

STATE *of* CALIFORNIA
**COMMISSION ON STATE
MANDATES**



**REPORT TO THE LEGISLATURE:
APPROVED MANDATE CLAIMS**

July 1, 2019 – December 31, 2019

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I. INTRODUCTION

Commission on State Mandates

Test Claim Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. To implement article XIII B, section 6, the Legislature created the Commission on State Mandates (Commission) to succeed the State Board of Control in making determinations whether new statutes or executive orders are state-mandated programs.¹ The Commission was established to render sound quasi-judicial decisions and to provide an effective means of resolving disputes over the existence of state-mandated local programs. The Commission provides the sole and exclusive procedure for local agencies and school districts (claimants) to resolve disputes over the existence of state-mandated local programs and costs mandated by the state. The Commission is required to hear and decide claims (test claims) filed by local agencies and school districts that they are entitled to be reimbursed by the state for costs mandated by the state.²

Parameters and Guidelines

Government Code section 17557 provides that if the Commission determines that a statute or executive order imposes a mandate upon local agencies and school districts, the Commission is required to determine the amount to be subvended to local agencies and school districts for reimbursement by adopting parameters and guidelines. In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology (RRM). Once parameters and guidelines are adopted, the Commission is required to adopt a statewide cost estimate of the mandated program (Gov. Code, § 17553).

Alternative Processes

Government Code section 17557.1 and 17557.2 provide an alternate process for determining the amount to be subvended for mandated programs. Under 17557.1, local governments and the Department of Finance may jointly develop reasonable reimbursement methodologies (RRMs) and statewide estimates of costs for mandated programs for approval by the Commission in lieu of parameters and guidelines and statewide cost estimates. Government Code section 17557.2 requires that joint RRMs have broad support and, if approved, they remain in effect for five years unless otherwise specified. Jointly developed RRMs and statewide estimates of costs that are approved by the Commission are included in the Commission's Annual Reports to the Legislature. To date, only one jointly developed RRM has ever been approved and it expired and was not extended by the parties so the Commission adopted parameters and guidelines for that program.

Government Code sections 17572 and 17573 provide another alternative process where the Department of Finance and local agencies, school districts, or statewide associations may jointly request that the Legislature determine that a statute or executive order imposes a state-mandated program, establish a reimbursement methodology, and appropriate funds for reimbursement of costs. This process is intended to bypass the Commission's test claim process, thus providing the Commission with more time to complete the caseload backlog. To date, this process has not been successfully utilized.

¹ Statutes 1984, chapter 1459, Government Code section 17500, et seq.

² Government Code section 17551.

Report to the Legislature

The Commission is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.³ In 2010, SB 894 (Stats. 2010, ch. 699) was enacted to require the Commission to expand its Report to the Legislature to include:

- The status of pending parameters and guidelines that include proposed reimbursement methodologies.
- The status of pending joint proposals between the Department of Finance and local governments to develop reasonable reimbursement methodologies in lieu of parameters and guidelines.
- The status of joint proposals between the Department of Finance and local governments to develop legislatively-determined mandates.
- Any delays in the completion of the above-named caseload.

This report fulfills these requirements.

Legislative Analyst

After the Commission submits its report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether each mandate should be repealed, funded, suspended, or modified.

The Legislature

Upon receipt of the report submitted by the Commission pursuant to Government Code Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.⁴

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodologies, and adopted statewide estimates of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodologies, or adopted statewide estimates of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.⁵

Mandate Funding Provisions

If the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.⁶ Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred

³ Government Code section 17600.

⁴ Government Code section 17612(a).

⁵ Government Code section 17612(b).

⁶ Government Code section 17612(c).

prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller’s Office (Controller) shall include accrued interest at the Pooled Money Investment Account rate.⁷

If the amount the Legislature appropriates is insufficient to pay all of the reimbursement claims filed and approved for reimbursement, the Controller will prorate the claims.⁸ If the funds to cover the remaining deficiency are not appropriated in the Budget Act, the Controller shall report this information to the legislative budget committees and the Commission.

II. NEW MANDATES

The following table shows the statewide cost estimates that were adopted during the period of July 1, 2019 through December 31, 2019.

**Statewide Cost Estimates (SCE) Adopted
During the Period of July 1, 2019 through December 31, 2019**

<i>Adoption Date, Claim Name and Number, and Initial Claiming Period</i>			<i>Estimated Costs for Initial Claiming Period</i>			<i>Estimated Future Annual Costs</i>
Date	Test Claim Name and Number	Initial Claiming Period	Education (K-14)	Local Agency	Totals	Estimated Totals
7/26/19	<i>Local Agency Employee Organizations: Impasse Procedures II, 16-TC-04</i>	Fiscal years 2015-2016, 2016-2017, and 2017- 2018	-	\$1,006,755	\$1,006,755	\$335,731- \$1,794,652
11/22/19	<i>U Visa 918 Form, Victims of Crime: Nonimmigrant Status, 17-TC- 01</i>	Fiscal years 2016-2017 and 2017- 2018	-	\$2,350,485 - \$3,335,253	\$2,350,485 - \$3,335,253	\$605,302- \$1,332,717
TOTAL			-	\$3,357,240 - \$4,342,008	\$3,357,240 - \$4,342,008	

⁷ Government Code section 17561.5(a).

⁸ Government Code section 17567.

III. PENDING PARAMETERS AND GUIDELINES, REQUESTS TO AMEND PARAMETERS AND GUIDELINES, AND STATEWIDE COST ESTIMATE CASELOAD

Following are tables showing parameters and guidelines, requests to amend parameters and guidelines, and statewide cost estimates that are pending Commission determination. A request to include an RRM in parameters and guidelines or amendments thereto is a request made by a local entity claimant, an interested party, Finance, the Controller, or an affected state agency, pursuant to Government Code section 17557 and 17518.5 – which is distinct from the jointly proposed RRM, discussed above under “Alternative Processes.” These requests are often disputed by one or more of the parties and interested parties. There are no pending RRMs.

A. Pending Parameters and Guidelines

	Program	Status
1.	<i>Discharge of Stormwater Runoff, 07-TC-09*</i>	Inactive pending court action.

* Local agency programs

† School district or community college district programs

B. Pending Requests to Amend Parameters and Guidelines

	Program	Status
1.	<i>Graduation Requirements, 11-PGA-03 (CSM-4435)†</i>	Inactive pending court action.

* Local agency programs

† School district or community college district programs

C. Pending Statewide Cost Estimates

	Program	Status
1.	<i>Municipal Storm Water and Urban Runoff Discharges, 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21*</i>	Inactive pending court action.
2.	<i>Peace Officer Training: Mental Health/Crisis Intervention, 17-TC-06*</i>	Estimated date that claims data will be received from the Controller: May 22, 2020. Tentatively scheduled for hearing on 7/24/20
3.	<i>Public School Restrooms: Feminine Hygiene Products, 18-TC-01†</i>	Estimated date that claims data will be received from the Controller: June 24, 2020. Tentatively scheduled for hearing on 9/25/20

* Local agency programs

† School district or community college district programs

IV. THERE ARE NO PENDING JOINT REASONABLE REIMBURSEMENT METHODOLOGIES OR LEGISLATIVELY-DETERMINED MANDATES AND HENCE, NO DELAYS IN THE PROCESS

There are no currently pending joint reasonable reimbursement methodologies or legislatively determined mandates.

Government Code section 17600 requires the Commission to report any delays in the process for joint RRMs or LDMs being developed by Department of Finance and local entities and for

RRMs proposed by any party pursuant to Government Code section 17518.5. There are currently no pending joint RRM, LDM or RRM proposed by any party. Therefore, there are no delays in these processes.

With regard to RRM included in parameters and guidelines amendments pursuant to Government Code sections 17557 and 17518.5, there are currently no pending parameters and guidelines or amendments thereto containing RRM.

There are currently 41 pending test claims, 39 of which are regarding National Pollutant Discharge Elimination System (NPDES) permits for municipal stormwater systems. In 2010, the then pending 14 NPDES claims were placed on inactive status pending court action. However, all pending test claims are active since the California Supreme Court issued its decision on August 29, 2016 in *Department of Finance v. Commission on State Mandates* (County of Los Angeles) on the issue of whether the NPDES permits issued in those cases by the regional water quality control boards imposed state or federal mandates. However, there is significant litigation still pending on several issues relevant to the determination of the pending NPDES claims which are now tentatively set for hearing through March 2023. As a result, there is once again a test claim backlog. The stormwater permit claims will take substantially longer to prepare for hearing than test claims generally do, because of the large, complex, and detailed records and mixed issues of fact and law that must be analyzed and due to the potential impact of currently pending litigation on several of the legal issues to be determined. These claims have records of up to 200,000 pages and growing.

Because statewide cost estimates (which must be preceded by test claim and parameters and guidelines decisions) have a statutory deadline of 12-18 months from the filing of the test claim for completion, they, along with test claims and parameters and guidelines, will generally be prepared for hearing prior to other matters, including RRM in parameters and guidelines amendments. Thus, to promptly hear and decide matters without a statutory deadline, such as parameters and guidelines amendment proposals, mandate redetermination requests, and incorrect reduction claims, it is necessary that the Commission operate without a backlog of test claims, parameters and guidelines, or statewide cost estimates.

V. ADOPTED STATEWIDE COST ESTIMATES

Local Agency Employee Organizations: Impasse Procedures II, 16-TC-04

Adopted: July 26, 2019

STATEWIDE COST ESTIMATE

\$1,006,755 (for initial claiming period of 2015-2016 through 2017-2018)

(Estimated Annual Cost for Fiscal Year 2018-2019 and following ranges from \$335,731 to \$1,794,652 plus the implicit price deflator)

Government Code Sections 3505.4(a-d) and 3505.5(a-d)

Statutes 2012, Chapter 314 (AB 1606)

Local Agency Employee Organizations: Impasse Procedures II

16-TC-04

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate on consent during a regularly scheduled hearing on July 26, 2019 as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Keely Bosler, Director of the Department of Finance, Chairperson	Yes
Mark Hariri, Representative of the State Treasurer	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Sarah Olsen, Public Member	Yes
Carmen Ramirez, City Council Member	Yes
Jacqueline Wong-Hernandez, Representative of the State Controller, Vice Chairperson	Yes

STAFF ANALYSIS

Background and Summary of the Mandate

The City of Oxnard (claimant) filed the Test Claim on May 12, 2017, establishing a potential period of reimbursement beginning July 1, 2015. The Test Claim statute⁹ amended the Meyers-Milias-Brown Act (MMBA) to add a factfinding procedure after a local agency and an employee organization reach an impasse in their collective bargaining negotiations.

In the Test Claim filing, the claimant included the following cost information:

The City of Oxnard contends that the actual increased costs to comply with this new mandate is \$373, 836.57 in total. For fiscal year 2015-2016, its total costs were \$327, 302.63 when the City had to enter mediation as required by these statutes for two separate impasse cases. The City first incurred increased costs as a result of this statute on May 12, 2016...Estimated annual costs to be incurred by the City of Oxnard to implement the alleged mandate during the fiscal year 2016-2017 is \$46,533.94 – the fiscal year immediately following the fiscal year for which the claim was filed.¹⁰

The claimant also provided a statewide cost estimate (as required by Government Code 17553) of \$3.8 million, based on the claimant’s per-case cost and an estimated annual statewide case count of 100.¹¹

On May 25, 2018, the Commission adopted the Test Claim Decision, finding that the test claim statute imposes a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, as specified.¹²

⁹ Though the claimant plead two statutes, the Commission found that it only had jurisdiction over one: Statutes 2012, Chapter 314 (AB 1606). The claimant did not plead the Public Employment Relations Board’s regulations implementing Statutes 2011, chapter 680, which were effective January 1, 2012.

¹⁰ Exhibit A, Test Claim, page 10-11.

¹¹ Exhibit A, Test Claim, page 11-12.

¹² Exhibit B, Test Claim Decision.

The Decision and Parameters and Guidelines were adopted on September 28, 2018.¹³

The State Controller's Office (Controller) issued claiming instructions on December 27, 2018.¹⁴ Eligible claimants were required to file initial reimbursement claims with the Controller for costs incurred for fiscal years 2015-2016, 2016-2017, and 2017-2018 by April 26, 2019.¹⁵ Late initial claims may be filed until April 26, 2020, but will incur a 10 percent late filing penalty of the total amount of the initial claim without limitation, pursuant to Government Code section 17561(d)(3).¹⁶ Thereafter, annual claims are due on the date specified in Government Code section 17560 (currently February 15), and late claims filed within one year of that deadline will incur a late penalty of 10 percent late filing penalty not to exceed \$10,000, pursuant to Government Code section 17568 and claims filed more than one year after that deadline will not be accepted.¹⁷

Eligible Claimants and Period of Reimbursement:

Any city, county, city and county, or special district subject to the taxing restrictions of article XIII A, and the spending limits of article XIII B, of the California Constitution,¹⁸ other than a charter city, charter county, or charter city and county with a charter prescribing binding arbitration in the case of an impasse, pursuant to Government Code section 3505(e), whose costs for this program are paid from proceeds of taxes that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The claimant filed the Test Claim on May 12, 2017, establishing eligibility for reimbursement for increased costs incurred beginning with the 2015-2016 fiscal year. Therefore, increased costs incurred on or after July 1, 2015 are reimbursable.

Reimbursable Activities

The Parameters and Guidelines authorize reimbursement as follows:

¹³ Exhibit C, Decision and Parameters and Guidelines.

¹⁴ Exhibit D, Controller's Claiming Instructions Program No. 371, page 1.

¹⁵ Exhibit D, Controller's Claiming Instructions Program No. 371, page 1.

¹⁶ Government Code Sections 17560 and 17568.

¹⁷ Exhibit D, Controller's Claiming Instructions Program No. 371, pages 1-2.

¹⁸ Government Code section 17518 defines "local agency" to mean "any city, county, special district, authority, or other political subdivision of the state." However, the courts have made it clear that only those local agencies subject to the tax and spend provisions of articles XIII A and XIII B are eligible to claim reimbursement under article XIII B, section 6. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487 ["[R]ead in its textual and historical context section 6 of article XIII B requires subvention only when the costs in question can be recovered solely from tax revenues."]; *Dept. of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763 [quoting *County of San Diego v. State of California, supra*, 15 Cal.4th 68, 81]; *Redevelopment Agency of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281-282 [Redevelopment agencies cannot assert an entitlement to reimbursement under article XIII B, section 6, while enjoying exemption from article XIII B's spending limits.])

For each eligible claimant that incurs increased costs,¹⁹ the following activities are reimbursable:

1. Within five (5) days after receipt of the written request from the employee organization to submit the parties' differences to a factfinding panel, select a member of the factfinding panel, and pay the costs of that member; pay half the costs of the PERB-selected chairperson, or another chairperson mutually agreed upon, including per diem, travel, and subsistence expenses, and; pay half of any other mutually incurred costs for the factfinding process. (Gov. Code §§ 3505.4(a) and (b); 3505.5(b), (c) and (d).)
2. Meet with the factfinding panel within ten (10) days after its appointment. (Gov. Code § 3505.4(c).)
3. Furnish the factfinding panel, upon its request, with all records, papers, and information in their possession relating to any matter under investigation by or in issue before the factfinding panel. (Gov. Code § 3505.4(c-d).)
4. Receive and make publicly available the written advisory findings and recommendations of the factfinding panel if the dispute is not settled within 30 days of appointment of the panel. (Gov. Code § 3505.5(a).)²⁰

Offsetting Revenues and Reimbursements

The Parameters and Guidelines provide the following:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other applicable state funds, shall be identified and deducted from any claim submitted for reimbursement.²¹

Statewide Cost Estimate

Commission staff reviewed the 23 reimbursement claims filed by 18 local agencies and data compiled by the Controller.²² The unaudited reimbursement claims total \$532,224 for fiscal year 2015-2016, \$106,277 for fiscal year 2016-2017, and \$368,254 for fiscal year 2017-2018 totaling \$1,006,755 for the initial reimbursement period.²³

¹⁹ Government Code section 3505.5(e) provides that charter cities, charter counties, and charter cities and counties are exempt from sections 3505.5 and 3505.4 if their charter provides a procedure that applies in the case of an impasse with its employee organizations that includes, at a minimum, a process for binding arbitration, therefore they are not eligible claimants for this program.

²⁰ Exhibit C, Decision and Parameters and Guidelines, pages 9-10.

²¹ Exhibit C, Decision and Parameters and Guidelines, page 12.

²² Claims data reported as of May 15, 2019.

²³ Claims data reported as of May 15, 2019.

Assumptions

Based on the claims data, staff made the following assumptions and used the following methodology to develop the Statewide Cost Estimate for this program.

- *The annual amount claimed for reimbursement may increase and exceed this Statewide Cost Estimate.*

There are approximately 481 cities, 57 counties, and 1 city and county which, except for an unknown number of which that have a charter prescribing binding arbitration in the case of an impasse pursuant to Government Code section 3505(e),²⁴ are eligible to seek reimbursement for this program. In addition there are over 3,000 special districts, an unknown number of which are subject to the taxing restrictions of article XII A, and the spending limits of article XIII B, of the California Constitution,²⁵ and are therefore eligible to seek reimbursement for this program.²⁶ Of those, only 18 local agencies filed a total of only 23 reimbursement claims for the initial reimbursement period: 7 for fiscal year 2015-2016, 7 for fiscal year 2016-2017, and 9 for fiscal year 2017-2018. The 18 local agencies that filed reimbursement claims consist of 11 cities, 6 counties, and one special district. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the Statewide Cost Estimate. Late initial claims may be filed until April 26, 2020.²⁷ There were total of 122 impasses that resulted in approved MMBA factfinding panels during the initial claiming period for an average of 41 impasses per year.²⁸ However, only 23 reimbursement claims were filed for the initial claiming period and therefore, less than 20 percent of such claims that could have been filed were in fact filed. See Table A below:

²⁴ See Exhibit B, Test Claim Decision, pages 1, 25, and 42 and Exhibit C, Decision and Parameters and Guidelines, page 8 (excluding "...a charter city, charter county, or charter city and county with a charter prescribing binding arbitration in the case of an impasse, pursuant to Government Code section 3505(e)..." from subvention for this program).

²⁵ Government Code section 17518 defines "local agency" to mean "any city, county, special district, authority, or other political subdivision of the state." However, the courts have made it clear that only those local agencies subject to the tax and spend provisions of articles XIII A and XIII B are eligible to claim reimbursement under article XIII B, section 6. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *Dept. of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763 [quoting *County of San Diego v. State of California, supra*, 15 Cal.4th 68, 81]; *Redevelopment Agency of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281-282 [Redevelopment agencies cannot assert an entitlement to reimbursement under article XIII B, section 6, while enjoying exemption from article XIII B's spending limits.]

²⁶ Exhibit C, Decision and Parameters and Guidelines ("...other than a charter city, charter county, or charter city and county with a charter prescribing binding arbitration in the case of an impasse, pursuant to Government Code section 3505(e), whose costs for this program are paid from proceeds of taxes that incurs increased costs as a result of this mandate."), page 8.

²⁷ Exhibit D, Controller's Claiming Instructions Program No. 371, pages 1-2.

²⁸ See Exhibit F, PERB 2015-2016 Annual Report; Exhibit F, PERB 2016-2017 Annual Report, Exhibit F, PERB 2017-2018 Annual Report, <https://www.perb.ca.gov/AnnualReports.aspx> (accessed on April 23, 2019).

Table A²⁹

Fiscal Year	Number of Initial Claims Filed	Activity 1 Select a Member and Pay Costs	Activity 2 Meet Within 10 Days	Activity 3 Furnish Records	Activity 4 Receive and Make Findings Publicly Available	Indirect Costs	Total
2015-2016	7	\$91,891	\$241,995	\$145,272	\$22,701	\$30,366	\$532,224
2016-2017	7	\$25,786	\$38,376	\$38,830	\$2,058	\$1,227	\$106,277
2017-2018	9	\$71,402	\$86,765	\$202,106	\$6,146	\$3,765	\$368,254 ³⁰

There may be several reasons that non-claiming local agencies did not file reimbursement claims, including but not limited to: they did not incur costs of more than \$1,000 during a fiscal year; they had relatively low reimbursable costs after identifying offsetting revenues used for this program and determined that it was not cost-effective to participate in the reimbursement claim process.

- *The total amount for this program may be lower than the Statewide Cost Estimate based on the Controller’s audit findings.*

The Controller may conduct audits and reduce any claim it deems to be excessive or unreasonable. Therefore, costs may be lower than the Statewide Cost Estimate based on the audit findings.

- *The future annual costs for this program may increase or decrease proportionately with the growth or reduction in occurrences of impasses that result in factfinding.*

The future annual costs of this program have a direct correlation with the number of occurrences of impasse which result in factfinding. This assumption is based on future occurrences of impasse that result in factfinding, which may increase or decrease.³¹ However, the number of impasses that resulted in MMBA factfinding remained virtually unchanged during fiscal years

²⁹ Claims data reported as of May 15, 2019.

³⁰ According to the claims data reported as of May 15, 2019, this amount reflects offsetting revenue applied to one claim of \$1,930.

³¹ Note that prior to the factfinding process under the MMBA, PERB must review the request and determine whether it meets the requirements to require a factfinding panel: “Within five working days from the date the request is filed, the Board shall notify the parties whether the request satisfies the requirements of this Section. If the request does not satisfy the requirements of subsection (a)(1) or (2), above, no further action shall be taken by the Board. If the request is determined to be sufficient, the Board shall request that each party provide notification of the name and contact information of its panel member within five working days.” (Cal. Code. Regs., tit. 8 § 32802(c).)

2015-2016 through 2017-2018, with an average of about 41 factfinding panels being approved annually.³²

- *The future annual costs for this program may increase or decrease proportionately depending on the salaries and benefits of the selected member of the factfinding panel and the PERB-selected or mutually agreed upon chairperson, the per diem, travel, and subsistence expenses, and any other mutually incurred costs for the factfinding process (activity 1); the duration of the MMBA factfinding panel proceedings (activity 2); and with the amount of materials and supplies required to furnish the MMBA factfinding panel with all records, papers, and information in their possession relating to any matter under investigation by or in issue before the factfinding panel (activity 3).*

Occurrences of impasse that result in factfinding have remained virtually unchanged during fiscal years 2015-2016 through 2017-2018, with an average of about 41 factfinding panels being approved annually. Therefore, though an increase or decrease in the number of impasses that result in MMBA factfinding would affect future costs, future annual costs are more likely to fluctuate based on: (1) an increase or decrease in the salaries and benefits of employees performing the reimbursable activities and the cost of expenses incurred by the panel member selected and the PERB-selected or mutually-agreed chairperson and any other mutually incurred costs for the factfinding process; (2) the duration of participation in the MMBA factfinding panel; and (3) in the cost of materials and supplies.

In fact, only three of the seven local agencies that filed claims for FY 2015-2016, one of the seven for FY 2016-2017, and three of the nine for FY 2017-2018 actually claimed for activities 1, 2, 3, and 4 for that year and approximately half claimed indirect costs for all three fiscal years. The lowest claim was filed by the City of Livermore, with \$1,233 in total costs claimed for FY 2017-2018, for only activity 1 with no costs claimed for activities 2, 3, or 4 and no indirect costs. On the other hand, the highest claim was filed by the test claimant, the City of Oxnard, for FY 2015-2016 with costs of \$257,670 in total, \$70,962 for activity 1, \$105,406 for activity 2, \$66,338 for activity 3, and \$14,176 for activity 4, plus \$788 in indirect costs to perform those activities.³³

This variability in claiming and in costs per activity and per impasse demonstrates several things. First, the data being relied upon for this estimate is limited since less than 20 percent of the number of instances of MMBA factfinding approved by PERB annually actually resulted in a reimbursement claim being filed for the initial claiming period, and therefore assumptions about future costs may prove to be incorrect in the future. Second, costs may vary per local agency and per impasse for a variety of reasons including the number of approved requests for MMBA factfinding the agency experiences, the level of employee selected to perform the mandated activities, whether the agency files reimbursement claims for costs for one or more of the reimbursable activities. Finally, it is not clear how many instances of impasse are represented by the number of reimbursement claims filed, since an impasse proceeding could span multiple fiscal years and an agency could have multiple impasse proceedings happening simultaneously.

It is noteworthy, that several local agencies did not claim for all four reimbursable activities and half of the reimbursement claims failed to claim activity 4. See Table B below:

³² See Exhibit F, PERB 2015-2016 Annual Report; Exhibit F, PERB 2016-2017 Annual Report, Exhibit F, PERB 2017-2018 Annual Report, <https://www.perb.ca.gov/AnnualReports.aspx> (accessed on April 23, 2019).

³³ Claims data reported as of May 15, 2019.

Table B³⁴

Claimant	Reimbursable Activities					Total
	1	2	3	4	Ind. Costs	
City of Concord	\$501	\$105,291	\$302	-	-	\$106,904
City of Glendora	\$1,200	\$7,574	\$43,054	\$7,215	\$15,872	\$74,914
City of Oxnard	\$70,962	\$105,406	\$66,338	\$14,176	\$788	\$257,670
County of Sacramento	\$11,544	-	-	-	-	\$11,544
County of San Bernardino	\$4,609	\$15,625	\$2,950	-	\$9,780	\$32,964
County of Santa Barbara	-	\$54	\$9,086	-	\$3,926	\$13,066
County of Sonoma	\$3,075	\$8,045	\$23,542	\$1,310	-	\$35,972
Total 7 Claims FY15-16	\$91,891	\$241,995	\$145,272	\$22,701	\$30,366	\$532,224
City of Concord	\$4,256	-	-	-	-	\$4,256
City of Santa Barbara	-	-	\$7,595	-	-	\$7,595
City of Palo Alto	\$1,219	-	\$12,572	-	-	\$13,791
City of Sunnyvale	\$9,500	\$1,256	-	-	\$454	\$11,210
City of Oxnard	\$928	\$3,407	\$1,333	\$2,058	\$773	\$8,499
County of Riverside	\$1,433	\$16,079	\$17,330	-	-	\$34,842
County of Sacramento	\$8,450	\$17,634	-	-	-	\$26,084
Total 7 Claims FY16-17	\$25,786	\$38,376	\$38,830	\$2,058	\$1,227	\$106,277
City of Livermore	\$1,233	-	-	-	-	\$1,233
City of Salinas	\$11,941	-	-	-	-	\$11,941
City of Corona	\$6,997	-	\$49,767	-	-	\$56,764
City of Hesperia	\$2,515	\$9,146	\$14,892	\$2,898	\$1,919	\$31,370
City of Santa Maria	\$5,731	-	-	-	\$765	\$6,496
County of Riverside	\$16,243	\$49,322	\$120,484	\$2,795	-	\$188,844
County of Sacramento	\$4,039	-	-	-	-	\$4,039
County of Yuba	\$3,068	\$12,431	\$618	-	\$835	\$16,952
Moraga Fire Prot. District	\$19,635	\$15,866	\$16,345	\$453	\$246	\$50,615
Total 9 Claims FY17-18	\$71,402	\$86,765	\$202,106	\$6,146	\$3,765	\$368,254³⁵

- *The future annual costs for this program may increase or decrease proportionately with the receipt and public posting of the written advisory findings and recommendations of the factfinding panel if the dispute is not settled within thirty (30) days of the appointment of the panel (activity 4).*

The Parameters and Guidelines allow for reimbursement for receiving and making publicly available the written advisory findings and recommendations of the factfinding panel if the dispute is not settled within 30 days of appointment of the panel (activity 4). Thus these costs will be higher the more often the dispute is not settled within 30 days of the appointment of the panel, but it is also possible that all disputes could be settled within 30 days of appointment of the panel and thus reimbursable activity 4 could be eliminated entirely resulting in no costs for

³⁴ Claims data reported as of May 15, 2019.

³⁵ According to the claims data reported as of May 15, 2019, this amount reflects offsetting revenue applied to one claim of \$1,930.

this activity.³⁶ It is unclear whether those local agencies that did not claim activity 4 for the initial claiming period settled within 30 days of appointment of the panel, failed to perform all of the activities as required by law, misclaimed costs, or did not adequately document costs for some of the activities to allow for proper claiming of those specific activities.

Methodology

The Statewide Cost Estimate for the initial claiming period of fiscal years 2015-2016, 2016-2017, and 2017-2018 was developed by totaling the 23 unaudited reimbursement claims filed by 18 local agencies to the Controller.

Following is a breakdown of actual costs claimed per fiscal year for the initial reimbursement period. See Table C below:

Table C³⁷

Reimbursement Period	Number of Initial Claims Filed	Cost
Fiscal Year 2015-2016	7	\$532,224
Fiscal Year 2016-2017	7	\$106,277
Fiscal Year 2017-2018	9	\$368,254
TOTAL	23	\$1,006,755

Assuming that each reimbursement claim reflects a single impasse proceeding,³⁸ the actual claims data indicates that reimbursement claims were filed for just under 20 percent of the impasses that resulted in factfinding panels during the initial claiming period. Of the local agencies filing claims, one agency filed claims for each of the three fiscal years 2015-2016, 2016-2017, and 2017-2018; three filed claims for two of the three fiscal years, and the remaining 14 local agencies filed one claim each for the initial claiming period. The ongoing annual cost estimate takes the average costs claimed per reimbursement claim (\$43,772) and multiplies that number times 7.67 (the average number of claims filed per year for the initial claiming period) and by 41 (the average number of impasses that result in approved factfinding statewide annually over the past three years) to provide a range of potential future costs. Thus the potential future cost ranges from \$335,731 (if the same number of claims are filed annually as were filed for the initial claiming period) to \$1,794,652 (if costs for every impasse that resulted in an approved factfinding panel were claimed) plus the implicit price deflator annually. See Table D below:

³⁶ Exhibit C, Decision and Parameters and Guidelines (“4. Receive and make publicly available the written advisory findings and recommendations of the factfinding panel if the dispute is not settled within 30 days of appointment of the panel. (Gov. Code § 3505.5(a).)”), page 10.

³⁷ Claims data reported as of May 15, 2019.

³⁸ As discussed above, it is unclear whether each claim represents one or more (or fewer, if a multiple-year proceeding) impasse proceeding. However, we are making this assumption for the sake of analysis.

Table D

Average Cost Per Reimbursement Claim	Multiplied by Number of Claims Filed	Ongoing Annual Cost
\$43,772	7.67 ³⁹	\$335,731, plus the implicit price deflator
\$43,772	41 ⁴⁰	\$1,794,652, plus the implicit price deflator

Accordingly, assuming that the average number of reimbursement claims per fiscal year continues to be 7.67 in fiscal year 2018-2019 and forward, the estimated average annual cost will be \$335,730.90 (\$43,771.96 x 7.67) plus the implicit price deflator.

Additionally, if every local agency with an approved MMBA factfinding by PERB is eligible to file and actually files a reimbursement claim (average of 41 x average cost per claim of \$43,772 = \$1,794,652) statewide costs could potentially increase up to \$1,794,652, annually. This is a possible but unlikely scenario.

Draft Proposed Statewide Cost Estimate

On May 29, 2019, Commission staff issued the Draft Proposed Statewide Cost Estimate.⁴¹ No comments were filed on the Draft Proposed Statewide Cost Estimate.

Conclusion

On July 26, 2019, the Commission adopted this Statewide Cost Estimate of \$335,731, plus the implicit price deflator for the initial reimbursement period of fiscal years 2015-2016, 2016-2017, and 2017-2018 and the estimated cost for fiscal year 2018-2019 and following of \$335,731 to \$1,794,652 plus the implicit price deflator.

³⁹ Average number of claims filed per fiscal year for the initial claiming period.

⁴⁰ The average number of requests for a factfinding panel that are approved by PERB annually. Note that because some special districts are not subject to the tax and spend limitations of the California Constitution, those districts are not eligible for reimbursement. Data is not available to support a determination of what number of ineligible districts might have an impasse that would result in a factfinding panel. However, for the initial claiming period, 23 claims were filed by cities and counties and only one claim was filed by a non-enterprise special district.

⁴¹ Exhibit E, Draft Proposed Statewide Cost Estimate.

Adopted: November 22, 2019

STATEWIDE COST ESTIMATE

\$2,350,485⁴² - \$3,335,253⁴³

(For the Initial Claiming Period of 2016-2017 through 2017-2018)

**(Estimated Annual Cost for Fiscal Year 2018-2019 and Following Is
\$605,302 - \$1,332,717, Plus the Implicit Price Deflator)**

Penal Code Section 679.10, Statutes 2015, Chapter 721 (SB 674)

U Visa 918 Form, Victims of Crime: Nonimmigrant Status

17-TC-01

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate on consent during a regularly scheduled hearing on November 22, 2019 as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Mark Hariri, Representative of the State Treasurer	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Carmen Ramirez, City Council Member	Yes
Jacqueline Wong-Hernandez, Representative of the State Controller, Vice Chairperson	Yes

⁴² Please note that there are three claims data spreadsheets compiled by the Controller (See Exhibit D, Claims Data Reported as of September 19, 2019), two calculated by year and by activity which appear to total to \$2,350,494 (but actually total to \$2,350,485 if one adds the total for each activity) and another calculated by claimant which totals to \$2,350,494. Commission staff have utilized the data from the spreadsheet by activity because the likely future costs vary and are driven by activity. Is it assumed that the \$9 discrepancy over the two-year initial claim period may be due to rounding or incorrect keying. Whatever the cause, however, this minor difference will not significantly alter the estimated future costs of this program.

⁴³ The high end of this range projects potential late claims that may be filed until August 27, 2020.

STAFF ANALYSIS

Background and Summary of the Mandate

This Statewide Cost Estimate (SCE) addresses the State's subvention costs for the mandated activities arising from Penal Code section 679.10, added by Statutes 2015, chapter 721 (SB 674) (test claim statute). The Commission found that the test claim statute imposes a mandate on cities and counties to, upon request of a victim of qualifying criminal activity seeking temporary immigration benefits under the federal U Visa program and willing to assist law enforcement with investigation or prosecution of the criminal activity, complete and certify the federal Form I-918 Supplement B (U Nonimmigrant Status Certification) within specified deadlines, and submit annual reports about the certifications to the Legislature, with reimbursable activities as specified in the Decision and Parameters and Guidelines.⁴⁴

On March 6, 2018, the City of Claremont (claimant) filed the Test Claim based on the date it first incurred costs to implement the requirements of the test claim statute, Statutes 2015, chapter 721 (SB 674) which added 679.10 to the Penal Code, establishing a potential period of reimbursement beginning July 1, 2016.⁴⁵

The claimant filed evidence showing it incurred actual increased costs totaling \$1,092 in fiscal year 2017-2018 for the city's police department to process two U Visa certifications as required by the test claim statute.⁴⁶ The claimant estimated its costs for fiscal year 2018-2019, the year immediately following the fiscal year for which the claim was filed, at \$1,416 to process four U Visa requests, including \$81 in costs for the report to the Legislature.⁴⁷

The claimant also provided a statewide cost estimate (as required by Government Code 17553) of \$300,000 for fiscal year 2018-2019, the year immediately following the fiscal year for which the claim was filed, based on the analysis from the Assembly Committee on Appropriations, which estimated the cost to process each certification at \$25 and the number of annual statewide certifications to be at least ten times those of the cities of Los Angeles (764 certifications) and Oakland (500 certifications) combined, which would amount to approximately 12,640 certifications.⁴⁸

On September 28, 2018, the Commission adopted the Test Claim Decision, partially approving the Test Claim, finding that the test claim statute imposes a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 beginning July 1, 2016, as specified.

The Decision and Parameters and Guidelines were adopted on January 25, 2019.⁴⁹

⁴⁴ Exhibit A, Corrected Decision and Parameters and Guidelines.

⁴⁵ Exhibit D, Excerpt from the Test Claim; Government Code section 17551(c).

⁴⁶ Exhibit D, Claimant's Response to the Request for Additional Information, page 45.

⁴⁷ Exhibit D, Excerpt from the Claimant's Corrected Comments on the Draft Proposed Decision, page 4.

⁴⁸ Exhibit D, Excerpt from the Test Claim, page 7; Exhibit D, Assembly Committee on Appropriations Analysis of SB 674, as introduced February 27, 2015, page 1.

⁴⁹ Exhibit A, Corrected Decision and Parameters and Guidelines, page 3.

The State Controller's Office (Controller) issued claiming instructions on April 29, 2019.⁵⁰ Eligible claimants were required to file initial reimbursement claims with the Controller for costs incurred for fiscal years 2016-2017 and 2017-2018 by August 27, 2019.⁵¹ Late initial reimbursement claims may be filed until August 27, 2020, but will incur a 10 percent late filing penalty of the total amount of the initial claim without limitation, pursuant to Government Code section 17561(d)(3).⁵² Annual reimbursement claims for subsequent fiscal years, starting with 2018-2019 fiscal year, must be filed with the Controller by February 15, 2020.⁵³ Claims filed more than one year after the deadline will not be accepted, and late claims filed within one year of the deadline will incur a 10 percent late filing penalty not to exceed \$10,000.⁵⁴

Eligible Claimants and Period of Reimbursement

Any city or county, or city and county, that incurs increased costs as a result of this mandate is eligible to claim reimbursement. School districts and special districts are not eligible to claim reimbursement for this program.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The claimant filed the Test Claim on March 6, 2018, establishing eligibility for reimbursement beginning in the 2016-2017 fiscal year. Therefore, costs incurred on or after July 1, 2016 are reimbursable.

Reimbursable Activities

The Parameters and Guidelines authorize reimbursement as follows:⁵⁵

A. One-time activities:

1. Updating policies and procedures to incorporate the requirements of the test claim statute.
2. Train staff assigned to perform the reimbursable activities listed in Section IV.(B) of these Parameters and Guideline (one-time for each employee.)

B. Ongoing activities:

1. When a certifying entity receives a request for a Form I-918 Supplement B certification from the victim or the victim's family member, the following activities, which must be completed within 90 days of the request or 14 days of the request if the victim is in removal proceedings, are eligible for reimbursement:
 - a. Receive and log the request.

⁵⁰ Exhibit B, Controller's Claiming Instructions Program No. 372, page 1.

⁵¹ Exhibit B, Controller's Claiming Instructions Program No. 372, page 1; Government Code section 17561(d)(1)(A).

⁵² Exhibit B, Controller's Claiming Instructions Program No. 372, page 1.

⁵³ Exhibit B, Controller's Claiming Instructions Program No. 372, page 1; Government Code section 17560(a).

⁵⁴ Exhibit B, Controller's Claiming Instructions Program No. 372, page 1; Government Code section 17568.

⁵⁵ Exhibit A, Corrected Decision and Parameters and Guidelines, pages 33-35 (citations omitted).

- b. Review the request for U Visa certification and all documentation provided by the victim or the victim's family member to confirm that the victim was a victim of a qualifying criminal activity, defined in Penal Code section 679.10(c), and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity. Victim helpfulness is presumed and is rebutted only if the victim refuses or fails to provide information and assistance reasonably requested by law enforcement.
- c. The certifying official shall fully complete and sign the Form I-918 Supplement B certification, upon the request of the victim or the victim's family member, when it is determined that the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity, and "include specific details about the nature of the crime the certifying entity investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the certifying entity in the detection or investigation or prosecution of the criminal activity."

To the extent the certifying entity that receives a U Visa request has a record of the qualifying criminal activity identified by the victim or victim's family member, which was prepared in the normal course of the certifying entity's law enforcement duties, reimbursement for this activity includes locating and reviewing the record to complete the Form I-918 Supplement B certification.

Reimbursement for this activity also includes attaching to the Form I-918 Supplement B certification, relevant reports prepared in the normal course of the certifying entity's law enforcement duties, detailing the criminal activity being investigated or prosecuted and the involvement of the victim, and relevant reports containing a description of any known or documented injury to the victim. ***However, reimbursement is not required for the cost of copying the attached reports.***

- d. Transmit the results to the victim or the victim's legal representative.
- e. File, log, and close the case.

Reimbursement is not required for the following activities: detection of a crime; investigation of a crime; prosecution of a crime; research; review of records that are not identified in section IV.B.(1)(b) or (c) of these Parameters and Guidelines; and locating, obtaining, and copying records for the purpose of determining whether a certifying entity is required to issue a U Visa certification pursuant to Section IV.B.1.b. of these Parameters and Guidelines.

2. A certifying entity that receives a request for a Form I-918 Supplement B certification shall report to the Legislature on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications from the particular agency, the number of certifications signed, and the number of certifications denied.⁵⁶

⁵⁶ Exhibit A, Corrected Decision and Parameters and Guidelines, pages 33-35 (citations omitted).

Offsetting Revenues and Reimbursements.

The Parameters and Guidelines provide the following:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other applicable State funds, shall be identified and deducted from any claim submitted for reimbursement.⁵⁷

Statewide Cost Estimate

Commission staff reviewed the 173 reimbursement claims submitted by 77 cities and 14 counties and data compiled by the Controller.⁵⁸ The unaudited reimbursement claims data compiled by activity totals \$1,144,964 for fiscal year 2016-2017 and \$1,205,521 for fiscal year 2017-2018, totaling \$2,350,485 for the initial reimbursement period, with the total cost segregated by activity as follows:⁵⁹

\$16,915	Activity A.1. (Update policies and procedures)
\$17,982	Activity A.2. (Training)
\$1,342,696	Activities B.1.a., B.1.b., B.1.d, and B.1.e. (Receive and log, review, transmit results to victim or representative, and file, log and close the case for all requests)
\$402,220	Activity B.1.c. (Complete and sign the Form I-918 for approved requests)
\$35,180	Activity B.2. (For eligible claimant agencies that receive a request in a year, report to the Legislature)

The \$2,350,485 total includes \$634,798 in Indirect Costs claimed in the unaudited initial claims, and excludes \$99,306 in offsetting revenues and other reimbursements indicated by the claimants on their claim forms.

Initial Reimbursement Period

The statewide cost for the initial reimbursement period is estimated to range from \$2,350,485, the total amount of timely filed unaudited claims for fiscal years 2016-2017 and 2017-2018 to \$3,335,253, the total amount of the estimated costs incurred for this program by all certifying entities of cities and counties (including those that have not filed timely reimbursement claims), based on the assumptions outlined in the analysis, with the range of costs segregated by activity as follows:

\$16,915	Activity A.1. (Update policies and procedures)
\$17,982 - \$71,928	Activity A.2. (Training)

⁵⁷ Exhibit A, Corrected Decision and Parameters and Guidelines, page 37.

⁵⁸ Exhibit D, Claims data reported as of September 19, 2019.

⁵⁹ Exhibit D, Claims data reported as of September 19, 2019 (note that by adding the total for each of the activities we find a grand total of \$1,144,964 and \$1,205,521 which totals to \$2,350,485, not \$2,350,494 as indicated).

\$1,342,696 - \$1,925,965	Activities B.1.a., B.1.b., B.1.d, and B.1.e. (Receive and log, review, transmit results to victim or representative, and file, log and close the case for all requests)
\$402,220 - \$416,183	Activity B.1.c. (for approved requests)
\$35,180 - \$39,567	Activity B.2. (For eligible claimant agencies that receive a request in a year, report to the Legislature)
\$634,798 - \$864,695	Indirect Costs
(\$99,306) - (\$0) ⁶⁰	Offsetting Revenues
\$2,350,485 - \$3,335,253	Total Costs

Fiscal Year 2018-2019 and Following

The statewide cost estimate for annual state liability for this program for fiscal year 2018-2019 and following is estimated to range from \$605,302 - \$1,332,717, plus the implicit price deflator, based on the assumptions outlined in the analysis, with the range of costs segregated by activity as follows:

\$0	Activity A.1. (Update policies and procedures)
\$1,798 - \$7,192	Activity A.2. (Training)
\$350,888 - \$779,751	Activities B.1.a., B.1.b., B.1.d, and B.1.e. (Receive and log, review, transmit results to victim or representative, and file, log and close the case for all requests)
\$75,903 - \$168,674	Activity B.1.c. (for approved requests)
\$19,783 - \$31,581	Activity B.2. (For eligible claimant agencies that receive a request in a year, report to the Legislature)
\$156,930 - \$345,519	Indirect Costs
(\$0)	Offsetting Revenues ⁶¹
\$605,302 - \$1,332,717	Total Costs

The indirect costs for the estimated costs above were calculated based on the 35 percent average indirect cost rate claimed in the unaudited initial claims.

Assumptions

Based on the claims data and other publically available information, staff made the following assumptions and used the following methodology to develop the Statewide Cost Estimate for this program.

- *The total amount claimed for the initial reimbursement period may increase as a result of late or amended initial claims.*

There are approximately 481 cities, 57 counties, and 1 city and county and each of them may have incurred costs for this program during the initial reimbursement period. Thus, there are

⁶⁰ Though it is anticipated that there may indeed be offsetting revenues, none are projected for this estimate because they are unknown and may or may not exist.

⁶¹ Though it is anticipated that there may indeed be offsetting revenues, none are projected for this estimate because they are unknown and may or may not exist.

approximately 539 potentially eligible claimants. Of those, only 77 cities, about 16 percent of all cities, filed reimbursement claims for the initial reimbursement period: 72 for fiscal year 2016-2017 and 74 for fiscal year 2017-2018. And, only 14 counties, about 24 percent of all counties, filed reimbursement claims for the initial reimbursement period: 13 for fiscal year 2016-2017 and 14 for fiscal year 2017-2018. The percentage of the California population served by the certifying entities of these claimants is approximately 45 percent. The remaining eligible claimants serving the rest of the California population may still file late claims. In addition, the 91 claimants that have already filed timely initial claims may file amended claims for additional costs not included in their timely filed claims. Late and amended initial claims may be filed until August 27, 2020, but they will be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed.⁶²

There may be several reasons that non-claiming local agencies did not file reimbursement claims, including but not limited to the following: they did not incur costs of more than \$1,000 during a fiscal year; they had no U Visa requests, or they had a relatively low number of U Visa requests and determined that it was not cost-effective to participate in the reimbursement claim process. For example, 209 of the 482 incorporated cities in California have a population under 25,000⁶³ and the law enforcement agencies serving these communities are less likely to receive numerous requests for U Visa certifications that would result in the annual costs of \$1,000 or more. Based on a review of the 109 reports submitted by certifying entities of local agencies to the Legislature on the number of U Visa certification requests received, the number of certifications issued, and the number of requests denied for calendar years 2016 and 2017,⁶⁴ only one (the City of Grover Beach) serving a population under 25,000 reported receiving a U Visa certification request during this time period. Based on review of the claims data only two cities with a population under 25,000 submitted claims during the initial reimbursement period: the City of South Lake Tahoe (\$1,197 for 2016-2017 and \$2,661 for 2017-2018), and the City of Parlier (\$1,680 for each fiscal year).

- *The total amount for this program may be lower than the Statewide Cost Estimate based on the Controller's audit findings.*

The Controller may conduct audits and reduce any claim it deems to be excessive or unreasonable. Therefore, costs may be lower than the Statewide Cost Estimate based on the audit findings.

- *The future annual costs for this program may increase proportionately with a growth in the number of U Visa certification requests, or decrease with a decrease in the number of U Visa certification requests.*

The future annual costs for this program have a direct correlation with the number of U Visa certification requests filed with local certifying entities and the number of U Visa certifications issued by these certifying entities.

The number of requests may increase as a result of the test claim statute requiring certifying entities to grant certifications as provided by law. In addition, USCIS data indicates an overall

⁶² Government Code sections 17561(d)(3).

⁶³ Exhibit D, 2017 City Population Rankings, <https://www.cacities.org/Resources-Documents/About-Us/Careers/2017-City-Population-Rank.aspx> (accessed on July 27, 2019).

⁶⁴ Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volumes 1 through 5).

increase in the number of U Visa certifications granted by certifying entities nationwide from 2016 to 2017.⁶⁵ On the other hand, the number of U Visa certification requests may decrease if there are unfavorable changes in federal policy with respect to U Visa applicants or immigrants generally, or if there is a decrease in crime reported by the immigrant population, for example, a decrease of reporting resulting from fear of deportation based on current federal immigration policies.⁶⁶ In the past two years there appears to be a number of such unfavorable changes in federal immigration enforcement policy with respect to U Visa applicants. For example, some immigration attorneys report unfavorable changes for U Visa applicants whose applications are denied because now they are more likely to be reported to law enforcement agencies and face deportation proceedings,⁶⁷ or for any U Visa applicant with a pending U Visa application who is in deportation proceedings because under the new Immigration and Customs Enforcement (ICE) policy ICE will have an increased authority to exercise discretion to remove U Visa applicants while the U Visa process is still pending.⁶⁸ Accordingly, some immigration advocacy groups are warning their clients not to participate in the U Visa program due to the increased potential for deportation under current administration policies.⁶⁹ The USCIS data reflects this trend by showing a sharp decrease in the number of U Visa applications in 2018 of approximately 6.3

⁶⁵ Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2019), Fiscal Year 2019 by Quarter, Quarters 1-3 (showing a steady increase in the total number of U Visa applications received by USCIS each year between 2009 and 2017, with the total of 6,850 petitions received in 2009, 34,797 received in 2016, and 37,287 received in 2017), https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2019_qtr3.pdf (accessed on October 3, 2019).

⁶⁶ In the first three months of 2017 in Los Angeles, for example, Latinos reported 25 percent fewer sexual assaults than the previous year, a decline not present among any other demographic. The police chief said he believed deportation fears were the cause. See Exhibit D, Albert Samaha, *A Visa Program That Protected Domestic Violence Victims Is Now Putting Them At Risk Of Deportation*, BuzzFeed News (October 30, 2018), page 4, <https://www.buzzfeednews.com/article/albertsamaha/u-visa-deportation-immigration-trump-sessions-domestic> (accessed on October 3, 2019).

⁶⁷ See Exhibit D, Albert Samaha, *A Visa Program That Protected Domestic Violence Victims Is Now Putting Them At Risk Of Deportation*, BuzzFeed News (October 30, 2018), page 4, <https://www.buzzfeednews.com/article/albertsamaha/u-visa-deportation-immigration-trump-sessions-domestic> (accessed on October 3, 2019).

⁶⁸ Exhibit D, Zack Budryk, *ICE Rule Visas Spa Outrage*, The Hill, August 30, 2019, <https://thehill.com/homenews/administration/459316-ice-rule-change-on-u-visas-sparks-outrage> (accessed on August 30, 2019); Exhibit D, U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Revision of Stay of Removal Request Reviews for U Visa Petitioners, <https://www.ice.gov/factsheets/revision-stay-removal-request-reviews-u-visa-petitioners> (accessed on August 30, 2019).

⁶⁹ Exhibit D, Albert Samaha, *A Visa Program That Protected Domestic Violence Victims Is Now Putting Them At Risk Of Deportation*, BuzzFeed News (October 30, 2018), <https://www.buzzfeednews.com/article/albertsamaha/u-visa-deportation-immigration-trump-sessions-domestic> (accessed on October 3, 2019).

percent compared to 2017, and a further decrease in the first three quarters of 2019.⁷⁰ In fact, when the USCIS reported data is arranged by quarter corresponding to the California state government's June 30th fiscal year-end date, the number of U Visa applications received by USCIS in 2017-2018 is 36,711 applications and only 29,691 applications in 2018-2019, an approximate 19 percent decrease.⁷¹ It is not clear whether this trend will persist further, and if so, for how long.

- *The future annual costs for this program will decrease with the reduction in one-time costs*

The annual costs incurred for activity A.1. (updating policies and procedures) are expected to decrease in the future, because activity A.1. is a one-time activity and is likely to have been completed by the majority of certifying entities before or during the initial reimbursement period. Similarly, the costs for activity A.2. (one-time training for each employee) will also decrease, because after the initial training for the employees assigned to perform the ongoing activities is complete, ongoing costs will only occur when there is turnover in staff. The reduction in costs for activities A.1., and A.2. could in turn result in some smaller local agencies being unable to reach the \$1,000 threshold in a fiscal year to claim costs for the remaining activities of processing U Visa certification requests, issuing U Visa certifications, and reporting to the Legislature if, for example, they had only one request. Review of the claims data shows that the annual costs claimed by several cities during initial reimbursement period would not have reached \$1,000 if they did not claim training costs.⁷²

- *The estimated number of U Visa certifications issued by California local certifying entities is assumed to be 11,510 for fiscal year 2016-2017; 11,560 for fiscal year 2017-2018; and 9,350 for fiscal year 2018-2019.*

⁷⁰ Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2019), Fiscal Year 2019 by Quarter, Quarter 3 (showing a decrease in the total number of U Visa applications received by USCIS in 2018 compare to 2017, with 37,287 received in 2017 and 34,967 received in 2018), https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2019_qtr3.pdf (accessed on October 3, 2019).

⁷¹ Fiscal Year 2017 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2017_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2018), Fiscal Year 2018 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2018_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2019), Fiscal Year 2019, Quarter 3, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2019_qtr3.pdf (accessed on October 3, 2019).

⁷² These were the cities of Arcadia, Glendora, and Tustin. See Exhibit D, Claims data reported as of September 19, 2019.

The actual number of U Visa certifications issued by California local certifying entities during each fiscal year is unknown. While data from the reports filed by certifying entities with the Legislature indicate that 6,456 U Visa certifications were issued by 56 local certifying entities in calendar year 2016 and 6,850 certifications were issued by 52 local certifying entities in calendar year 2017, for a total of 13,306 certifications in calendar years 2016 and 2017 combined,⁷³ this data is incomplete because some certifying entities did not file reports with the Legislature. As indicated in the Test Claim Decision and in the Decision and Parameters and Guidelines, Penal Code section 679.10(1), as amended by the test claim statutes, mandates a certifying entity that receives a request for a Form I-918 Supplement B certification to report to the Legislature on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications from the agency, the number of certifications signed, and the number of certifications denied.⁷⁴ However, not all certifying entities that received U Visa certification requests in 2016 and 2017 filed reports with the Legislature. For example, the City of Oakland Police Department did not file a report in 2016 or 2017, yet the City's website states that Oakland received 1,205 certification requests and issued 1,069 certifications in 2016 and received 940 requests and issued 796 certifications in 2017.⁷⁵

The analysis of the test claim statute by the Assembly Committee on Appropriations assumed that the total number of certifications issued annually was 12,640, based on the combined number of certifications issued annually by the cities of Los Angeles and Oakland, times ten $(764 + 500) \times 10 = 12,640$ U Visa certifications issued per year). The analysis then multiplied that number by an estimated cost of \$25 "to provide" each certification, for an annual statewide cost estimate of \$316,000 as follows:

During a six-year period, annual certifications provided by the cities of Los Angeles and Oakland were 764 and 500, respectively. If the cost to provide the certification were \$25, the reimbursable mandate to these two cities would be \$31,600. There are 58 counties and 482 cities and each of them has at least one "agency" that qualifies as a certifying agency. It is reasonable to assume that the number of certifications statewide would be at least ten times those of the cities of Los Angeles and Oakland combined.⁷⁶

However, following the adoption of the test claim statute, the City of Los Angeles Police Department and the Los Angeles City Attorney's Office submitted reports to the Legislature, identifying the number of U Visa certifications received, approved, and denied in calendar years 2016 and 2017. In 2016, these two certifying entities within the City of Los Angeles issued 2,030 U Visa certifications, and in 2017, they issued 2,134 U Visa certifications (Table 1), nearly

⁷³ These numbers do not include reported certifications issued by the state certifying entities and other entities whose costs are not eligible for reimbursement, such as courts or university police departments. Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volumes 1 through 5).

⁷⁴ Exhibit A, Corrected Decision and Parameters and Guidelines, pages 31, 35.

⁷⁵ Exhibit D, City of Oakland U-Visa certifications data, page 9, <https://www.oaklandca.gov/resources/u-visa> (accessed on May 17, 2019).

⁷⁶ Exhibit D, Assembly Committee on Appropriations Analysis of SB 674, as introduced February 27, 2015, page 1.

three times as many as had been issued by the City of Los Angeles prior to the test claim statute, according to the Legislative analysis.⁷⁷

Table 1

Calendar Year	Certifying Entity	Certification Requests Received	Certifications Issued
2016	City of LA Police Department	2,384	1,991
	City of LA, City Attorney / Domestic violence	88	39
2017	City of LA Police Department	2,587	2,054
	City of LA, City Attorney / Domestic violence	168	80

The claims data (which is based on fiscal year rather than calendar year) shows similar numbers to those reported to the Legislature in annual reports for U Visa certifications issued by the City of Los Angeles Police Department in the 2016-2017 and 2017-2018 fiscal years (Table 2).⁷⁸

Table 2

Fiscal Year	Certifying Entity	Certification Requests Received	Certifications Issued
2016-2017	City of LA Police Department	2,449	2,018
2017-2018	City of LA Police Department	2,415	1,887

Although the populations of the cities Los Angeles and Oakland combined make up roughly ten percent of the population of the state, reflecting the multiplier of ten used in the legislative analysis, and the data for the six years prior to the enactment of test claim statute was perhaps the best data readily available to the Legislature, the number of certifications issued by the City of Los Angeles as reported for 2016 and 2017 calendar year and for 2016-2017 and 2017-2018 fiscal years is approximately three times the number used by the Legislature (for Los Angeles) in its annual statewide cost estimate and, therefore, the following data was also reviewed to estimate the total annual number of U Visa certifications issued by the California eligible claimants' certifying entities:

- i. U.S. Citizenship and Immigration Services (USCIS) data on U Visa certifications received by USCIS from 2009 to 2014, published by Reuters;⁷⁹

⁷⁷ Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volume 2 of 5), page 28; Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volume 3 of 5), page 6; Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volume 5 of 5), pages 2, 7. See also Exhibit D, Assembly Committee on Appropriations Analysis of SB 674, as introduced February 27, 2015, page 1.

⁷⁸ Exhibit D, Excerpt from the City of Los Angeles Reimbursement Claim Fiscal Year 2016-2017; Exhibit D, Excerpt from the City of Los Angeles Reimbursement Claim Fiscal Year 2017-2018.

⁷⁹ A link to the full list of U visa verifications disclosed by USCIS in Microsoft Excel format is available at <http://graphics.thomsonreuters.com/14/uvisas/index.html> (accessed on July 27, 2019).

- ii. Statistics published on the USCIS website on the number of U Visa petitions annually received by USCIS;⁸⁰ and
- iii. Data from the reports submitted by California certifying entities to the Legislature on the number of U Visa certification requests received and the number of certifications issued in 2016 and 2017.⁸¹

The analysis of searchable USCIS data on U Visa certifications received by USCIS from 2009 to 2014⁸² shows that certifications that originate from California, from any federal, state, or local certifying entity, represent approximately 33.14% of all certifications received by USCIS during this period (Table 3).

Table 3

Calendar Year	California U Visa Certifications	All States U Visa Certifications	% of U Visa Certifications Issued by Certifying Entities with California Zip Codes
2009	1,764	5,974	29.53%
2010	2,824	8,917	31.67%
2011	4,690	14,220	32.98%
2012	7,379	21,969	33.59%
2013	8,177	23,641	34.59%
2014 (Jan-May)	3,192	9,817	32.52%

⁸⁰ Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2016), Fiscal Year 2016 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2016_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2017), Fiscal Year 2017 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2017_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2018), Fiscal Year 2018 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2018_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2019), Fiscal Year 2019, Quarter 3, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2019_qtr3.pdf (accessed on October 3, 2019).

⁸¹ Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volumes 1 through 5).

⁸² USCIS data in Microsoft Excel on U Visa certifications received by USCIS from 2009 to 2014, published by Reuters, available as through a link at <http://graphics.thomsonreuters.com/14/uvisas/index.html> (accessed on July 27, 2019).

Calendar Year	California U Visa Certifications	All States U Visa Certifications	% of U Visa Certifications Issued by Certifying Entities with California Zip Codes
TOTAL (2009-2014)	28,503	86,006	33.14% ^{83, 84}

Assuming that the percent of U Visa annual certifications issued by California-based certifying entities remained at 33.14 in the following years, that percentage can be applied to the total number of U Visa applications received by USCIS in 2016, 2017, 2018, and 2019 shown on the USCIS website,⁸⁵ (see Table 4) to arrive at an estimated number of California issued certifications of 12,116 for fiscal year 2016-2017; 12,166 certifications for fiscal year 2017-2018; and 9,840 certifications for fiscal year 2018-2019, as shown in Table 4:⁸⁶

⁸³ To arrive to these results, the USCIS data was filtered by calendar year: 2009, 2010, 2011, 2012, 2013, 2014 recording the results, then by year and state (California), and finally only by state. The percentages of California certifications with respect to the total number of certifications for each of the years and for all six years together was then calculated.

⁸⁴ There are some limitations to the USCIS data, which include the following: the accuracy of the USCIS data published by Reuters cannot be verified; the data is limited to the period from January 2009 to May 2014; the number of total U Visa certification requests per year retrieved from the USCIS/Reuters spreadsheet for various years is slightly different from the annual numbers of U Visa petitions shown on the USCIS website; according to Reuters, the data does not include an additional 6,706 verifications received by USCIS; and about 1,466 records (including 477 records associated with California zip codes) out of 86,006 records in the Reuters/USCIS spreadsheet do not include the date when the certification was received by a particular zip code.

⁸⁵ Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2016), Fiscal Year 2016 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2016_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2017), Fiscal Year 2017 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2017_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2018), Fiscal Year 2018 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2018_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2019), Fiscal Year 2019, Quarter 3, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2019_qtr3.pdf (accessed on October 3, 2019).

⁸⁶ There are limitations to using the USCIS website to determine the number of U Visa petitions annually issued by California local certifying entities and received annually by USCIS. For example, the annual number of U Visa requests received by USCIS in 2009-2018 reported on the USCIS website in 2019 differs from the number of requests previously reported for those years;

Table 4⁸⁷

California Fiscal Year	Corresponding Quarter of Federal Government Fiscal Year	Number of U Visa Petitions Received by USCIS	Estimated% of Petitions Certified in California	Estimated Number of Petitions Certified in California
2016-2017	FY 2016, Q4. July - September	9,643		
	FY 2017, Q1. October - December	8,050		
	FY 2017, Q2. January - March	9,277		
	FY 2017, Q3. April - June	9,589		
	TOTAL	36,559	33.14%	12,116
2017-2018	FY 2017, Q4. July - September	9,615		
	FY 2018, Q1. October - December	8,823		
	FY 2018, Q2. January - March	9,083		
	FY 2018, Q3. April - June	9,190		
	TOTAL	36,711	33.14%	12,166
2018-2019	FY 2018, Q4. July - September	7,451		
	FY 2019, Q1. October - December	7,962		
	FY 2019, Q2. January - March	6,916		
	FY 2019, Q3. April - June	7,362		
	TOTAL	29,691	33.14%	9,840

Federal law authorizes federal agencies, state agencies, and local law enforcement agencies to issue U Visa certifications. However, it can be assumed that a vast majority (95%) of all U Visa certifications issued in California were issued by the local certifying entities of eligible claimants. The majority of U Visa qualifying crimes are the types of crimes that are investigated and prosecuted by local law enforcement agencies, a variety of violent crimes, including domestic violence.⁸⁸ In addition, the test claim statute requires both state and local agencies to annually report to the Legislature the number of the U Visa certification requests received, the number of certifications issued, and the number of requests denied.⁸⁹ The analysis of the reports submitted by California certifying entities shows that state agencies reported U Visa certifications in 2016 and 2017: (1) California Highway Patrol - 9 certifications in 2016, and (2) CA Department of Industrial Relations reported 7 certifications in 2016. Cal Poly, San Luis Obispo also received one request, which was denied.⁹⁰ In addition, several Superior Courts reported issuing a total of 9 certifications in 2016 and 21 certifications in 2017. Thus, the

and it could not be verified that the percentage of U Visa certifications issued by California certifying entities remained at 33.14% for fiscal years 2016-2017, 2017-2018, and 2018-2019.

⁸⁷ USCIS data is reported by federal government’s fiscal year, which begins on October 1 and ends on September 30, and is designated by the calendar year in which it ends. For the purpose of this analysis, USCIS reported data was arranged by quarter corresponding to California government’s June 30th fiscal year-end date.

⁸⁸ Penal Code section 679.10(c).

⁸⁹ Penal Code section 679.10(a)(l).

⁹⁰ Exhibit D, 2017-18 Reports to the Legislature on U Visa certifications (volume 5 of 5), page 35.

reported certifications from entities not eligible for reimbursement represent only 0.28% of all reported certifications in 2016 and 0.41% in 2017.

Although information on the U Visa reports submitted to the Legislature is incomplete and no data is available on the number of U Visa certifications issued by the federal agencies located in California, it is reasonable to assume that at least 95 percent of all U Visa certifications issued in California were issued by the local certifying entities of eligible claimants.⁹¹ Accordingly, a 95% ratio was applied to the assumed number of approved certifications issued by the California-based certifying entities in fiscal year 2016-2017 (12,116); in fiscal year 2017-2018 (12,166); and in fiscal year 2018-2019 (9,840)⁹² to arrive at the estimated number of certifications (rounded to 10) that were issued in those years by the certifying entities of local agencies eligible for reimbursement: 11,510 certifications in fiscal year 2016-2017; 11,560 in fiscal year 2017-2018; and 9,350 in fiscal year 2018-2019.

- *The estimated number of U Visa certification requests received and processed by California local certifying entities of eligible claimants is assumed to be 14,960 for fiscal year 2016-2017; 15,890 for fiscal year 2017-2018; and 12,490 for fiscal year 2018-2019.*

The actual number of certification requests received and processed by California local certifying entities during each fiscal year is unknown. However, the data from the reports filed by the certifying entities with the Legislature, although incomplete, clearly indicates that total number of U Visa certification requests received by the certifying entities is greater than the number of U Visa certifications issued.⁹³ The analysis of the 2016 and 2017 reported data on the number of U Visa certification requests received versus the number of certifications issued by the certifying

⁹¹ There are limitations to using the data in the reports to the Legislature. For example, the data is only available for two years (2016 and 2017); many certifying entities did not file reports; the data is reported by calendar year, and not fiscal year; and the data does not include information on the certifications issued by the federal certifying entities.

⁹² See the calculation in Table 4, based on the USCIS data shown on the USCIS website for 2016, 2017, 2018, and 2019. Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2016), Fiscal Year 2016 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2016_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2017), Fiscal Year 2017 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2017_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2018), Fiscal Year 2018 by Quarter, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2018_qtr4.pdf (accessed on August 9, 2019); Exhibit D, USCIS, Number of Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year (2009-2019), Fiscal Year 2019, Quarter 3, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2019_qtr3.pdf (accessed on October 3, 2019).

⁹³ Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volumes 1 through 5).

entities of eligible claimants shows that in calendar year 2016, 76.91% of all requests received were approved, and in calendar year 2017, 72.77% of the requests received were approved.⁹⁴ (Table 5).

Table 5

Approval rate of the U Visa certification requests by the certifying entities of eligible claimants (based on the data from the Reports to the California Legislature):

Calendar Year	2016			2017		
	Requests Reported	Certifications Reported	Approval Rate:	Requests Reported	Certifications Reported	Approval Rate:
DA Offices (18)	2122	1522		3155	1992	
County Sheriffs (14)	1825	1492		1811	1573	
City Police Departments (40)	4359	3403		4279	3205	
City of LA, City Attorney/ Domestic Violence	88	39		168	80	
TOTAL:	8394	6456	76.91%	9413	6850	72.77%

Assuming that the approval rate for all certifying entities of eligible claimants was the same in 2016 and 2017 as the approval rate calculated for the entities that filed reports with the Legislature (Table 5. above), these rates were applied to the total number of U Visa certifications issued by all certifying entities eligible for reimbursement, estimated, as discussed above, at 11,510 for fiscal year 2016-2017 and 11,560 for fiscal year 2017-2018, to arrive at the corresponding estimated total number of U Visa certification requests received by these entities during the initial reimbursement period (rounded to 10): 14,960 in fiscal year 2016-2017 and 15,890 in fiscal year 2017-2018. In the absence of data on the 2018 approval rates, the average of the 2016 and the 2017 approval rates (74.84%) was applied to the estimated number of U Visa certifications of 9,350 issued in fiscal year 2018-2019 by the certifying entities of eligible claimants, to arrive at an estimate of 12,490 U Visa certification requests received in fiscal year 2018-2019.

- *The total number of local U Visa certifying entities is estimated at 511.*

The Commission decisions on this program refer to the “certifying entities” of local agencies as “i.e., district attorney offices, sheriff’s departments, police departments, child protective services, and any other local agency authority that has the responsibility for the detection, investigation, or prosecution of a qualifying criminal activity within the meaning of the Penal Code section 679.10(a), with the *exception* of the police/security departments of school districts and special districts, and judges who are not eligible to claim mandate reimbursement in this case.”⁹⁵ The

⁹⁴ Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volumes 1 through 5).

⁹⁵ See e.g. Exhibit A, Corrected Decision and Parameters and Guidelines, pages 4 and 31.

total number of such “certifying entities” in California is unknown. However, the Assembly Committee on Appropriations analysis of the test claim statute indicates that “[t]here are 58 counties and 482 cities and each of them has at least one “agency” that qualifies as a certifying agency.”⁹⁶

Based on publically available information, there are 58 district attorney’s offices,⁹⁷ 58 sheriff’s departments,⁹⁸ 58 child protective services⁹⁹ (one of each in each of the 58 counties), and approximately 337 police departments (one in each of the 337 cities that maintain their own police departments).¹⁰⁰ The number of other entities that have the responsibility for the detection, investigation, or prosecution of a qualifying criminal activity within the meaning of the Penal Code section 679.10(a) could not be estimated based on the available data. This totals 511 estimated certifying entities in the State.

Estimated Costs and Cost Factors for Each Reimbursable Activity

For the purpose of estimating total annual costs incurred for this program during the initial reimbursement period and the following years, the annual cost of each reimbursable activity has been estimated based on the assumptions discussed above.

A. A.1. (updating policies and procedures)

Activity A.1., “Updating policies and procedures to incorporate the requirements of the test claim statute” was approved for all “certifying entities” of cities and counties, regardless of whether they have ever received a U Visa certification request or issued a U Visa certification.¹⁰¹ It is presumed that all costs for this activity will be claimed in initial claims, though potentially some of these one-time costs could carry over into amended initial claims or late claims or into the 2019-2020 claim year.

⁹⁶ Exhibit D, Assembly Committee on Appropriations Analysis of SB 674, as introduced February 27, 2015, page 1.

⁹⁷ Exhibit D, FindLaw, Directory of California District Attorneys, <https://criminal.findlaw.com/criminal-legal-help/california-district-attorneys.html> (accessed on July 27, 2019).

⁹⁸ Exhibit D, California State Sheriff’s Association, Sheriffs’ Offices, <https://www.calsheriffs.org/sheriffs-offices.html> (accessed on July 27, 2019).

⁹⁹ Exhibit D, CDSS Public Site, Child Protective Services, <http://www.cdss.ca.gov/Reporting/Report-Abuse/Child-Protective-Services/Report-Child-Abuse> (accessed on July 27, 2019).

¹⁰⁰ Excerpt from the L. Baca, Contract Law Enforcement Services, Los Angeles Sheriff’s Department, Contract Law Enforcement Bureau (revised January 2009), page 3 (stating 30% of California cities contract with sheriff’s departments for their municipal law enforcement services), <https://www.sheriffs.org/sites/default/files/uploads/CLESDocument.pdf> (accessed on October 14, 2019); see also Abstract of the Peter J. Nelligan & William Bourns, Municipal Contracting With County Sheriffs for Police Services in California: Comparison of Cost and Effectiveness, 14 Police Q. 70 (2011), SAGE Journals, <https://journals.sagepub.com/doi/abs/10.1177/1098611110393133> (accessed on October 14, 2019).

¹⁰¹ Exhibit A, Corrected Decision and Parameters and Guidelines, pages 9 and 33.

Based on the assumptions and methodology discussed herein, the total cost for the one-time Activity A.1. for the initial reimbursement period is estimated at \$16,915.

FY 2016-2017 and FY 2017-2018:

\$16,915 = (total amount of unaudited timely filed claims for activity A.1. for the initial reimbursement period).

FY 2018-2019:

\$0 = (it is assumed that this activity was completed before or during the initial claiming period).

- *The total cost of activity A.1. for the initial reimbursement period is estimated at \$16,915.*

13 claims out of 173 claims filed included costs for activity A.1. amounting to \$13,522 for fiscal year 2016-2017 and \$3,393 for fiscal year 2017-2018, for a total of \$16,915 for the initial reimbursement period.¹⁰² The total cost of activity A.1 for the initial reimbursement period is estimated based on the total amount of unaudited timely filed claims for activity A.1. for the initial reimbursement period.

- *The costs claimed for activity A.1. will likely be eliminated from future claims, because activity A.1. is a one-time activity and is likely to have been completed by the majority of certifying entities either prior to or during the initial reimbursement period.*

Activity A.1. is a one-time activity and can only be claimed once. The California Department of Justice (DOJ) issued a bulletin on October 28, 2015 recommending that local law enforcement agencies update their policies *immediately*.¹⁰³ However, since the test claim statute became effective on January 1, 2016, and the period of reimbursement did not begin until July 1, 2016, based on the filing date of the test claim, it is assumed that a majority of certifying entities updated their policies and procedures either prior to or during the initial reimbursement period. Therefore, it is expected that eligible claimants will have claimed those costs in their initial claims or amendments thereto. For those certifying entities that updated their policies and procedures before July 1, 2016, the date beginning the reimbursement period, those costs will not be eligible for reimbursement.

B. A.2. (one-time training for each employee assigned to perform the ongoing reimbursable activities)

Activity A.2. authorizes reimbursement for all “certifying entities” of local agencies to provide one-time training for each employee assigned to perform the ongoing reimbursable activities.¹⁰⁴

The total number of employees assigned to perform the above activities, and thus eligible for training, the cost of training per employee, and the rate of turnover are the main cost factors for this activity. The number of such employees and the rate of turnover for such employees, however, are unknown and cannot be easily determined based on the available data. Thus, the estimate for the cost of this activity is primarily based on the total cost of training claimed by the local agencies that filed claims for the initial period of reimbursement. The cost for this activity in future years (beginning with fiscal year 2018-2019) will decrease, since ongoing costs will

¹⁰² Exhibit D, Claims data reported as of September 19, 2019.

¹⁰³ Exhibit D, California Department of Justice Information Bulletin No. DLE-2015-14, “New and Existing State and Federal Laws Protecting Immigrant Victims of Crime,” October 28, 2015.

¹⁰⁴ Exhibit A, Corrected Decision and Parameters and Guidelines, pages 10 and 33.

only occur when there is turnover in staff, which is estimated to be approximately 10 percent per year.

Based on the assumptions and methodology discussed herein, the total cost for Activity A.2. for the initial reimbursement period is estimated to be between \$17,982 and \$71,928, and the cost for fiscal year 2018-2019 and following is estimated to be between \$1,798 and \$7,193, plus the implicit price deflator.

FYs 2016-2017 and 2017-2018:

\$17,982 (total amount of unaudited timely filed claims for activity A.2. for the initial reimbursement period); and

\$71,928 = \$17,982 + \$53,946 (total amount of unaudited timely filed claims for activity A.2. for the initial reimbursement period plus estimated amount of potential late claims for activity A.2.).

FY 2018-2019 and following:

\$1,798 = 10 percent of \$17,982 (10% of the total amount of unaudited timely filed claims for activity A.2. for the initial reimbursement period); and

\$7,192 = 10 percent of \$71,928 (10% of the total estimated cost for Activity A.2. for the initial reimbursement period).

- *The total cost of activity A.2. for the initial reimbursement period is estimated to be between \$17,982 and \$71,928.*

31 claims out of 173 claims filed included costs for activity A.2. amounting to \$11,644 for fiscal year 2016-2017 and \$6,338 for fiscal year 2017-2018, for a total of \$17,982 for the initial reimbursement period.¹⁰⁵ The certifying entities of the claimants who submitted claims for activity A.2.¹⁰⁶ serve approximately 25 percent of the California population (39.4 million as of 2017). If only the same claimants file reimbursement claims in future years for 10 percent of the number of trainings provided in the initial reimbursement period, reflecting expected turn-over, costs for this activity would be \$1,798, plus the implicit price deflator. It is acknowledged that this number is quite low and that because most initial training likely occurred prior to the initial reimbursement period, those numbers will not truly capture future training costs. It could be assumed, on the other hand, that the rest of local certifying entities serving the remaining 75 percent of the California population have also incurred costs for activity A.2. either prior to or during the initial reimbursement period. If all of the remaining eligible claimants incurred these costs during the initial reimbursement period at the same rate as the initial claimants and filed late claims, the additional amount of costs claimed for activity A.2. for the initial reimbursement period could reach \$53,946. And of course this number is high, since it is very unlikely that every eligible claimant will file a reimbursement claim in a given year.

Accordingly, the total cost of activity A.2. for the initial reimbursement period, is calculated as ranging between \$17,982 (the cost of the initial timely claims for activity A.2.) and \$71,928 (the cost of the initial timely claims for activity A.2. (\$17,982) plus the cost of potential late claims for activity A.2. (\$53,946)). And the estimated cost for activity A.2. for 2018-19 and following

¹⁰⁵ Exhibit D, Claims data reported as of September 19, 2019.

¹⁰⁶ These claimants were the cities of Fremont, Oakland, Pleasant Hill, Reedley, Arcadia, Claremont, Glendora, Los Angeles, Palmdale, Santa Monica, Costa Mesa, Santa Ana, Tustin, Roseville, Rialto, Oceanside, San Marcos, Lodi, San Mateo, San Jose, and Cathedral City, and the counties of Monterey, Riverside, and Santa Cruz.

is calculated as ranging between \$1,798 (10% of the cost of the initial timely claims for activity A.2.) and \$7,192 (10% of the total estimated cost for Activity A.2. for the initial reimbursement period), plus the implicit price deflator.

- *The costs claimed for activity A.2. for the initial reimbursement period will decrease in the future, because activity A.2. is allowed only one-time for each employee and is likely to be completed by the majority of certifying entities within the initial reimbursement period and is estimated at between \$1,798 and \$7,192.*

It is assumed that initial training of staff was conducted prior to or during the initial reimbursement period. Once the initial training for each employee assigned to perform the ongoing activities is complete, ongoing costs for activity A.2. will only occur when there is turnover in staff. Although the precise rate of the turnover cannot be determined based on the available data, for the purpose of this estimate a 10 percent turnover rate is assumed.¹⁰⁷ Accordingly, the annual cost of this activity for fiscal year 2018-2019 and following years is estimated at between \$1,798 and \$7,192, calculated as 10 percent of the estimated annual cost of activity A.2. for the initial reimbursement period.

C. B.1.a., B.1.b., B.1.d, and B.1.e. (receive and log the request; review the request and documentation provided by the victim; transmit results to victim; and file, log and close the case)

The activities to receive and log the request (B.1.a.); transmit the results to the victim or the victim's legal representative (B.1.d.); and file, log, and close the case (B.1.e.) are administrative activities required to process all U Visa requests received by each certifying entity and will occur for every U Visa request received, regardless of whether the request is approved or denied.¹⁰⁸ These activities must be performed upon receiving a request for a Form I-918 Supplement B certification from the victim or the victim's family member, and must be completed by the certifying entity within 90 days of the request or 14 days of the request if the victim is in removal proceedings."¹⁰⁹ Similarly, the approved activity B.1.b. to review the request for U Visa certification and all documentation provided by the victim or the victim's family member to confirm that the victim was a victim of a qualifying criminal activity, defined in Penal Code section 679.10(c), and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity must also be completed within the above-specified time period and will occur for every U Visa certification request received by the certifying entity, regardless of whether the request is approved or denied.¹¹⁰ Accordingly, there are two main cost factors for activities B.1.a., B.1.b., B.1.d, and

¹⁰⁷ See e.g., Exhibit D, Excerpt from the Jennifer Wareham et al, *Rates and Patterns of Law Enforcement Turnover: A Research Note*, 26-4 Criminal Justice Policy Review, 345 (2013), pages 2-3 (stating that nationally, the average total turnover rate for law enforcement agencies was 10.82 percent for 2003; 10.76 percent for 2008, and showing mean law enforcement turnover rates for California at 9.19 percent in 2003 and 8.28 percent in 2008), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.846.1028&rep=rep1&type=pdf> (accessed on October 11, 2019).

¹⁰⁸ Exhibit A, Corrected Decision and Parameters and Guidelines, pages 33-34.

¹⁰⁹ Exhibit A, Corrected Decision and Parameters and Guidelines, page 33.

¹¹⁰ Exhibit A, Corrected Decision and Parameters and Guidelines, page 34.

B.1.e.: (a) the total number of U Visa certification requests received each fiscal year, and (b) the average cost to comply with activities B.1.a., B.1.b., B.1.d, and B.1.e. for each request.

Based on estimated average cost of these activities per U Visa certification request and the assumption that the number of U Visa certification requests received by the eligible claimants' certifying entities is 14,960 certifications for fiscal year 2016-2017; 15,890 for fiscal year 2017-2018; and 12,490 for fiscal year 2018-2019, as discussed earlier, the total cost for activities B.1.a., B.1.b., B.1.d, and B.1.e for the initial reimbursement period is estimated at between \$1,342,696 and \$1,925,965, and the cost for fiscal year 2018-2019 is estimated to be between \$350,888 and \$779,751, plus the implicit price deflator.

FY 2016-2017 and FY 2017-2018

\$1,342,696 = (the unaudited costs timely claimed for this activity); and

\$1,925,965 = (14,960 + 15,890) X \$62.43 (estimated number of U Visa certification requests received in fiscal years 2016-2017 and 2017-2018 multiplied by estimated average total cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. per request).

FY 2018-2019

\$350,888 = 12,490 X \$62.43 X .45 (estimated number of U Visa requests received in fiscal year 2018-2019 multiplied by average cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. per certification, multiplied by 45% - the percentage of population served by local agencies that timely filed reimbursement claims); and

\$779,751 = 12,490 X \$62.43 (estimated number of U Visa certification requests received in fiscal year 2018-2019 multiplied by estimated average total cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. per request).

- *The average cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. per U Visa certification request is estimated at \$62.43.*

The average cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. per U Visa certification request can be estimated based on the claims data for the cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. and the estimated number of U Visa requests for which these costs were claimed.

171 claims out of 173 claims filed included costs for activities B.1.a., B.1.b., B.1.d, and B.1.e. amounting to \$663,224 for fiscal year 2016-2017 and \$679,472 for fiscal year 2017-2018, for a total of \$1,342,696 for the initial reimbursement period.¹¹¹ However, not all the claims filed for the initial reimbursement period include information on the number of U Visa requests received and processed by the certifying agency claiming the costs for activities B.1.a., B.1.b., B.1.d, and B.1.e. Accordingly, for the purpose of estimating the average cost of these activities per one U Visa certification request only the costs data from a selected sample of claims that provide information on the number of U Visa certifications received by the certifying entities are included in the calculation (see Table 6, FY 2016-2017 (38 claims) and Table 7, FY 2017-2018 (27 claims) below). The selected claims represent both counties' and cities' claims. The 65 unaudited claims included in the calculation identify in total 10,130 U Visa certification requests as the basis for the cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. amounting to \$632,408 for the initial reimbursement period.

¹¹¹ Exhibit D, Claims data reported as of September 19, 2019.

Table 6

FY 2016-2017 (38 claims)

Claimant	B.1.a. Receive	B.1.b. Review	B.1.d. Transmit	B.1.e. Close	Total Cost B.1. (a,b,d,e)	Number of U Visa Certification Requests Received
City of Hayward	\$2,551	\$10,206	\$2,551	\$2,551	\$17,859	207
City of Oakland	\$12,662	\$29,503	\$14,055	\$8,443	\$64,663	945
City of Richmond	\$986	\$2,494	\$950	\$950	\$5,380	100
City of San Pablo		\$337	\$225		\$562	58
City of Walnut Creek	\$125	\$1,447	\$251	\$125	\$1,948	5
City of Reedley	\$94	\$193	\$97	\$48	\$432	13
City of Bakersfield	\$571	\$1,060	\$171	\$114	\$1,916	96
City of Hanford	\$94	\$671	\$141	\$94	\$1,000	10
City of Baldwin Park	\$110	\$805	\$219	\$268	\$1,402	28
City of El Monte	\$305	\$781	\$451	\$305	\$1,842	52
City of Glendale	\$101	\$841	\$252	\$624	\$1,818	22
City of Inglewood	\$477	\$955	\$159	\$79	\$1,670	48
City of Los Angeles	\$14,207	\$94,711	\$8,685	\$21,716	\$139,319	2449
City of San Dimas	\$139	\$1,109	\$139	\$139	\$1,526	7
City of Santa Clarita	\$191	\$287	\$478	\$287	\$1,243	38
City of Whittier	\$223	\$667	\$44	\$223	\$1,157	21
City of Fullerton	\$596	\$895	\$119	\$179	\$1,789	26
City of Huntington Beach	\$35	\$407	\$35	\$35	\$512	35

Claimant	B.1.a. Receive	B.1.b. Review	B.1.d. Transmit	B.1.e. Close	Total Cost B.1. (a,b,d,e)	Number of U Visa Certification Requests Received
County of Orange (Sheriff)	\$1,186	\$3,557	\$1,186	\$2,372	\$8,301	80
Cathedral City	\$117	\$1,403	\$351	\$117	\$1,988	17
City of Corona	\$145	\$348	\$145	\$145	\$783	22
City of Moreno Valley	\$205	\$436	\$220	\$220	\$1,081	34
County of Riverside (Sheriff)	\$911	\$1,445	\$587	\$287	\$3,230	68
City of Sacramento	\$3,940	\$4,466	\$1,314	\$1,314	\$11,034	169
City of San Bernardino	\$422	\$2,139	\$181	\$302	\$3,044	111
City of Oceanside	\$312	\$312	\$312	\$312	\$1,248	34
City of Lodi	\$154	\$346	\$46	\$46	\$592	5
City of Stockton	\$285	\$1,901	\$95	\$191	\$2,472	131
City of San Mateo	\$650	\$3,839	\$434	\$217	\$5,140	51
County of San Mateo (Sheriff)	\$780	\$3,119	\$780		\$4,679	47
City of Palo Alto	\$174	\$693	\$693	\$520	\$2,080	19
County of Santa Cruz (DA)	\$441	\$1,322	\$293	\$293	\$2,349	25
City of Fairfield	\$269	\$1,610	\$269	\$269	\$2,417	49
City of Suisun City	\$356	\$713	\$475	\$238	\$1,782	24
City of Vacaville	\$50	\$451	\$50	\$50	\$601	6
City of Vallejo	\$165	\$1,229	\$410	\$164	\$1,968	79
City of Visalia	\$478	\$957	\$478	\$478	\$2,391	67
City of Oxnard	\$1,742	\$18,423	\$6,085	\$581	\$26,831	218

Claimant	B.1.a. Receive	B.1.b. Review	B.1.d. Transmit	B.1.e. Close	Total Cost B.1. (a,b,d,e)	Number of U Visa Certification Requests Received
TOTAL					\$330,049	5416

Table 7

FY 2016-2017 (27 claims)

Claimant	B.1.a. Receive	B.1.b. Review	B.1.d. Transmit	B.1.e. Close	Total Cost B.1. (a,b,d,e)	Number of U Visa Certification Requests Received
City of Hayward	\$2,442	\$9,767	\$2,442	\$2,442	\$17,093	210
City of Oakland	\$10,334	\$27,722	\$12,686	\$6,890	\$57,632	741
City of Pleasant Hill	\$0	\$431	\$0	\$0	\$431	8
City of Richmond	\$2,301	\$5,740	\$0	\$2,300	\$10,341	230
City of San Pablo	\$0	\$204	\$136	\$0	\$340	33
City of Walnut Creek	\$133	\$1,536	\$266	\$133	\$2,068	5
City of Reedley	\$94	\$192	\$96	\$48	\$430	13
City of Hanford	\$133	\$963	\$203	\$133	\$1,432	14
City of Glendale	\$110	\$883	\$287	\$649	\$1,929	25
City of Los Angeles	\$14,633	\$97,556	\$8,461	\$21,155	\$141,805	2415
City of Santa Clarita	\$122	\$183	\$304	\$183	\$792	28
County of Orange (Sheriff)	\$1,386	\$4,156	\$1,386	\$2,771	\$9,699	89
Cathedral City	\$134	\$1,608	\$402	\$134	\$2,278	19
City of Corona	\$250	\$607	\$250	\$250	\$1,357	36
County of Riverside (Sheriff)	\$882	\$1,401	\$650	\$882	\$3,815	76

Claimant	B.1.a. Receive	B.1.b. Review	B.1.d. Transmit	B.1.e. Close	Total Cost B.1. (a,b,d,e)	Number of U Visa Certification Requests Received
City of Oceanside	\$540	\$540	\$540	\$540	\$2,160	60
City of Lodi	\$308	\$694	\$66	\$66	\$1,134	7
City of Stockton	\$479	\$3,187	\$159	\$318	\$4,143	186
City of San Mateo	\$789	\$3,155	\$789	\$0	\$4,733	47
County of San Mateo (Sheriff)	\$789	\$3,155	\$789		\$4,733	47
City of Palo Alto	\$59	\$241	\$241	\$180	\$721	6
County of Santa Cruz (DA)	\$380	\$1,140	\$254	\$254	\$2,028	21
City of Fairfield	\$444	\$2,660	\$444	\$444	\$3,992	80
City of Suisun City	\$341	\$681	\$454	\$227	\$1,703	22
City of Vacaville	\$140	\$1,252	\$140	\$140	\$1,672	13
City of Vallejo	\$146	\$1,100	\$366	\$146	\$1,758	70
City of Oxnard	\$1,731	\$18,306	\$1,526	\$577	\$22,140	213
TOTAL					\$302,359	4714

Thus, to calculate the average cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. per each U Visa certification request, the total unaudited cost of these activities for the initial reimbursement period claimed at \$632,408 is divided by the 10,130 U Visa certification requests received by the claimants' certifying entities during the initial reimbursement period, to arrive at the average of \$62.43 per each U Visa certification request to comply with activities B.1.a., B.1.b., B.1.d, and B.1.e.

- *The cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. for future claims will vary depending on the percentage of the population served by the local agencies that file reimbursement claims.*

As discussed earlier, the percentage of the California population served by the local governments that filed timely reimbursement claims for the initial claiming period is only approximately 45 percent. As mentioned, there are many potential reasons for this including not meeting the \$1000 threshold for claiming (and the number of local agencies that will not meet this threshold in a given year is expected to go up because the one-time costs will significantly decrease for future years) or a determination that the costs to file a claim are not worth it. Assuming the percentage remains at 45 percent for future claims, the ongoing costs for this activity are

estimated at \$350,888 = 12,490 X \$62.43 X .45 (estimated number of U Visa certifications requests received in fiscal year 2018-2019 multiplied by average cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. per certification, multiplied by 45% - the percentage of the population served by the certifying entities of local agencies that timely filed reimbursement claims). Assuming, on the other hand, that every eligible local agency that issues a U Visa certification in a year files a reimbursement claim the costs could be as high as \$779,751 = 12,490 X \$62.43 (estimated number of U Visa certification requests received in fiscal year 2018-2019 multiplied by average cost of activities B.1.a., B.1.b., B.1.d, and B.1.e. per certification).

D. B.1.c. (for the certifying official to fully complete and sign the U Visa form if it is determined that the victim qualifies for a U Visa certification)

The activity B.1.c is approved for the certifying official to:

[F]ully complete and sign the Form I-918 Supplement B certification, upon the request of the victim or the victim’s family member, when it is determined that the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity, and “include specific details about the nature of the crime the certifying entity investigated or prosecuted and a detailed description of the victim’s helpfulness or likely helpfulness to the certifying entity in the detection or investigation or prosecution of the criminal activity.”

To the extent the certifying entity that receives a U Visa request has a record of the qualifying criminal activity identified by the victim or victim’s family member, which was prepared in the normal course of the certifying entity’s law enforcement duties, reimbursement for this activity includes locating and reviewing the record to complete the Form I-918 Supplement B certification.

Reimbursement for this activity also includes attaching to the Form I-918 Supplement B certification, relevant reports prepared in the normal course of the certifying entity’s law enforcement duties, detailing the criminal activity being investigated or prosecuted and the involvement of the victim, and relevant reports containing a description of any known or documented injury to the victim.¹¹²

Unlike the rest of the ongoing activities approved for this program, this is only authorized for those instances when “it is determined that the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity.”¹¹³

The major costs for this activity are likely to consist of two components: (1) labor costs for the certifying official to complete and sign the form, including attaching to the form all relevant reports prepared in the normal course of law enforcement duties, and (2) the cost of locating and reviewing the existing record of the qualifying criminal activity. Accordingly, the two main cost factors for Activity B.1.c. are: (a) the total number of U Visa certifications issued each fiscal year, and (b) the average cost to comply with Activity B.1.c. for each U Visa certification issued.

Based on the estimated cost of this activity per U Visa certification and the assumption that the number of U Visa certifications issued by the eligible claimants’ certifying entities is 11,510

¹¹² Exhibit A, Corrected Decision and Parameters and Guidelines, pages 10 and 33.

¹¹³ Exhibit A, Corrected Decision and Parameters and Guidelines, page 34.

for fiscal year 2016-2017; 11,560 for fiscal year 2017-2018; and 9,350 for fiscal year 2018-2019, the total cost for activity B.1.c. for the initial reimbursement period is estimated to be between \$402,220 and \$416,183, and the cost for fiscal year 2018-2019 and forward is estimated to be between \$75,903 and \$168,674, plus the implicit price deflator.

FY 2016-2017 and FY 2017-2018:

\$402,220 (the unaudited costs timely claimed for this activity); and

\$416,183 = (11,510 + 11,560) X \$18.04 (estimated number of U Visa certifications issued in fiscal years 2016-2017 and 2017-2018 multiplied by average cost of activity B.1.c per certification).

FY 2018-2019:

\$75,903 = 9,350 X \$18.04 X .45 (estimated number of U Visa certifications issued in fiscal year 2018-2019, multiplied by average cost of activity B.1.c per certification, multiplied by 45% - the percentage of population served by local agencies that timely filed reimbursement claims); and

\$168,674 = 9,350 X \$18.04 (estimated number of U Visa certifications issued in fiscal year 2018-2019 multiplied by average cost of activity B.1.c per certification).

- *The average cost of activity B.1.c. per approved U Visa certification is estimated at \$18.04.*

As discussed earlier, the Assembly Committee on Appropriations analysis of the test claim statute assumed that it would cost \$25 “to provide” the U Visa certification.¹¹⁴ It is not clear how that dollar amount was determined or what activities were meant to be included in the phrase “to provide,” but potentially it could have meant this activity alone.

The average cost of activity B.1.c. per U Visa certification can be estimated based on the claims data for the cost of activity B.1.c. divided by the number of U Visa certifications for which these costs were claimed.

163 claims out of 173 claims filed included costs for activity B.1.c. amounting to \$195,153 for fiscal year 2016-2017 and \$207,067 for fiscal year 2017-2018, for a total of \$402,220 for the initial reimbursement period.¹¹⁵ However, only some of the claims filed for the initial reimbursement period include information on the number of U Visa requests issued by the certifying agency claiming the costs for activity B.1.c. Accordingly, for the purpose of estimating the average cost of this activity per U Visa certification only the cost data from a selected sample of claims that provide information on the number of U Visa certifications used as the basis for activity B.1.c. costs are included in the calculation (see Table 8, FY 2016-2017 (24 claims) and Table 9, FY 2017-2018 (20 claims)). The selected claims represent both counties’ and cities’ claims. The 44 unaudited claims included in the calculation identify in total 6543 U Visa certifications as the basis for the activity B.1.c costs amounting to \$118,080 for the initial reimbursement period.

¹¹⁴ Exhibit D, Assembly Committee on Appropriations Analysis of SB 674, as introduced February 27, 2015, page 1.

¹¹⁵ Exhibit D, Claims data reported as of September 19, 2019.

Table 8

FY 2016-2017 (24 claims)

Claimant	B.1.c. Sign	U Visa Certification
City of Hayward	\$5,103	207
City of Pleasant Hill	\$358	12
City of Richmond	\$2,494	100
City of San Pablo	\$1,126	58
City of Walnut Creek	\$482	5
City of Reedley	\$193	13
City of Hanford	\$671	10
City of Glendale	\$240	18
City of Los Angeles	\$21,716	2018
City of San Dimas	\$555	7
City of Santa Clarita	\$941	24
City of Huntington Beach	\$396	35
Cathedral City	\$701	17
County of Riverside (Sheriff)	\$791	53
City of Lodi	\$230	5
City of Stockton	\$2,315	131
City of San Mateo	\$1,280	51
County of Santa Barbara (DA)	\$11,819	259
City of Palo Alto	\$346	19
City of Fairfield	\$326	28
City of Suisun City	\$713	24
City of Vacaville	\$237	6
City of Vallejo	\$1,233	79
City of Oxnard	\$6,141	218
TOTAL	\$60,407	3397

Table 9

FY 2017-2018 (20 claims)

Claimant	B.1.c. Sign	U Visa Certification
City of Hayward	\$4,883	210
City of Pleasant Hill	\$288	8
City of Richmond	\$5,740	230
City of San Pablo	\$680	33
City of Walnut Creek	\$512	5
City of Reedley	\$192	13
City of Hanford	\$963	14
City of Glendale	\$232	19

Claimant	B.1.c. Sign	U Visa Certification
City of Los Angeles	\$21,155	1887
City of Santa Clarita	\$576	14
Cathedral City	\$804	19
County of Riverside (Sheriff)	\$977	64
City of Lodi	\$463	7
County of Santa Barbara (DA)	\$10,953	242
City of Palo Alto	\$121	6
City of Fairfield	\$625	57
City of Suisun City	\$681	22
City of Vacaville	\$531	13
City of Vallejo	\$1,195	70
City of Oxnard	\$6,102	213
TOTAL	\$57,673	3146

Thus, to calculate the average cost of activity B.1.c. for each U Visa certification issued, the total unaudited cost of activity B.1.c. claimed at \$118,080 is divided by the total number of U Visa certifications as identified in the claims data, estimated at 6,543, to arrive at the estimated average cost of \$18.04 per U Visa certification to comply with activity B.1.c.

- *The cost of activity B.1.c. for future claims will vary depending on the percentage of the population served by the local agencies that file reimbursement claims.*

Assuming the percentage of the California population served by the local governments that filed timely reimbursement claims for the initial claiming period is approximately 45 percent and that it remains at 45 percent for future claims, the ongoing costs for this activity are estimated at \$75,903 = 9,350 X \$18.04 X .45 (estimated number of U Visa certifications issued in fiscal year 2018-2019 multiplied by average cost of activity B.1.c per certification, multiplied by 45% - the percentage of population served by entities that timely filed reimbursement claims). Assuming, on the other hand, that every eligible local agency that issues a U Visa certification in a year files a reimbursement claim the costs could be as high as \$168,674 = 9,350 X \$18.04 (estimated number of U Visa certifications issued in fiscal year 2018-2019 multiplied by average cost of activity B.1.c per certification).

E. B.2. (Report to the Legislature)

The approved activity of B.2 is stated as follows:

A certifying entity that receives a request for a Form I-918 Supplement B certification shall report to the Legislature on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications from the particular agency, the number of certifications signed, and the number of certifications denied.^{116,117}

The activity to report to the Legislature the number of requests received, certifications signed, and certifications denied is required for every certifying entity that receives a U Visa request. However, not all certifying entities that received a request for a U Visa certification reported to

¹¹⁶ Penal Code section 679.10(l).

¹¹⁷ Exhibit A, Corrected Decision and Parameters and Guidelines, page 35.

the Legislature during the initial reimbursement period, as required by the test claim statute. For example, the City of Oakland Police Department did not file a report in 2016-2017 (on certification requests processed in 2016) or 2017-2018 (on certification requests processed in 2017), yet the City's website states that Oakland received 1,205 certification requests and issued 1,069 certifications in 2016 and received 940 requests and issued 796 certifications in 2017;¹¹⁸ and the claims data (which is based on fiscal year rather than calendar year) shows that the Oakland Police Department received 945 certification requests in the 2016-2017 fiscal year and 741 requests and 2017-2018 fiscal year.¹¹⁹ Only 109 reports were submitted to the Legislature for the initial reimbursement period by certifying entities of the eligible claimants and were provided to the Commission by legislative staff.¹²⁰ However, the reimbursement claims include costs for reports, which were not filed with the Legislature, according to the evidence in the record and the costs for some reports that were filed with the Legislature were not claimed in timely reimbursement claims. Perhaps some claimants thought they had filed reports that were not actually received by the Legislature, however, only reports actually filed with the Legislature are entitled to be reimbursed. This, of course, is an auditing issue for the Controller. Therefore, it is estimated that the costs for the initial claiming period for activity B.2. is \$35,180 on the low end (the unaudited costs timely claimed) and \$39,567 on the high end (the estimated average cost of a report multiplied by the number of reports filed with the Legislature).

The estimated cost of activity B.2. for the following years will range, based on the assumption that either only the same number of reports will be annually submitted to the Legislature by certifying entities of eligible local agencies which will file reimbursement claims in future years (an average of 54.5 claims per year) or that all certifying entities that are required to submit reports to the Legislature will comply with the mandate and their local agencies will claim reimbursement. Accordingly, there are two main cost factors for the activity B.2.: (a) the total number of reports on U Visa certifications submitted to the Legislature (actual number of reports filed during the initial reimbursement period and estimated number of reports to be filed during 2018-2019 fiscal year), and (b) the average cost per report.

Based on the assumptions and methodology discussed below the total cost for Activity B.2. for the initial reimbursement period is estimated to be between \$35,180 and \$39,567, and the cost for fiscal year 2018-2019 and following is estimated to be between \$19,783 and \$31,581, plus the implicit price deflator.

FY 2016-2017 and FY 2017-2018:

\$35,180 = (the unaudited costs timely claimed); and

\$39,567 = 109 X \$363 (number of U Visa certification reports submitted to the Legislature during the initial reimbursement period multiplied by the average cost per report).

FY 2018-2019 and following:

\$19,783 = 54.5 X \$363 (average annual number of reports filed with the Legislature in the initial claiming period multiplied by the average cost per report); and

¹¹⁸ Exhibit D, City of Oakland U-Visa certifications data, page 9, <https://www.oaklandca.gov/resources/u-visa> (accessed on May 17, 2019).

¹¹⁹ Exhibit D, Excerpt from the City of Oakland Reimbursement Claim Fiscal Year 2016-2017; Exhibit D, Excerpt from the City of Oakland Reimbursement Claim Fiscal Year 2017-2018.

¹²⁰ Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volumes 1 through 5).

\$31,581 = 87 X \$363 (estimated number of U Visa certification reports required to be submitted to the Legislature during fiscal year 2018-2019 multiplied by the average cost per report).

- *The total number of reports on U Visa certifications submitted to the Legislature by the eligible claimants' certifying entities is estimated at 109 for the initial reimbursement period; and estimated to be between 54.5 and 77 for 2018-2019 fiscal year.*

The analysis of the U Visa certification reports submitted to the Legislature in 2017 and 2018¹²¹ shows that approximately 109 reports were filed by the local certifying entities of local agencies that are eligible for reimbursement during the initial reimbursement period.¹²² (Table 10).

Table 10. Number of mandated reports on U Visa certifications submitted to the Legislature in 2017 and 2018 by the eligible claimants' certifying entities (based on the data from the compilation of the 2017-2018 Reports to the California Legislature).

Certifying Entities of Eligible Claimants	2017 Reports	2018 Reports
DA Offices (18)	11	16
County Sheriffs (14)	11	9
City Police Departments (40)	34	26
City of LA, City Attorney/ Domestic violence	1	1
TOTAL	57	52

Thus, the total number of reports on U Visa certifications submitted to the Legislature by the eligible claimants' certifying entities is estimated at 109 for the initial reimbursement period.

The annual cost of activity B.2. for future years (beginning with fiscal year 2018-2019) could increase, if all mandated certifying entities of eligible claimants annually report to the Legislature as required by the test claim statute and those local agencies meet the \$1000 threshold for a fiscal year and file a reimbursement claim. As discussed earlier, it is estimated that eligible claimants' certifying entities received and processed approximately 14,960 U Visa certification requests in fiscal year 2016-2017, and 15,890 in fiscal year 2017-2018, with a total of 30,850 certification requests during this period. On the other hand, the annual reports submitted by the eligible claimants' certifying entities to the Legislature show only 8,394 certification requests for 2016 calendar year and 9,413 requests for 2017 calendar year, with a total of 17,807 certification requests reported during this period. This suggests that less than 60 percent of all certification requests received by the eligible claimants' certifying entities were reported to the Legislature during the initial reimbursement period.¹²³

¹²¹ Exhibit D, 2017-2018 Reports to the Legislature on U Visa certifications (volumes 1 through 5).

¹²² Penal Code Section 679.10(l) requires certifying entities to report to the Legislature on or before January 1, 2017, and annually thereafter. For the purpose of this analysis it is assumed that the costs for these reports have been incurred during fiscal years 2016-2017 and 2017-2018. The analysis of the 2016 reports submitted to the Legislature by the eligible claimants' certifying entities shows that all of these reports were submitted during fiscal year 2016-2017, with one exception where the 2016 report was filed during fiscal year 2017-2018. Exhibit D, 2017-2018 Legislative reports on U Visa certifications (volumes 1 through 5).

¹²³ This is only a very rough estimate of the reporting rate because it is based on comparing two sets of estimated data for a two-year period where the beginning and the end of the period do not completely coincide for each set of estimates: 30,850 certification requests received is estimated for a two-year period from July 1, 2016 to June 30, 2018 (fiscal years 2016-2017 and 2017-

Assuming only the same number of reports (an average of 54.5 over the initial reimbursement period) continue to be submitted to the Legislature for 2018-2019 and following years by certifying entities of eligible claimants who file reimbursement claims, there will be 54.5 reports filed and claimed for per fiscal year.

On the other hand, assuming a 100 percent reporting and mandate reimbursement claiming rate for future years, the ongoing costs for this activity could be as high as $\$31,581 = 87 \times \363 (estimated number of U Visa certification reports required to be submitted to the Legislature during fiscal year 2018-2019 multiplied by the average cost per report). The estimated number of reports required to be submitted to the Legislature by the eligible claimants' certifying entities during 2018-2019 fiscal year is expressed as a ratio of the estimated number of U Visa certification requests received by all eligible claimants' certifying entities during the 2018 calendar year to an estimated average number of requests included in each report. The average number of U Visa certification requests included in each report submitted to the Legislature is estimated based on the data from the reports submitted to the Legislature in 2017 and 2018 as follows:

$$\frac{17,807 \text{ (number of certification requests reported)}}{(57 + 52) \text{ (number of reports submitted)}} = 163 \text{ (average number of U Visa certification requests included in each report)}$$

Assuming that future reports to the Legislature will include approximately the same average number of U Visa requests per report as the reports submitted in 2017 and 2018, the number of reports for fiscal year 2018-2019 is calculated by dividing the number of U Visa certification requests received in calendar year 2018, estimated at 14,171 by the average number of requests per report, estimated at 163, to arrive at the estimated number of 87 reports that will be required to be submitted to the Legislature in 2018-2019 fiscal year.

- *The average cost of Activity B.2. per one report submitted to the Legislature is estimated at \$363.*

This estimate is based on the claims data for activity B.2. to report to the Legislature.

97 claims out of 173 claims filed included costs for activity B.2. amounting to \$14,740 for fiscal year 2016-2017 and \$20,440 for fiscal year 2017-2018, for a total of \$35,180 for the initial reimbursement period.¹²⁴

Thus, the estimated cost of activity B.2. for each reporting certifying entity is calculated by dividing the total cost claimed for this activity at \$35,180 by the number of reports, estimated at 97 based on the assumption that each of the 97 claims for activity B.2 represents one report submitted to the Legislature by the claimant's certifying entity,¹²⁵ to arrive at the cost of \$363 per each report.

2018), and the 17,807 certification requests reported is estimated for a two-year period from January 1, 2016 to December 30, 2017 (calendar years 2016 and 2017).

¹²⁴ Exhibit D, Claims data reported as of September 19, 2019.

¹²⁵ The number of reports per claim may vary in some cases. For example, some claimants may claim costs for activity B.2. for several certifying entities, while others, such as contract cities, may have incurred and claim costs for this activity but they are not required to report to the Legislature. In addition, the review of the claims filed for the initial claiming period along with the review of a compilation of U Visa reports received by the Legislature for the respective time

Draft Proposed Statewide Cost Estimate

On October 15, 2019, Commission staff issued the Draft Proposed Statewide Cost Estimate.¹²⁶ No comments were filed on the Draft Proposed Statewide Cost Estimate.

Conclusion

On November 22, 2019, the Commission adopted this Statewide Cost Estimate of \$2,350,485 to \$3,335,253 for the initial reimbursement period of fiscal years 2016-2017 and 2017-2018 and the estimated cost for fiscal year 2018-2019 and following of \$605,302 to \$1,332,717, plus the implicit price deflator.

periods suggests that in some cases the costs for submitting reports to the Legislature were claimed but the reports might have been never submitted.

¹²⁶ Exhibit C, Draft Proposed Statewide Cost Estimate.