



SACRAMENTO COUNTY DISTRICT ATTORNEY'S OFFICE

Final Audit Report Workers' Compensation

October 3, 2023

California Department of Insurance
Fraud Grant Audit Unit

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Audit 2023-34

Summary

The California Department of Insurance (CDI), Enforcement Branch, Fraud Grant Audit Unit (FGAU), conducted an audit of the Sacramento County District Attorney's Office (District Attorney's Office) Insurance Fraud Grant Programs. This audit report presents the results of the Workers' Compensation Insurance Fraud Grant Program for the fiscal years ending June 30, 2019, 2020, and 2021.

We performed the audit under authority provided by the statutes and regulations indicated in the table below:

Program	California Insurance Code	California Code of Regulations, Title 10
Workers' Compensation	N/A	2698.59(f)

The field audit was conducted from December 12, 2022 through December 16, 2022 in Sacramento, California. An exit conference was held on December 16, 2023.

We reviewed the District Attorney's Office records and identified the following:

Finding:

Pension Obligation Bond Payments were included in the Benefits Calculation for FY 2019/20, 20/21, and 21/22

Observation:

Time Tracking - The County did not use functional timesheets for employees that billed time to the grants in FY 2019/20 and FY 2020/21

Background

We audited the grant funds for the fiscal years identified in the table below. The "difference" column represents the difference between the grant funds and the audited expenses. Positive differences represent unfunded contributions to the grant. Negative differences represent excess grant funds.

Program	Grant Funds*	Audited Expenses	Difference
Workers' Compensation – 19/20	\$1,167,424	\$1,137,938	(\$29,486)
Workers' Compensation – 20/21	\$1,261,126	\$1,302,308	\$41,181
Workers' Compensation – 21/22	\$1,297,977	\$1,197,799	(\$100,178)
TOTAL	\$6,378,678	\$6,374,882	(\$3,796)

* Grant funds include the grant award for the specified fiscal year and, if applicable, approved carryover funds from prior fiscal years and/or interest earned.

Scope and Methodology

The objective of the audit was to:

- Evaluate and report on the District Attorney's Office administration of the insurance fraud grant program, in accordance with State laws and regulations, the Grant Award Agreement, and the Request for Application guidelines (RFA).

We conducted the audit using these procedures:

- Evaluate current administrative and payment processes.
- Examine personnel records and payment transactions.
- Examine operating expenditure records and payment transactions.
- Evaluate compliance with reporting requirements.

We considered the District Attorney's Office's internal controls only to the extent necessary to plan the audit. The audit scope was limited to planning and performing procedures to obtain reasonable assurance that the District Attorney's Office administered insurance fraud grant in accordance with the applicable laws, regulations, grant award agreements, and the RFA guidelines.

Accordingly, we tested a sample of transactions to determine whether the expenditures charged to the grant were eligible. If we identified ineligible expenditures, the amount is deemed a monetary liability and the County will resolve its monetary liability by contacting the CDI Local Assistance Unit (LAU), who administers these grants.

Disclaimer

This report is written in the exception format, which excludes the positive aspects of the District Attorney's Office's administration of the insurance fraud grant programs.

The absence of stated deficiencies should not be interpreted as full compliance with all relevant laws and regulations, nor should it be assumed to imply acceptance or approval of specific procedures or practices. Nothing about this audit or the content of this report limits or diminishes the District Attorney's Office's obligation to comply with all statutes, regulations, policies, and procedures that govern the programs.

This report is intended solely for use by the CDI and the District Attorney's Office management. This restriction is not intended to limit the distribution of the report, which is a matter of public record.

Findings

Finding #1: Pension Obligation Bond Payments were included in the Benefits Calculation for FY 2019/20, 20/21, and 21/22

Criteria:

California Code of Regulations (CCR) Section 2698.56(d)(3) states:

"Non-allowable budget items include... (3) Interest Payments."

CCR Section 2698.56(b)(3) states:

"Allowable costs are those 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"

CCR Section 2698.56(e) states:

"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"

Condition:

A county's unfunded pension liability – which is more commonly referred to as its unfunded accrued liability ("UAL") is the difference between:

- The retirement system's assets and,
- The value of retirement benefits already accrued (retired and current employees).

The UAL is determined by the retirement systems' actuary as the amount the pension fund is short, without further payments from the county, to pay retirement benefits already earned by current and former employees covered by the pension system. The county is required to pay the UAL over a period established by law, or agreement with the pension system. This liability is recomputed every year and may increase or decrease based on the financial performance of the pension plan and other factors. The UAL is considered debt payable by the county.

POBs are taxable bonds that some counties have issued as part of an overall strategy to fund its UAL by creating debt. As part of the employee benefits charged to the grants, the county included the allocated costs of its POBs. The POB repayment expenditures allocated to these grants follows:

- FY 2019/20 - \$94,419
- FY 2020/21 - \$84,913
- FY 2021/22 - \$87,497

Grant regulations state interest payments are a non-allowable budget item; However, the county was unable to provide CDI a breakdown of its POB repayments showing what portion was interest and what portion was principal. Therefore, we were unable to identify the interest portion of the POB repayment charged to the grant.

Additionally, the principal portion of the UAL may not meet grant allowable cost criteria due to the following:

- This cost could be considered supplanting.
- This cost may not be a cost incurred in direct support of the program.
- Debt service is not listed as an allowable cost category within the program.

The UAL is an annual fixed amount determined by the State of California Public Employees Retirement System (PERS) or a local retirement system. This amount is due and payable annually whether or not the county participates in some, or all of the CDI insurance fraud grant programs. Also, portions of a UAL are not incurred in direct support of the grant as required by CCR Section 2698.56(b)(3) since the UAL amount includes retirees that may pre-date county participation in CDI grant programs, employees who never worked in CDI grant programs, and employees who may have only worked a small portion of their careers in CDI grant programs.

Another grant cost allowability criteria that may be problematic is the "Supplement, not Supplant" (SNS) language contained in CCR Section 2698.56(e). The CDI grant regulations do not define the term SNS further. If SNS definitions from other state and federal grant programs were applicable to this program, these costs would not be allowable as POB Debt Service is a fixed expenditure the county was already required to pay by law or existing agreement. Additionally, if a county ceased participation in the CDI grant programs, the total POB debt service amount would remain the same.

Please refer to the Effect and Recommendation Sections of this Finding for information on how LAU will treat POB expenditures retroactively and going forward.

Cause:

The allocated cost of POB and UAL costs were not addressed in the RFA, grant regulations, or applicable statutes as either an allowable or unallowable employee benefit cost so each county made its own determination on whether to charge POB and/or UAL expenditures as an employee benefit. While POBs and UALs are allowable grant expenditures under generally accepted grant guidelines issued by the Federal Office of Management and Budget applicable for most state and federal grant programs, these federal guidelines are not cited in program regulations as applicable to CDI Insurance Fraud Grants.

Effect:

As a result of the two issues noted above, CDI Grant Administrators have determined that even though ineligible expenditures were identified in this audit, CDI will not require a liability repayment from the District Attorney's Office for ineligible POB interest expenses and potentially ineligible POB principal costs charged to the grants prior to July 1, 2023 (FY 2023/24 Grant Cycle), when District Attorney's Office were notified of the issue.

Recommendation:

Effective with FY 2023/24 Insurance Fraud Grants, bond payments, such as those for pension contributions, were specified as a non-allowable budget item in all of the CDI Insurance Fraud Grant Program Applications. Going forward, the District Attorney's Office should not charge these expenditures to insurance fraud grants as they are ineligible and will result in a monetary liability.

District Attorney's Office Response:

"The County of Sacramento District Attorney's (DA) Office respectfully disagrees with California Department of Insurance (CDI) with this finding. The DA's Office was under the impression that pension obligation bond salary expenses were appropriately claimed under the California Insurance Fraud Programs due to the approval of the budgets....

...For all submitted budgets to CDI, the DA's Office notated "Pension Obligation Bond" under the salaries and benefits expenses section. For all these submitted budgets to CDI, the DA's Office received a letter stating, "The Local Assistance Unit has carefully reviewed and approved the attached modified budget request for [the above-noted Insurance Fraud Programs]." Based on these approvals from CDI, the DA's Office created a journal voucher to move the expenses into the appropriate program funds. The DA's Office would have not claimed pension obligation bond salary expenses without the approval of CDI. If the pension obligation salary expense were not allowable, CDI should have not approved the budget and requested to make changes.

In addition, the DA's Office was audited by DOI in June 2020. The DA's Office presented documentation to DOI that notes the pension obligation bonds salary expense. The outcome of the audit did not note the pension obligation bonds salary expense as a finding. Furthermore, the Insurance Fraud Program Administrative Requirements After Award Manual does not state what type of salary and benefits are allowable or nonallowable. Since CDI approved the budgets presented, the DA's Office should be allowed to claim the pension obligation bonds salary expense for the years that have been reviewed. The DA's Office will not be claiming pension obligation bonds salary expense moving forward."

FGAU's Comment to the District Attorney's Office Response:

The District Attorney's Office response related to not claiming POB salary expense going forward is acceptable as it is consistent with the recommendation contained in this Finding.

Regarding the arguments presented by the DA for the years under audit, CDI Grant Administrators have determined that even though ineligible expenditures were identified in this audit, CDI will not require a liability repayment from the District Attorney's Office for ineligible POB interest expenses and potentially ineligible POB principal costs charged to the grants prior to July 1, 2023 (FY 2023/24 Grant Cycle), when District Attorney's Office were notified of the issue.

Observation

Observation: Time Tracking – The County did not use functional timesheets for employees that billed time to the grants in FY 2019/20 and FY 2020/21

Criteria:

Workers' Compensation Insurance Fraud Program, Request for Application (RFA), FYs 2019/20 and 2020/21, Section III, Subsection A, states in part:

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

Accounting systems include such practices as:

Maintain source documentation to support claimed expenditures (invoices, receipts, travel expense claims, detailed time keeping records that demonstrate time spent on eligible program activities, etc.)”

Condition:

In FY 2019/20 and FY 2020/21, the county timesheets provided to the auditors did not distinguish between grant and non-grant activities and only reported the total time worked by the employee during each workday. This level of detail is insufficient to determine the accuracy of total time charged to the grant, especially for partially funded employees.

No specific requirement existed during FY 2019/20 and FY 2020/21 that required a functional level of timesheet detail. In FY 2021/22, functional timesheet requirements became effective. The counties' FY 2021/22 timesheets were compliant with the new functional timesheet requirements.

Cause:

The County did not begin keeping functional timesheets until FY 2020/21 when updated grant guidelines were issued that defined expected timesheet formats for part-time and full-time grant funded employees.

Recommendation:

The Sacramento County District Attorney's Office should continue its current practice and maintain functional timecards for all employees that work on the Grants.

Conclusion

We have audited the records and related transactions as they pertain to the Workers' Compensation insurance fraud grant program. The administration and maintenance of the records and related transactions are the responsibility of District Attorney's Office.

Our responsibility is to express an opinion on the District Attorney's Office's administration of the insurance grant program and their compliance with applicable laws, regulations, grant award agreements, and the RFA. We believe the audit evidence we obtained is sufficient and appropriate to provide a basis for our opinions.

In our opinion, *except for the finding/observations noted*, in all material respects for the fiscal years ended June 30, 2019, 2020, and 2021, the District Attorney's Office appears to be in compliance with the applicable laws, regulations, grant award agreements, and RFA guidelines for the awarded grant.