

California Uniform Construction Cost Accounting Commission
Minutes of February 4, 2009
300 Capitol Mall, Room 635
Sacramento, California

1. Call to order

Chairman Cortright called the meeting to order at 9:10 a.m.

2. Introductions

Present: Gene Cortright, William Dildine (via telephone), David McCosker, Jay Hansen, Alec Pringle, Linda Clifford, Eddie Bernacchi, Jeff Armstrong, Robert Byrd (via telephone).

Absent: David Gomez, Guiselle Carreon, Lisa Miller-Strunk

Guests: Rod Moresco – City of Vacaville

Josie Ripoly (via telephone) – Moreno Valley School District

Lee Howard - North Coast Builder's Exchange (NCBE)

Catherine Hilliard – Construction Industry Force Account Council

Sally Riley – Construction Industry Force Account Council

Michelle Tucker – Construction Industry Force Account Council

Dave Rapport (via telephone) - Attorney, City of Ukiah

Tim Eriksen (via telephone) – Public Works Director, City of Ukiah

State Controller's Office: Mike Adams –Manager

Jeanette Cosentino – Fiscal Analyst

Anita Dagan – Policy Specialist

Scott Taylor– Fiscal Analyst

Bob Stonehouse – Fiscal Analyst

3. Approval of the Minutes for November 7, 2008 Meeting

Commissioner Pringle motioned and Commissioner McCosker seconded to approve the minutes of the November 7, 2008. Motion passed 7-0.

4. Commission Updates

A. Report of Participating Agencies

Staff provided to each commissioner an updated agency list and reported that there are now 682 participating agencies, of which 11 were newly added participants since the agency list was last produced. Since the posting of this list, 4 more agencies have opted into the Act.

B. Funding Update – Receipts/Expenditures Activity

9:20 Commissioner Jeff Armstrong joined the meeting in person.

9:23 Commissioner Robert Byrd joined the meeting via telephone.

5. Public Comment

Michelle Tucker told the Commission that the City of Lindsey had not responded to the CIFAC's request for more information regarding its library project.

Lee Howard stated to the Commission that the teleconference arrangements for this meeting did not comply with the requirements of the Bagley-Keene Open Meeting Act.

6. Staff Comments/Requests

Staff reported on the results from the AB 1047 letter mailed on December 30, 2008. Staff has received twelve telephone inquiries and eleven agencies have opted into the Act since the letter's mailing.

7. Commissioners' Comments/Requests

Commissioner Byrd suggested a press release as a follow up to the AB 1047 letter.

Commissioner Dildine wants to add the discussion of term limits to the next meeting's agenda so the commission is proactive about appointing successors. He also made the statement that the commission can obtain legal opinions from the Attorney General. (SCO staff believes that the commission shall only use the SCO's legal counsel for opinions. And any opinion from the SCO's counsel is proprietary).

Commissioner Hansen suggested distributing a copy of the AB 1047 letter to key legislators. Commissioner Bernacchi volunteered to do so.

Commissioner Clifford suggested posting the AB 1047 on the CUCCAC website.

Commissioner Armstrong made a comment that he believes there is a lack of communication between the accountants and the contract's principal at the public agencies. The commission needs to create a link, or an educational source, that speaks to both sides. Commissioner Byrd said he was willing to speak on this issue and help the people who procure services understand the benefits of the Act.

Chairman Cortright suggested that public comment regarding matters on the agenda be held until those matters are brought to the table for consideration.

8. Old Business

- A. Account Review Update – Commission discussed the 12/7/2008 decision that the City of Ukiah's Alice Street project violated the Act. The Commission heard comments from Tim Eriksen, Director of Public Works for the City of Ukiah, and David Rapport, counsel representing the City of Ukiah. Mr. Eriksen stated that the project's original cost estimate, prepared in good faith, was below the Act's \$30,000 force limit and that a 10% cost overage should be allowable. He also stated that commission violated the Act by not appointing consultants to conduct

the account review. The Commission stated to Mr. Eriksen that the Act makes no exception to the \$30,000 force limit and respectfully suggests that sound budgeting practices should allow for the possibility of unplanned expenses. Commissioner Bernacchi stated that even though the commission did not comply with the Act's procedures by performing the account review themselves, the violation should still stand. Commissioner McCosker motioned and Commissioner Byrd seconded to affirm the finding that the City of Ukiah's Alice Street Project violated the Act's \$30,000 force limit. Motion passed 9-0. Commissioner Byrd motioned and Commissioner Clifford seconded that the Commission prepare a formal finding and deliver it to the City of Ukiah in no more than 10 calendar days. Motion passed 9-0. Commissioners Pringle and Clifford volunteered to assist Chairman Cortright in preparing the finding.

- B. CUCCAC By-Laws – Commissioner Clifford presented a draft of proposed by-laws for the Commission. Commissioner Hansen motioned and Commissioner McCosker seconded to submit them to legal counsel for review. Motion passed 9-0.
- C. Reed Construction – Commissioner Clifford confirmed that she informed Reed Construction that it remains on the list of construction trade journals included in the CUCCAC manual.
- D. City of Corona– Chairman Cortright reported that he had discussed the CIFAC complaint with City of Corona staff. Based on his discussions, he was confident that no violation occurred and recommended no further action was required.
- E. Donation Requests – Commissioner Bernacchi suggested that each commissioner develop a donation solicitation letter targeted to their respective constituencies – labor, contractors, and public agencies. Commissioner Clifford urged a quicker process in moving forward with this project. Commissioner Bernacchi motioned and Commissioner Pringle seconded that interested commissioners draft proposed donation solicitation letters addressed to their respective constituencies and submit them for discussion by the end of the month. Motion passed 9-0.
- F. Administrative Fee – After discussion, Commissioner Clifford motioned and Commissioner Pringle seconded that the Commission develop a cost plan and budget with revenue characterizations. Motion passed 9-0. Commissioner Bernacchi motioned and Commissioner Hansen seconded that Commissioners Bernacchi and Hansen develop enabling legislation to add language in the Act that gives the Commission authority to impose an administrative fee. Motion passed 9-0.
- G. Manual Revisions Procedures – SCO staff explained to the commission the procedures used when amending the non-legislative policies in the Act's manual. Once the amendments are proposed and decided on by the commission, staff

prepares the manual for the approval process. The section manager and all upper management will approve the amendments.

12:23 Commissioner Hansen left the meeting.

9. New Business

- A. Lease-Lease Back (LLB) – Discussion of this item was tabled.
- B. Force Account Limits for School Districts – Discussion of this item was tabled.
- C. Reimbursement for SCO Services – Staff reported that current law does not allow SCO staff to be reimbursed for services. Reimbursement would require revising Public Contract Code.
- D. Additional Manual Revisions – Staff presented proposed changes to the manual's account review procedures. Commissioner Bernacchi motioned and Commissioner McCosker seconded that the Commission adopt the proposed review procedures. Motion passed 6-0 with Dildine and Byrd abstaining.

Commissioner McCosker motioned and Commissioner Armstrong seconded that the Commission not raise the force limits at this time. Motion passed 5-3 (Aye: Armstrong, Bernacchi, Clifford, McCosker, Pringle; Nay: Byrd, Cortright, Dildine). Commissioner Pringle requested that the Commission reconsider the force account limits at a later time.

Commission asked SCO staff to talk to SCO legislative staff and Peter Detwiler about adding language to extend the account review processes in the Omnibus Bill.

- E. Account Reviews – Discussion of this item was tabled.
- F. Other – Commissioner Dildine asked when the oaths of office will be administered. SCO staff to research who administers the oaths for the commission.

10. Next meeting

Commission discussed holding the next meeting in early June.

11. Adjournment

Commissioner Clifford motioned and Commissioner Bernacchi seconded that the meeting be adjourned. Motion passed 8-0 at 2:05 p.m.

If you would like more information regarding this meeting, please contact:

State Controller's Office
Local Government Programs and Services Divisions
Local Government Policy Section
LocalGovPolicy@sco.ca.gov