



Cost Recovery Systems, Inc.

RECEIVED
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Commission on
State Mandates

October 23, 2018

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

**Comments to Draft Expedited Parameters and Guidelines:
Test Claim U Visa 918 Form, Victims of Crime: Nonimmigrant Status, 17-TC-01**

Dear Ms. Halsey,

Please accept the City of Claremont comments and recommended changes to the Commissions Draft Expedited Parameters and Guidelines. We believe the following activities are reasonably necessary activities to perform the mandated activities pursuant to Cal. Code Regs., tit. 2, §1183.7(d) and clarify the activities necessary to comply with the mandated program.

IV. REIMBURSABLE ACTIVITIES (proposed changes noted with underline and italics)

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event, or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5.3

Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents. The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

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

One-time costs:

- 1) Update Department Policies and Procedures to incorporate new statutory requirements of (Pen. Code, § 679.10(a)-(j).)
- 2) Train new staff assigned to work on mandated program on requirements of Penal Code, § 679.10(a)-(j). This may include reading State statutes, instruction forms, and State or Federal Bulletins or Guidelines.

On-going activities:

For a certifying entity that receives a request for a Form I-918 Supplement B certification from the victim or the victim's family member, the following activities are eligible for reimbursement:

- 1) Receive, review and log the request
- 2) Research the original crime(s) the victim was involved to determine whether the requirements of Penal Code, § 679.10(a)-(j) are met and certification can be granted and to determine "victims' helpfulness". This includes obtaining prior criminal records, reports, and history, determining helpfulness and potential helpfulness of the victim; determining if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.
- 4) For the certifying official (or their designee) to fully complete and sign the Form I-918 Supplement B certification ~~upon the request of the victim or the victim's family member,~~ and "include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity" within 90 days of the request or 14 days of the request if the victim is in removal proceedings, when 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 or investigation or prosecution of that qualifying criminal activity. (Pen. Code, § 679.10(a)-(j).)
- 3) Supervisor edit, review, approval, and certification (signatures) of forms
- 4) Transmit results to involved parties and legal representatives
- 5) File, log, and close case
- 6) ~~2. For 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 particular agency, the number of certifications signed, and the number of certifications denied. (Pen. Code, § 679.10(l).)

Conclusion:

We believe the separation of eligible activities between one time and on-ongoing costs provides greater clarification to potential claimants. The activities listed reflect those which we presented in our Test Claim documentation.

As stated in our August 23, 2018 response to the Draft Proposed Decision, Update of Policies and Procedures and one-time training of staff assigned to respond to UVISA requests are necessary and reasonable activities to implement the new subject State statutes.

Commission staff notes in its analysis on page 23, "On October 28, 2015, California Department of Justice issued an Information Bulletin to all California State and Local Law Enforcement Agencies on "new and Existing State and Federal Laws Protecting Immigrant Victims of Crime." The Commission continues on page 25 of its Draft Proposed Decision, "This bulletin states: The Attorney General encourages all agencies and officials subject to California's new law to immediately establish and implement a U visa certification policy and protocol that is consistent with California law and the guidance provided in this law enforcement bulletin." (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).

California law enforcement agencies are required to have policies in place to ensure consistent and legal responses to State Statutes. Law enforcement agencies charged with certifying the UVISA requests must be properly informed and trained in the Statutory requirements and therefore Policy and Procedure Manual updates and legal review are the most efficient way to properly implement those new requirements.

The new UVISA requirements are extremely lengthy and complex. We believe the time for the one-time training of staff and the establishment of the written rules and guidelines in Departmental Policies and Procedure manuals is a necessary cost that resulted directly from the passage of this new State Mandated program and therefore should be allowed as an eligible one-time cost.

Respectfully submitted,



Annette S. Chinn
Cost Recovery Systems, Inc.
Claimant Representative

DECLARATION OF MICHAEL CISZEK

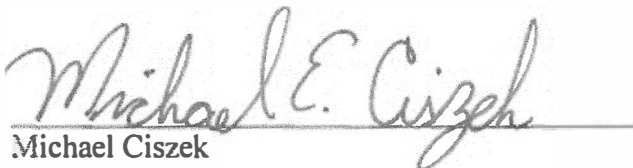
I, Michael Ciszek, make the following declaration under oath and under penalty of perjury under the laws of the State of California that the following statements are true and correct of my own personal knowledge:

- 1) I am a Lieutenant for the City of Claremont. I have been employed by the City in this capacity since 2009 and have been a law enforcement officer since 1996. As part of my duties, I am, and have been directly involved and have personal knowledge of the UVISA program, process, and activities performed by the City of Claremont which were required by Penal Code 679.10, added by Senate Bill 674, Statutes of 2015 (referred to as the UVISA program). I have been involved in this Test Claim process and am familiar with the history and documents related to this Test Claim.
- 2) I have examined the attached "Comments to the Draft Proposed Parameters and Guidelines letter" dated October 22, 2018 and it is my belief that the activities listed directly result from the mandate and are reasonably necessary to implement the subject statutes of the UVISA program.
- 3) The "certifying official" may not be the only employee designated to complete all activities related to the UVISA requests, therefore we recommended the change to item 4) of the Reimbursable Activities wording slightly.
- 4) One-Time Training of staff on the requirement of the new Statutes is necessary to ensure the complex and lengthy rules dictating this program are met and that the employee is completing the forms properly. This may include reading subject State Statutes, UVISA instructions and forms, State Department of Justice Information Bulletins, and Federal Homeland Security Guides (U and T Visa Law Enforcement Recourse Guide").
- 5) It is standard practice of law enforcement agencies to update their written "Policies and Procedures" when additions or changes to the Penal Codes are made and in my opinion are a reasonably necessary activity of implementing the new subject State statutes.

I am personally conversant with the foregoing facts and information presented in declaration and in this Test Claim and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon my own personal knowledge.

Executed this 17th day of October, 2018 in Claremont, California.



Michael Ciszek
Lieutenant
Claremont Police Department

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

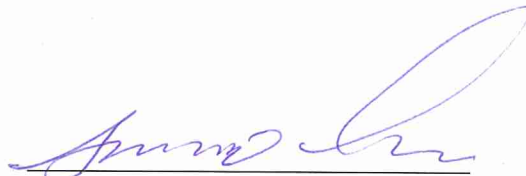
On October 24, 2018, I served the:

- **State Controller's Office (Controller's) Comments on the Draft Expedited Parameters and Guidelines filed October 24, 2018**
- **Claimant's Comments on the Draft Expedited Parameters and Guidelines filed October 23, 2018**

U Visa 918 Form, Victims of Crime: Nonimmigrant Status, 17-TC-01
Penal Code Section 679.10; Statutes 2015, Chapter 721 (SB 674)
City of Claremont, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 24, 2018 at Sacramento, California.



Lorenzo Duran
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/18

Claim Number: 17-TC-01

Matter: U Visa 918 Form, Victims of Crime: Nonimmigrant Status

Claimant: City of Claremont

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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