

California Uniform Construction Cost Accounting Commission

Minutes of

Friday, March 6, 2020

The Commission at a subsequent public meeting  
on July 17, 2020, approved these minutes.

**1. Call to order**

Chair Will Clemens called the meeting to order at 10:00 AM

Present: Eddie Bernacchi, Robert Campbell, Will Clemens, Leeann Errotabere,  
Steven Hartwig, Michael Hester, Nathaniel Holt, John Nunan, and Jeremy  
Smith

Via teleconference: Peter Worhunsky

Absent: Jeff Armstrong and Mary Teichert

Unexcused Absences: N/A

Guests in person: Michelle Tucker, Justin Bochmann, Matthew Hilliard, and Raquel  
White from Construction Industry Force Account Council (CIFAC)

Guest via teleconference: Craig Goldman from Belmont-Redwood Shores School  
District

State Controller's Office: Dave Brownfield, Sandeep Singh, Debbie Torres

**2. Introduction**

Debbie Torres from the State Controller's Office (SCO) conducted roll call. Guest in attendance introduced themselves. Sandeep Singh, Manager for Local Government Policy, introduced SCO staff. Commissioner Worhunsky joined via teleconference.

Chair Clemens mentioned Mary Teichert who is a new member of the commission and was appointed by Governor Gavin Newsom. She was on vacation and unable to attend the meeting.

Craig Goldman from Belmont-Redwood Shores School District introduced himself who joined the meeting via teleconference at 10:05 AM.

**3. Approval of the Minutes (Refer to attachment Item 3A)**

A. Meeting held on September 19, 2019

Chair Clemens motioned to approve the September 19, 2019, meeting minutes without changes; Commissioner Hester seconded the motion. The motion was approved 9-0. There was one abstained from Commissioners Holt.

#### **4. Commission Updates (Refer to attachment Item 4A, 4B, 4C and 4D)**

##### **A. Participating Agencies**

Debbie Torres presented an update on participating agencies, noting that the SCO had received 43 resolutions from agencies that opted into the California Uniform Public Construction Cost Accounting Act (Act). Participating agencies, including newly opted-in agencies, currently total 1,315.

##### **B. Funding Update**

Debbie Torres reported that there was one donation from United Contractors of \$2,500. A total of \$13,484.92 is available for unrestricted funds for the California Uniform Construction Cost Accounting Commission (Commission) use and reimbursement.

##### **C. Inquiry Update**

SCO staff presented a report on inquiries received since the last meeting.

##### **D. Annual report to the California State Legislature for 2019**

Ms. Torres mentioned the Annual report the California State Legislature is available to commission to make additional edits before sending the report to the Legislature. The Commission did not have any additional edits to the report.

##### **E. Ethics Training**

Ms. Torres mentioned she would send email reminders to the Commission as their due date approaches. She mentioned the next due date will not be until 2021 with the exception of Commissioner Teichert.

##### **F. Form 700**

Ms. Torres shared that she has received notice the Fair Political Practice Commission that eight of the Commissioners completed Form 700s. She mentioned, as a reminder April 1 is the last day to electronically file the forms without a late penalty.

##### **G. ADA Compliant – CUCCAC webpage**

Mr. Singh mentioned that the CUCCAC webpage is moving forward with all documents to comply with American with Disabilities Act (ADA). The SCO staff to make available documents that will not be available to the public if requested. The Commission would give the SCO staff full control to ensure that the *Cost Accounting Policies and Procedures Manual*, Frequently Asked Questions, and meeting minutes comply with ADA requirements. The SCO staff will review the changes on CUCCAC webpage at the next meeting with the Commission.

#### **5. Public Comment**

No Public Comment.

**6. Staff Comments/Requests**

**7. Report of the Officers**

A. Chair

Chair Clemens mentioned that he attended and gave a presentation on the Act at the California Special Districts Association annual conference and the State Controller's Conference with County Auditors since the last CUCCAC meeting.

Chair Clemens also mentioned that he has changed his employment from the County of San Luis Obispo to the Oceano Community Services District. In addition, Commissioner Hartwig changed his employment to County of Sacramento. Controller Betty T. Yee appointed Chair Clemens to represent special districts and Commission Hartwig to represent counties.

B. Vice Chair

Nothing to report.

C. Secretary

Commissioner Holt mentioned that smaller school districts have been opting into the Act. Commissioner Holt attended Coalition for Adequate School Housing to ensure that they were providing adequate information about the Act. He also mentioned it was been a positive year for the school districts to get involved in the Act due to a lot of changes that has been taking effect in smaller school districts.

**8. Committee Reports**

A. CUCCAC Manual

i. Proposed Changes-Legislative Update

No Changes.

ii. Proposed Changes – Non-Legislative Update

No Changes.

**9. Commissioner Comments/Request**

Commissioner Errotabere mentioned she received twelve-email correspondences from various school districts wanting more information about the Act. She directed them to the CUCCAC webpage for reference items they can use and assisted them with the questions they had. She also mentioned she directed them to a sample board resolution that they can present to their school board.

Commissioner Errotabere also mentioned she attended and gave a presentation on the Act to the California Association of Public Procurement Officials. She also mentioned there were 27 inquiries about the Act after her presentation. She received their business cards and provided the *Cost Accounting Policies and Procedures Manual* to them.

**10. Old Business (Refer to attachment 10A and 10B)**

A. Modernization of advertising requirements in the Act

Chair Clemens submitted a written request to the SCO executive staff to request assistance on proposing revising the language to Public Contract Code section 22037 at the previous meeting.

Commissioner Bernacchi mentioned it was getting close to the deadline his staff had submitted the new language to Assembly member Heath Flora. Mr. Flora is from the Modesto area and was working with contractors and wanted to work with organized labor. Mr. Flora was happy and excited to carry the bill. Commissioner Bernacchi mentioned that the news of the bill has been very positive and supportive. The newspaper industry has posted their opposition to the bill.

Commissioner Bernacchi requested the SCO staff to inform the participating agencies to make them aware of the new language that will be proposed in Assembly Bill 2987 (AB 2987). Ms. Torres mentioned she could send a list serve notice to the agencies that have subscribed to CUCCAC notices.

Commissioner Bernacchi motioned that Chair Clemens submit a letter the State Controller to support AB 2987; Commissioner Campbell seconded the motion. The motion was approved 10-0.

B. FAQ – Procurement

Ms. Torres informed the Commission that the FAQ was posted on the CUCCAC website listed as number 29. Chair Clemens stated no other action was needed.

**11. New Business (Refer to attachment 11A and 11B)**

A. Piggyback contracts

Chair Clemens mentioned there was an inquiry from CIFAC concerning School Districts using piggyback contracts. CIFAC wanted a response for this inquiry for several school districts having issues and rather than filing a complaint on this type of projects. CIFAC would like to inform the agency or agencies in writing for future issues that may arise.

Chair Clemens mentioned that the Act does not address piggyback contracts; however, school districts have the ability to piggyback in other sections of the public contract code. The Attorney General opinion on modular buildings is that they can use piggyback contracts for the purchase of the modules however; they cannot be placed on a permanent foundation. This is where the Attorney General makes the distinction of personal property and real property.

Chair Clemens mentioned that the play surface is not where you will move it from one school to another school. The play surface will become fixed to the property.

Furthermore, the play surface does not fall into the personal property exception in the Attorney General's ruling.

Chair Clemens opened the topic for discussion with the Commission.

Commissioner Errotabere mentioned school districts not participating in the Act would use the piggyback contract to buy the equipment but the person they are buying the equipment from would not be installing it. The agency would bid out a quote for the installation. If the school district is a participating agency with the Act, they would use one of the contractors on their list to give a price to install the equipment.

Chair Clemens opened this topic for discussion to the public.

Michelle Tucker from CIFAC mentioned that this type of inquiry is a trend with the school districts using piggyback contracts for construction work. She mentioned Public Contract Code section 20118 stated they are allowed to use for piggyback contracts for leasing data-processing equipment and personal property equipment, but exclusive to labor. She also mentioned they have had three other school districts that have tried to use piggyback contracts to use the installation of equipment. CIFAC notified the School District to inform them they are not allowed to use piggyback contracts for installation and the school districts disagree with CIFAC.

Ms. Tucker thanked Chair Clemens for working with her on this inquiry.

Chair Clemens stated this inquiry answer was requested from CIFAC and Commissioners Hester and Bernacchi will have to recuse themselves from voting on the approval of this inquiry.

Chair Clemens motioned to approve the response letter to CIFAC; Commissioner Errotabere seconded the motion. The motion was approved 8-0; Commissions Hester and Bernacchi recused themselves from voting on this motion.

**B. Accounting Review – Belmont-Redwood Shores School District**

Chair Clemens stated the Commission received an accounting review request from the Belmont Redwood Shores Faculty Association. Commissioner Bernacchi asked SCO staff is this school district was a participating agency. Ms. Torres mentioned that the resolution was not filed with SCO. Chair Clemens mentioned that the school district may have opted into the Act but may have not filed their resolution with the SCO as many agencies have done in the past. Chair Clemens mentioned that agencies are not subject to the Act until they notify the SCO. Chair Clemens mentioned the Commission has no jurisdiction on this matter.

Chair Clemens addressed Craig Goldman who called in via telephone that his School District needs to contact the SCO to notify them that the school board

passed a resolution to opt-in to the Act. Mr. Goldman stated that in the past the school board did have a resolution that did pass, but was not sure if it was filed with the SCO.

Commissioner Bernacchi motioned the Commission notify Belmont-Redwood Shores Faculty Association that the Commission does not have jurisdiction in this matter because the School District did not file the resolution with SCO; Commissioner Holt seconded the motion. Motion was approved 10-0.

Chair Clemens ask the members of the public if they had any comments to add. There were no comments from the public.

Meeting notes: Commissioner Bernacchi left the room and guest Craig Goldman left via telephone at 11:20 AM.

C. Commission vacancy

Mr. Singh mentioned the SCO is currently recruiting for two city vacancies for the Commission.

**12. Next Meeting**

The Commission agreed to schedule the next meeting for:

Friday, July 17, 2020  
10:00 AM – 2:00 PM  
State Controller's Office  
300 Capitol Mall, 6<sup>th</sup> Floor, 635 Terrace Room  
Sacramento, California 95814

Due to scheduling conflict with Commissioner Smith, he will be excused from the next meeting.

Meeting notes: Commissioner Bernacchi returned to the room at 11:24 AM.

**13. Adjournment**

Commissioner Hester moved to adjourn the meeting at 11:26 AM; Commissioner Hartwig seconded the motion. The motion was approved 10-0.

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](mailto:LocalGovPolicy@sco.ca.gov)