~~Application has been approved for grant funding shall submit an enabling resolution by the county Board of Supervisors approving and authorizing execution of a grant award agreement.
- (b) Funding shall be distributed at least once per calendar year based upon the collection of assessments, and funding shall be contingent upon the adoption of each annual State Budget Act. The duration of a grant period shall be three consecutive years. A funding cycle is one fiscal year within a grant period. ~~Distribution of grant award funds shall be on a quarterly basis. Funding and dates of distribution shall be contingent upon the adoption of an annual State Budget Act and the collection of assessments. Funds to be distributed for the California Highway Patrol shall be deposited in the motor vehicle account.~~
- (c) ~~Within 60 days after the end of each funding cycle, a grantee shall provide the Department with an estimate of any unexpended and/or unencumbered funds. Any~~ portion of distributed funds not used by a Grantee program at the termination of each annual Funding Cycle shall be returned to the Insurance Fund to be reprogrammed for use in subsequent program years for Local Program Funding. Following submission of the annual report set forth in section 2698.77, Grantees shall remit payment of unused funds in accordance with an invoice issued by the Department.
- (d) ~~A grantee who has undertaken investigations and prosecutions which will carry over into a subsequent funding cycle may carry over into the subsequent funding cycle distributed but unused funds not exceeding twenty five percent (25%) of the total funding cycle, provided that the grantee files a written plan, at the end of the funding cycle, which specifies and justifies to the Commissioner how those funds will be used. In the event that, due to extenuating circumstances, distributed funds exceeding twenty five percent~~

~~(25%) of the previous total funding cycle are unused, the Commissioner may consider and approve requests for carry-over of the unused funds to the extent that the grantee provides justification.~~

NOTE: Authority cited: Sections 1874.8 and 1874.81. Reference: Reference: Sections 1872.8(b)(1), 1874.8 and 1874.81, Insurance Code.

Amend: Section 2698.74. ~~Strategic Plan~~County Plan.

A ~~strategic plan~~County Plan shall include the following elements:

~~(a) Table of Contents.~~

~~(b)~~ (a) Problem Statement: Each ~~a~~Application shall include for the applicable county:

- (1) A narrative description of the organized automobile insurance fraud activity in the county, including any supporting data, evidence, or indicators of fraudulent related activity.
- (2) A description of the general criminal activity, based upon the most recent California Crime Index Annual Report by the California Attorney General.
- (3) Population density, based upon the most recent annual report compiled by the California Department of Finance, Demographic Research Unit.
- (4) Automobile insurance claims frequency.
- ~~(5) Number of automobile fraud suspected fraudulent claims reported to the Division during a 36-month period immediately preceding the submission of the application.~~
- ~~(6)~~ (5) Evidence of prior and current organized automobile insurance fraud activity.

~~(c)~~ (b) Qualifications: A description of the applicant's experience in prosecuting automobile insurance fraud which for the purpose of this section shall include economic auto theft cases, for a three-year period preceding the ~~a~~Application. The applicant shall include in this section:

- (1) The number of automobile insurance fraud investigations initiated and/or coordinated with the Fraud Division, California Highway Patrol and other law enforcement agencies.
- (2) The number of automobile insurance fraud related complaints and/or indictments.
- (3) The number of automobile insurance fraud related arrests and convictions.

- (4) A statement of the amount of charged fraud from the investigations and prosecutions identified in item (1)-(3).
 - (5) The complexity of the investigations and prosecutions, including the number of claims directly related to such automobile insurance fraud investigation and prosecution.
- (dc) Program Strategy: A statement of program strategy shall include:
- (1) Outreach: A description~~Descriptions~~ of the manner in which the ~~grantee~~district attorney will educate the public on the nature and consequences of insurance fraud; the training and sharing of best practices with industry stakeholders and allied law enforcement agencies; and how the district attorney will develop its~~the~~ district attorney's caseload-referrals, including the source(s) for referrals of cases for investigation and/or prosecution. whether directly from the Fraud Division, California Highway Patrol and from other law enforcement agencies and/or insurers.
 - ~~(2) The number and ratio of the applicant's investigators to attorney to be funded by the grant award which reflect the most effective use of those resources under a coordinated investigation and prosecution program.~~
 - ~~(3)~~2 List of personnel, by position title and function, that will be funded in full or in part through a grant award, including descriptions of the qualifications of personnel to be assigned to the program and an organization chart identifying those positions.
- (ed) Program Coordination: A description of the manner in which each ~~grantee~~Grantee plans to coordinate its efforts and work with the Fraud Division, the California Highway Patrol and other participating agencies and interested insurers.
- (fe) Management Plan: A detailed plan and schedule of the steps the ~~grantee~~Grantee will complete in achieving the objectives of the program and a discussion of how the program staff will be organized and what internal quality control and budget monitoring procedures will be employed. This part shall also include how this program will be integrated with any other anti-fraud program(s) maintained within the ~~grantee's~~Grantee's office.
- (gf) Staff development: The plan for ongoing training of personnel in the prosecution of organized automobile insurance fraud. Staff development may be addressed through coordination with the Fraud Division, insurers, or other entities.
- (hg) Objectives: An outline of the applicant's program goals for each funding cycle of the grant period. Applicants must state how these goals will be achieved in coordination with the Fraud Division, the California Highway Patrol and other law enforcement agencies.

Note: Authority cited: Sections 1874.8 and 1874.1, Insurance Code. Reference: Sections 1874.8(b) and (c) and 1874.81(a)(3) and (5), Insurance Code.

Amend: Section 2698.75. Budget Proposal.

- (a) A proposed budget shall be presented in line-item detail and cover each funding cycle. The applicant's proposed budget shall include the following estimates:
 - (1) Salaries and benefits computed at the county salary and benefit schedule. A current copy of the pertinent schedule shall be submitted with the proposed budget.
 - (2) Support costs.
- (b) Each applicant shall use the following guidelines in preparing its proposed budget:
 - (1) Itemized costs shall conform to applicant's policy regarding appropriateness of expenses.
 - (2) Allowable costs are those direct and indirect operating costs incurred in the support of program activities, including program related travel, equipment costs proportional to program-related use of the equipment, facilities cost, expert witness fees and audits.
 - (3) Non-allowable costs include:
 - (A) Real property purchases and improvements.
 - (B) Aircraft or motor vehicles, except the purchase of motor vehicles specifically requested and justified to, and approved in advance by, the Commissioner/Department.
 - (C) Interest payments.
 - (D) Food and beverages, except as purchased in connection with program-related travel. Food and beverages costs shall not exceed the applicant's per diem schedule.
 - (E) Weapons or ammunition unless included as part of a benefit package.
 - (F) Reserve funds for future purchases.
 - (G) Promotional goods or items for giveaways.
 - (H) Lump sum leave salary paid at retirement or county leave buy-back salary costs.

(I) Costs, time or resources committed to investigation or litigation of civil qui tams, prior to a determination by the district attorney to institute a criminal investigation or Prosecution arising from the factual allegations of a civil qui tam action.

(J) Legislative efforts.

- (c) Indirect costs: Indirect costs are those not capable of being assigned to a particular project or program, but necessary to the operation of the organization and the performance of the program. The costs of operating and maintaining facilities, accounting services, and administrative salaries are examples of indirect costs. Indirect costs shall not exceed 10 percent of personnel salaries (excluding benefits and overtime) or 5 percent of total direct program costs (excluding equipment).
- (d) Program funds of ~~grantees~~ Grantees may only be used to support the ~~grantee's~~ Grantee's activity in the investigation, prosecution of organized automobile fraud activity.
- (e) Budget modifications are allowable as long as they do not change the grant award amount. Budget modifications must be pre-approved in writing by the ~~Commissioner~~ Department.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code. Reference: Sections 1872.8(b)(1), 1874.8 and 1874.81(a)(2) and (5), Insurance Code.

Amend: Section 2698.76. Determination and Criteria for Awarding of Grants.

- (a) In determining to award a grant under this program, the Commissioner shall consider the information provided in an ~~a~~ Application and may consider the recommendations and advice of the Fraud Division and the Commissioner of the Highway Patrol or their designee. Applications will be evaluated and program awards will be determined based on the following criteria:
- (1) An administrative review to evaluate whether the Application is complete, complies with Request for Application Requirements, and whether data provided in the Application are accurate;
- (2) The County Plan, as defined in section 2698.74;
- (3) The Commissioner's goals as set forth in the Request for Application; and
- (4) Past performance as described in section 2698.77(d); and

In addition, Fraud Division will consider past compliance or performance issues, and steps taken to address or remediate such issues.

- (b) Priority shall be given to those grant ~~a~~Applications which, in the determination of the Commissioner, have the potential to have the greatest impact on organized automobile insurance fraud activity.

Note: Authority cited: Sections 1874.8 ~~and 1874.81~~, Insurance Code. Reference: Sections 1872.8(b)(1), 1874.8(b) ~~and (c) and 1874.81(a)~~, Insurance Code.

Amend: Section 2698.77. Grant Reporting and Audit.

- (a) Each ~~grantee~~Grantee shall submit annual reports to the Commissioner covering the preceding funding cycle. The reports shall consist of:
- (1) An expenditure report, which shall include:
 - (A) All operation costs.
 - (B) Personnel: salaries and benefits.
 - (C) Explanation of any material variances from the proposed budget and ~~strategic plan~~County Plan submitted with the grant ~~a~~Application.
 - (2) A financial audit report prepared by an independent, qualified state or local government auditor or independent public accountant licensed by the State of California or the county auditor controller. ~~The audit report shall certify that local expenditures were in conformance with the purposes of the program as specified in Section 1874.8 of the Insurance Code, these regulations, and the application for grant funding as approved by the grant award agreement.~~
 - (A) The auditor shall use county policies and procedures as the standard for verifying appropriateness of personnel and support costs.
 - (B) In the event that the program audit is included as part of an organization-wide audit, revenues and expenditures for the local program must be shown separately.
 - (3) A program report which shall identify and discuss the following items as they relate to the program:
 - (A) The number of investigations initiated and/or coordinated with the Fraud Division, California Highway Patrol and other law enforcement agencies.
 - (B) The number of arrests.
 - (C) The number of prosecutions.
 - (D) The number of convictions.

- (E) The charged fraud and dollar savings realized as a result of reported prosecutions.
 - (F) The goals and objectives achieved by the ~~grantees~~ Grantees as set forth in the ~~strategic plan~~ County Plan including an explanation of any goal not achieved as identified in the ~~strategic plan~~ County Plan.
 - (G) A summary of the other activities directed toward the reduction of organized automobile insurance fraud activity in coordination with all interested insurers and other participating agencies.
- (b) The annual reports shall be submitted to the Commissioner no later than two (2) months after the close of the grant funding cycle as specified in the ~~a~~ Application. A county may request, in writing, a single limited extension to a date certain for submission of the annual reports, in the event an organization-wide audit would delay submission of the required report(s).
- (c) There shall be a grant liquidation period of ~~sixty (60)~~ ninety (90) days following the termination of the grant period during which costs incurred but not paid may be paid and deducted from the program budget.
- (d) The Division will review the performance of local programs. A downward trend in statistics included in the Program Report as set forth in subsection 2698.77(a)(3), and as otherwise reported to the Division, will result in the Division issuing a warning letter which requires: 1) a corrective action plan to be submitted to the Division within 45 days, and 2) a mid-year progress report. Failure to provide and/or implement a corrective action plan could result in decreased funding amounts or elimination from the program. Warning letters may be issued at the discretion of the Division for other reasons as well.
- (~~d~~e) Except as provided in this section, ~~financial~~ audits under this program shall be performed in accordance with the standards set forth in the 2024 Revision of the Government Accounting Auditing Standards Revised (July 1999) published by the Comptroller General of the United States, General Accounting Government Accountability Office. The above General Government Auditing Accounting Standards Revised (1999) are incorporated herein by this reference.
- (~~e~~f) The Commissioner shall perform the following audits and reviews:
- (1) ~~Fiscal a~~ Audit of each ~~grant~~ Grantee program at least once every ~~three~~ two years.
 - (2) An annual review of the ~~grantee~~ Grantee performance under the program.
 - (3) Any additional audits or reviews of a ~~grantee's~~ Grantee's program as are necessary for the effective and efficient administration of the program.

(fg) The ~~grantee~~Grantee shall cooperate with the Commissioner in the performance of the audits and reviews. The ~~grantee~~Grantee shall provide access to all documents related to the program and fiscal operation of the grant program as deemed necessary by the Commissioner. Refusal to cooperate with the Commissioner under this subsection may constitute good cause for redistribution of the grant funding.

(h) Funds spent in a manner inconsistent with the requirements of these regulations or the Grant Agreement must be returned in accordance with any request of the Department.

NOTE: Authority cited: Section 1874.8, Insurance Code. Reference: Section 1874.8, Insurance Code.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code. Reference: Sections 1872.8(b)(1), 1874.8(b) and (d) and 1874.81, Insurance Code.

California Code of Regulations

Title 10. Investment

Chapter 5. Insurance Commissioner

Subchapter 9. Insurance Fraud

Article 8. Disability Insurance Fraud Assessment Grant Program

Amend: Section 2698.95.11. Determination and Criteria for Award of Grants.

- (a) Pursuant to Insurance Code section 1872.85(b) and (c), the Commissioner shall distribute funds under this program to district attorneys who are able to show a likely positive outcome that will enhance the prosecution of disability insurance fraud in their jurisdiction. In order to obtain funds under this program, a district attorney must submit an ~~a~~Application pursuant to Insurance Code section 1872.85(b).
- (b) In determining to award a grant under this program, the Commissioner shall consider the information provided in an ~~a~~Application and may consider the recommendations and advice of the Fraud Division.
- (c) Priority shall be given to those grant ~~a~~Applications which, in the determination of the Commissioner, have the potential to have the greatest impact on disability insurance fraud activity.

NOTE: Authority cited: Section 1872.85, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.85, Insurance Code.

Amend: Section 2698.95.12. Definitions.

For the purposes of these regulations:

- (a) “Application” means the written document submitted to the Commissioner by which a local district attorney requests program funding, including a plan setting forth the district

attorney's intended use of funds to enhance investigation and prosecution of disability insurance fraud.

- (b) "Assessment" means the surcharge collected from insurers and self-insured employers to support the program to enhance investigation and prosecution of disability insurance fraud.
- (c) "Case" means the file set up by the ~~California Department of Insurance~~ Fraud Division ~~(formerly, the Bureau of Fraudulent Claims)~~, and/or the Investigation Division, and/or the district attorney in the course of and for the purpose of investigation, development of evidence and prosecution of individual or consolidated activities of suspected disability insurance fraud.
- (d) "Claim" means the request for payment of disability benefits which has been submitted to an insurer.
- (e) "Commissioner" means the Insurance Commissioner of the state of California.
- (f) "County Plan" means the plan submitted to the Commissioner as part of the application process by the local district attorney which details the projected use of the funds sought pursuant to these regulations.
- (g) "Department" means the California Department of Insurance.
- (h) "District Attorney" means the prosecuting officer of a California county jurisdictional district.
- (i) "Fraud Division" ~~or "Division"~~ means the California Department of Insurance Fraud Division, ~~formerly known as the Bureau of Fraudulent Claims. The former Bureau was designated a Division subsequent to the original enactment of section 1872.85 of the Insurance Code.~~
- (j) "Funding cycle" means a period of one fiscal year.
- (k) "Grantee" means a grant-funded applicant.
- (l) "Incidental Expenses", as used in Insurance Code section 1872.85(a), means those costs incurred by the ~~California Department of Insurance~~ to administer the program and may include reasonable costs for collection of assessments, administrative support of the Fraud Division program component, and management of the distribution and oversight of monies allocated to the district attorneys.
- (m) "Insurer" shall have the same meaning as used in Insurance Code section 23.
- (n) "Investigation Division" means the California Department of Insurance Investigation Division.

- (o) “Local Program Funding” means that portion of the funds collected and distributed to district attorneys pursuant to section 1872.85 of the Insurance Code.
- (mp) “Program” means those activities conducted by the Department, or any other agency, which are directed toward the enhanced investigation and prosecution of disability insurance fraud and which require funding or administration through assessments and the distribution of funds to the Fraud Division and to district attorneys.
- ~~(n) “Insurer” shall have the same meaning as used in Insurance Code section 23.~~
- (q) “Prosecution,” for purposes of allowable use of grant program funds, means instituting and conducting a criminal action against an offender through final judgment and sentencing, and may include associated proceedings related to diversion, deferred adjudication, and restitution, but does not include post-sentencing proceedings such as appeals.
- (er) “Regulations” means these regulations, California Code of Regulations Title 10, Chapter 5, Subchapter 9, Article 8.
- (ps) “Suspected Fraudulent Claim” means a claim which has been referred to the Fraud Division because the insurer reasonably believes that the claim involves a person who has committed a fraudulent act related to disability insurance.

NOTE: Authority cited: Section 1872.85, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.85, Insurance Code.

Amend: Section 2698.96. Application Procedure and Contents.

- (a) A Request for Application (RFA) shall be distributed annually to each county district attorney in the state. The RFA shall specify a deadline for submission of Applications to the Commissioner, which shall be at least 30 days after distribution of the RFA.~~The Commissioner shall designate a date for the submission of an application requesting grant funding under this program. Notice of the date for submission shall be mailed to each district attorney at least 30 days before the date set for submission of an application.~~ Applications received after the date and time set for submission will not be considered for funding.
- (b) An ~~a~~Application shall include:
- (1) a “county plan” as more specifically described in section 2698.97.1.
 - (2) a “budget proposal” as more specifically described in section 2698.98.
 - (3) a list of program contacts for the applicant that shall include the name, position, business address, telephone, email address and fax number for each individual.

- (c) In addition to an ~~a~~Application, each applicant shall submit as a separate document a memorandum of understanding, which sets forth the commitments of the ~~g~~Grantee and the Fraud Division under the program.
- (d) A joint ~~a~~Application addressing a multi-county area may be submitted. Joint ~~a~~Applications and accompanying documents as provided in subsection (a) shall, in addition to the items specified in subsection (b) of this section, address the use of funds by and between each participating county and designate a lead county for the purpose of receipt and distribution of the grant funding and to serve as the responsible entity for the administration of the grant.

NOTE: Authority cited: Section 1872.85, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.85, Insurance Code.

Amend: Section 2698.97. Funding Procedure.

- (a) Funding of a grant shall be in the form of a grant award agreement. Each applicant whose ~~a~~Application has been approved for grant funding shall submit an enabling resolution by the county Board of Supervisors approving and authorizing execution of a grant award agreement.
- (b) Funding shall be distributed at least once per calendar year based upon the collection of assessments, and funding shall be contingent upon the adoption of each annual State Budget Act. ~~Distribution of grant award funds shall be on a quarterly basis. Funding and dates of distribution shall be contingent upon the adoption of an annual State Budget Act and the collection of assessments.~~ The duration of a grant, otherwise known as a funding cycle, shall be one fiscal year.
- (c) ~~Within 60 days after the end of each funding cycle, a grantee shall provide the Department with an estimate of any unexpended and/or unencumbered funds. Any portion of distributed funds not used by a Grantee program at the termination of each annual Funding cycle shall be returned to the Insurance Fund to be reprogrammed for use in subsequent program years for Local Program Funding. Following submission of the annual report set forth in section 2698.98.1, Grantees shall remit payment of unused funds in accordance with an invoice issued by the Department. A grantee who has undertaken investigations and prosecutions which will carry over into a subsequent funding cycle may carry over into the subsequent funding cycle distributed but unused funds not exceeding twenty five percent (25%) of the total funding award, provided that the grantee files a written plan, at the end of the funding cycle, which specifies and justifies to the Commissioner how those funds will be used. In the event that, due to extenuating circumstances, distributed funds exceeding twenty five percent (25%) of the previous total funding award are unused, the Commissioner may consider and approve requests for carry over of the unused funds to the extent that the grantee provides justification.~~

NOTE: Authority cited: Section 1872.85, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.85, Insurance Code.

Amend: Section 2698.97.1. Criteria for Allocation of Funds to the District Attorney Grantee and County Plan.

In order to be considered for funding, a local district attorney must submit a county plan outlining the projected and prior use of funds for the purposes of the program. Available funds shall be distributed among these district attorneys who have submitted a plan in compliance with California Insurance Code section 1872.85 and these regulations.

- (a) Applications will be evaluated and program awards will be determined based on the following criteria:
- (1) An administrative review to evaluate whether the Application is complete, complies with Request for Application Requirements, and whether data provided in the Application are accurate;
 - (2) The County Plan, as defined in this Section;
 - (3) The Commissioner's goals as set forth in the Request for Application; and
 - (4) Past performance as described in section 2698.98.1(g).

In addition, Fraud Division will consider past compliance or performance issues, and steps taken to address or remediate such issues.

- (b) County Plan. The County Plan shall include but need not be limited to the following elements detailing the county's qualifications and the manner in which the district attorney will use the funds to investigate and prosecute disability insurance fraud:
- ~~(a)~~(1) Problem Statement: A description of the disability insurance fraud problem in the county, including how it arose, why it is important, its unique aspects, if any, and what is needed to resolve the problem, including supporting data, evidence, or indicators of fraudulent activity related to disability insurance.
 - ~~(b)~~(2) Supporting data may include the following items:
 - ~~(1)~~(A) A narrative description of the disability insurance fraud activity in the county, including any supporting data, evidence or indicators of fraudulent related activity.
 - ~~(2)~~(B) A description of the general criminal activity, based upon the most recent California Crime Index Annual Report by the California Attorney General.

~~(3)~~(C) Population density, based upon the most recent report compiled by the California Department of Finance, Demographic Research Unit.

~~(4)~~(D) Disability insurance claims frequency.

~~(5)~~ — Number of disability fraud suspected fraudulent claims reported to the Division during a 36-month period immediately preceding the submission of the application.

~~(6)~~(E) Evidence of prior and current disability insurance fraud activity.

~~(e)~~(3) Qualifications: A description of the applicant's experience in investigating disability insurance fraud including:

~~(1)~~(A) The total amount expended to support the district attorney's investigation and prosecution of disability insurance fraud, including the details of the following items:

~~(A)~~1. Personnel costs including salaries and benefits.

~~(B)~~2. Operations expenses, including space, equipment, travel and other expenses in support of the program.

~~(2)~~(B) For applications submitted after fiscal year 2005-2006, ~~t~~The following factors shall be included in the County Plan:

~~(A)~~1. The total amount of funds received from the Disability Insurance Fraud Program by the local district attorney in previous years and a copy of the most recent annual report.

~~(B)~~2. The results obtained through implementation of the program, including:

~~1-i.~~ The number of investigations initiated or coordinated with other law enforcement agencies.

~~2-ii.~~ The number of arrests or convictions.

~~3-iii.~~ The number of indictments or complaints.

~~4-iv.~~ A comparison of the amounts originally claimed in cases determined to be fraudulent compared to payments actually made.

~~(4)~~(4) Program Strategy:

~~(1)~~(A) Outreach. A description of the manner in which the district attorney will educate the public on the nature and consequences of insurance fraud; the training and sharing of best practices with industry stakeholders and allied law enforcement agencies; and how the district attorney will develop the district attorney's caseload, including the source(s) for referrals for of cases for investigation and/or prosecution, ~~whether directly from the Fraud Division or from other law enforcement agencies and/or insurers.~~

~~(2)~~(B) Personnel. Justification for the number of personnel, position titles and position justification for personnel which will be funded fully or in part through grant funds, including descriptions of the qualifications of personnel to be assigned to the program and an organization chart identifying positions to be funded.

~~(3)~~(C) Program Coordination. A description of the manner in which the district attorney plans to coordinate involved sectors, including insurers, medical and legal provider communities, the Fraud Division, and local law enforcement agencies.

~~(4)~~(D) Management Plan. A detailed plan and schedule of the steps the district attorney will complete in achieving the objectives of the program and a discussion of how the program staff will be organized and what internal quality control and budget monitoring procedures will be employed. This part shall also include how this program will be integrated with any other anti-fraud program(s) maintained within the district attorney's office.

~~(5)~~(E) Staff Development. The plan for ongoing training of personnel on the investigation and prosecution of disability insurance fraud. Staff development may be addressed through coordination with the Fraud Division, insurers, or other entities.

~~(6)~~ Objectives. This section shall outline the district attorney's anticipated achievements in the following areas:

~~(A) — Estimated number of investigations to be initiated during the funding cycle, including separate estimate of the number resulting from carryover investigations; and~~

~~(B) — Estimated number of prosecutions to be initiated during the funding cycle.~~

NOTE: Authority cited: Section 1872.85, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.85, Insurance Code.

Amend: Section 2698.98. Budget Proposal.

The proposed budget forms the basis for program management and audit and must be presented in line-item detail and cover a one-year program period from July through June of each fiscal year. Annual budget levels shall be included in the Request for Application (RFA). The budget may include a line item for an independent audit to be completed at the end of each annual program period or as specified in the RFA. The district attorney's budget shall include the following:

- (a) Salaries and benefits computed at the county salary and benefit schedule. A current copy of the pertinent schedule shall be submitted with the proposed budget.
- (b) Operation support costs.
 - (1) Estimated costs shall be listed by line item.
 - (2) Itemized costs shall conform to county policy regarding appropriateness of expenses.
 - (3) Allowable costs are those costs incurred in direct support of local program activities, including program related travel, equipment costs proportional to program-related use of the equipment, facilities cost, expert witness fees and audits.
- (c) Indirect costs are those not capable of being assigned to a particular project or program, but necessary to the operation of the organization and the performance of the program. The costs of operating and maintaining facilities, accounting services, and administrative salaries are examples of indirect costs. Indirect costs shall not exceed 10 percent of personnel salaries (excluding benefits and overtime) or 5 percent of total direct program costs (excluding equipment).
- (d) Non-allowable budget items include:
 - (1) Real property purchases and improvements.
 - (2) Aircraft or motor vehicles, except the purchase of motor vehicles ~~which is specifically requested and justified to, and approved in advance by, the Department.~~
 - (3) Interest payments.
 - (4) Food and beverages, except as purchased in connection with program-related travel. Food and beverages costs shall not exceed the applicant's per diem schedule.
 - (5) Weapons or ammunition unless included as part of a benefit package.

- (6) Reserve funds for future purchases.
 - (7) Promotional goods or items for giveaways.
 - (8) Lump sum leave salary paid at retirement or county leave buy-back salary costs.
 - (9) Costs, time or resources committed to investigation or litigation of civil qui tams, prior to a determination by the district attorney to institute a criminal investigation or Prosecution arising from the factual allegations of a civil qui tam action.
 - (10) Legislative efforts.
- (e) Program funds must be used to support enhanced investigation and prosecution of disability insurance fraud and cannot be used to supplant funds which in the absence of program funds would be made available for any portion of the local disability insurance program.
 - (f) Budget modifications are allowable ~~soas~~ long as they do not change the grant award amount. Budget modifications must be pre-approved in writing by the Department.
 - (g) The annual and proposed use of these funds are subject to full public disclosure.

NOTE: Authority cited: Section 1872.85, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.85, Insurance Code.

A SEMIMONTHLY PUBLICATION FOR THE WORKERS' COMP EXECUTIVE
Amend: Section 2698.98.1. District Attorney Reporting and Commissioner's Audit.

Each district attorney receiving funds pursuant to Insurance Code section 1872.85 shall submit an annual report to the Commissioner regarding the local program and its accomplishments. Failure to submit the annual report shall affect subsequent funding decisions. The report shall include the following items:

- (a) An Expenditure Report, which shall include information for the following:
 - (1) Personnel: salaries and benefits.
 - (2) Operations costs breakdown.
 - (3) Explanation of any significant variances from the county's ~~a~~Application as approved.
- (b) A financial Audit Report prepared by an independent, qualified state or local government auditor or independent public accountant licensed by the State of California or the county Auditor Controller. ~~The Audit Report shall reflect that local expenditures were made for~~

~~the purposes of the program as specified in section 1872.85 of the Insurance Code, these Regulations, the guidelines in the Request for Application and the county's application.~~

- (1) The auditor shall use county policies and procedures as the standard for verifying appropriateness of personnel and support costs.
 - (2) In the event that the program audit is included as part of an organization-wide audit, revenues and expenditures for the local program must be shown separately.
- (c) Except as provided in this section, ~~financial~~ audits under this program shall be performed in accordance with the standards set forth in the 2024 Revision of the Government Auditing Standards (Revised June 2003) published by the Comptroller General of the United States, ~~General Accounting~~ Government Accountability Office. The above Government Auditing Standards (~~Revised June 2003~~) are incorporated herein by this reference.
- (d) A Program Report which shall include the following:
- (1) The number of investigations initiated related to disability insurance fraud.
 - (2) The number of arrests related to disability insurance fraud.
 - (3) The number of prosecutions related to disability insurance fraud.
 - (4) The number of convictions related to disability insurance fraud.
 - (5) The dollar savings realized as a result of disability insurance fraud case prosecutions.
 - (6) A summary of the activity directed toward the reduction of disability insurance fraud with the following:
 - (A) Fraud Division.
 - (B) Insurance companies.
- (e) The deadlines for submissions are as follows:
- (1) Expenditure Reports and Audit Reports must be submitted to the Commissioner no later than four (4) months after the close of the funding cycle as specified in the Request for Application. A county may request an extension in the event an organization-wide audit will delay submission of the audit.
 - (2) Program Reports must be submitted to the Commissioner no later than two (2) months after the close of the funding cycle as specified in the Request for Application.

- (f) There shall be a grant liquidation period of ninety (90) days following the termination of the funding cycle during which costs incurred but not paid may be paid and deducted from the program budget.
- (g) The Division will review the performance of local programs. A downward trend in statistics included in the Program Report as set forth in subsection 2698.98.1(d), and as otherwise reported to the Division, will result in the Division issuing a warning letter which requires: 1) a corrective action plan to be submitted to the Division within 45 days, and 2) a mid-year progress report. Failure to provide and/or implement a corrective action plan could result in decreased funding amounts or elimination from the program. Warning letters may be issued at the discretion of the Division for other reasons as well.
- ~~(g) The Commissioner may perform such additional audits or reviews of any local programs as the Commissioner may deem necessary and shall have access to all working papers, correspondence, or other documents, including audit reports and audit working papers related to the audit report or local program.~~
- ~~(h) Notwithstanding any other provision of the law, the Commissioner shall perform a fiscal audit of the program administered under this section once every three years.~~
- (h) The Commissioner shall perform the following audits and reviews:
- (1) Audit of each Grantee program at least once every two years.
- (2) Any additional audits or reviews of a Grantee program as are necessary for the effective and efficient administration of the program.
- (i) The Grantee shall cooperate with the Commissioner in the performance of the audits and reviews. The Grantee shall provide access to all documents related to the program and fiscal operation of the Grantee program as deemed necessary by the Commissioner. Refusal to cooperate with the Commissioner under this subsection may constitute good cause for redistribution of the grant funding.

NOTE: Authority cited: Section 1872.85, Insurance Code; *CalFarm Insurance Company, et al. v. Deukmejian, et al.* (1989) 48 Cal.3d 805, 824. Reference: Section 1872.85, Insurance Code.