

California Uniform Construction Cost Accounting Commission

Meeting Agenda

August 29, 2012
9:30AM to 2:00PM

Teleconference Number: (877) 581-9247
Participation Code: 221558

Location

California State Controller's Office
300 Capitol Mall, Suite 635
Sacramento, CA 95814

District Office
25634 Alessandro Boulevard
Moreno Valley, CA 92553

Santa Cruz Harbor Conference Room
135 5th Avenue
Santa Cruz, CA 95062

Shellmaker Inc.
837 West 17th Street
Costa Mesa, CA 92627

1. **Call to Order**
2. **Introductions**
3. **Oath of Office**
4. **Approval of the Minutes for the Meeting of June 8, 2011**
5. **Commission Update**
 - a. Report on new participating agencies
 - b. Funding update
6. **Public Comment**

(Limit of five minutes, unless the item you are addressing is on the agenda. If the item is on the agenda, notify the chair and you will be recognized at that time.)

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7. Staff Comment/Requests

- a. Status on commissioner terms

8. Commissioner Comments/Requests/Questions

- a. Commissioners reimbursement for expenses incurred in the performance of their duties. (Ref: Letter of KATHLEEN CONNELL of August 12 1998.) Are there any outstanding claims?

9. Old Business

- a. Issues raised with regards to the emergency procedures in the ACT related to school districts needs to be reworded
- b. Website Improvements: Updated FAQ's, creating a question forum, list of account reviews completed by the Commission, publish bylaws which are still waiting to be approved, creating a sample ordinance template in Word
- c. Status of Solicitations: Commissioners McCosker and Clifford were to solicit donations from contractor associations. Commissioners Diaz and Armstrong were to solicit donations from unions
- d. Revisions to the Manual: Suggestions from Commissioners Carreon, Ripoly, Bernacchi, Diaz, and Hicks

10. New Business

- a. What is the commission's role with regard to advising SCO staff or public agencies and processing requests from participating agencies, contractors, or the public during the year?
- b. What process should SCO staff follow in getting individual commissioner's input without violating the Bagley-Keene Act? Have all Commissioners been given a copy?
- c. Correspondence from Construction Industry Force Account Council (CIFAC) Regarding Questions to the Commissioners (Responses provided by subcommittee members impaneled to address the correspondence)
 - i. No. The Commission has ruled in the past that were the Act is silent, the standard code applies.
 - ii. Section 22042 lists the categories of complaints that the Commission can consider. A complaint of agencies not following advertising requirements is not one of the categories listed. Section 22044 seems to suggest that we can make findings on any violation of the chapter but then later seems to limit our response to the categories in Section 22042.
 - iii. There is no exemption to maintaining a list of bidders. PCC 22034 (a) The public agency **shall** maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the commission. If an agency is not maintaining a list or notifying all contractors or trade papers, then they are not in compliance with the Act. The Code says that participating agencies shall adopt an ordinance requiring that a list of all qualified contractors, identified according to categories of work be maintained. It does not require the list to be used

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however, and allows notifications to the required trade journals and exchanges be used as an alternate if desired. For agencies who elect to use the alternative authorized method of advertising, the purpose of the list is effectively negated. If an agency is using the contractor's list then they must send the notification to all contractors on the list for that category of work and the list must be maintained in accordance with the Manual.

- iv. Discuss at meeting
 - v. Depends on the merits of the case and the definition of "project". If a project is being split into parts to avoid the bidding requirements of the Act then they are in violation of the Act. If it is being split for other reasons then maybe not.
- d. Annual Report: The report to the Legislature for the year ending 06/30/12 needs to be submitted

11. Annual Report to the Legislature

12. Next Meeting

13. Adjournment

If you would like further information regarding this meeting or require special accommodation for attending this meeting, please contact:

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

California Uniform Construction Cost Accounting Commission
Financial Activity and Status Report
for the period 06/08/2011 to 08/29/2012

Cash Activity

		Conditional (1)	Unconditional	Total
Beginning Balance:	6/8/2011	\$ -	1,679.83	1,679.83
Receipts		-	5,000.00	5,000.00
Expenditures			812.38	812.38
Ending Balance:	8/29/2012	\$ -	5,867.45	5,867.45

(1) Note: Conditional donations are restricted to audit and account reviews.

Cash Receipts

Donor Type		Conditional	Unconditional	Total
City		\$ -	-	-
Community College District		-	-	-
Contractor		-	5,000.00	-
County		-	-	-
School District		-	-	-
Special District		-	-	-
Union		-	-	-
Total	8/29/2012	\$ -	5,000.00	-

Cash Expenditures

Expenditures				
Accounting Review				-
Services		-	-	-
Travel Expense Claims		-	812.38	812.38
Total	8/29/2012	\$ -	812.38	812.38

UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

Frequently Asked Questions (FAQ)

~~Here are answers to questions frequently asked by agencies evaluating the value of options open to them through the Uniform Public Construction Cost Accounting Act (The Act). Aside from the economic benefits, the program provides added conveniences, such as greater freedom in expediting public works projects yet within the spirit of open accountability.~~

1. What is the Uniform Public Construction Cost Accounting Act?

A program created in 1983 which allows local agencies to perform public project work up to ~~\$3045~~,000 with its own work force if the agency elects to follow the cost accounting procedures set forth in the Cost Accounting Policies and Procedures Manual of the California Uniform Construction Cost Accounting Commission (Commission). The Act is enacted under Public Contracts Code Section 22000 through 22045 (hereafter abbreviated as PCC 22000-22045).

In addition, the Act provides for alternative bidding procedures when an agency performs public project work by contract.

- (a) Public projects of ~~\$4530~~,000 or less may be performed by negotiated contract or by purchase order (PCC 22032(a)).
- (b) Public projects of ~~\$1725~~,000 or less may be let to contract by the informal procedures set forth in the Act (PCC 22032(b)).
- (c) Public projects of more than ~~\$1725~~,000 shall be let to contract by formal bidding procedures (PCC 22032(c)).

Every five years, the Commission shall consider whether there have been material changes in public construction costs and make recommendations to the State Controller regarding adjustments to the bidding procedure monetary limits (PCC 22020). Adjustments should be effective for the fiscal year that commences not less than 60 days following the State Controller's notification to all participating agencies.

2. What are the benefits of the program?

- a) Increased force account limit
- b) ~~Informal bidding for projects between \$45,001 and \$175,000 which do not require advertising.~~
- c) ~~Reduces the number of formal bids.~~
- d) ~~Expedited contracting for small projects.~~

Many participants laud the program because it gives them more leeway in the execution of public works projects; has speeded up the awards process; has improved timeliness of the project completion; has eliminated considerable red tape and cumbersome paperwork relative to advertising and filing of reports; and has simplified administration. Many agencies have encountered only minimal problems with the accounting requirements and the overhead portion. Moreover, where required, the adjustment was relatively simple; most of the required procedures were already actually in place, so there was no noticeable change

in the existing operations. The Standard Accounting Codes Structure will satisfy the reporting requirements when used properly.

3. Is the Uniform Public Construction Cost Accounting Act mandatory for local agencies?

No. The Act is a voluntary program. However, it is available to all local agencies and cities, both general law and charter.

4. How does a local agency become subject to the Act?

The governing body must elect by resolution to become subject to the Act and file a copy of the resolution with the State Controller's Office (PCC 22030). Sample documents are available at: http://www.sco.ca.gov/ard_cuccac.html

5. May a local agency withdraw from the Act?

An agency may withdraw by filing a resolution of the agency's election to withdraw with the State Controller's Office.

6. What is the California Uniform Construction Cost Accounting Commission?

A state commission created under the Act (PCC 22010). It consists of fourteen (14) members: thirteen (13) members are appointed by the State Controller and one is a designated member of the Contractors' State License Board. Seven members represent the public sector (counties, cities, school districts, and special districts). Seven members represent the private sector (public works contractors and unions). The Commission members receive no salary, but are eligible for reimbursement of their direct expenses related to the Commission. The Commission is responsible for administration of the Act. The State Controller provides limited staff and other support to the Commission (PCC 22015(a)).

7. What are the Uniform Public Construction Cost Accounting Procedures?

~~These~~ cost accounting procedures were developed by the Commission. They are to be used to estimate costs for determining if a public project is required to be bid out and to capture and record actual costs when a public project is performed by the agency's own work force. The procedures follow normal accounting in the industry and in many cases are not much different from those already in place at the agency. Sample forms are available in the CUCCAC Cost Accounting Policies and Procedures Manual

8. Are the cost accounting policies and procedures applicable for agencies whose work force only performs maintenance tasks as defined in the Act and whose public projects are all contracted out?

The cost accounting policies and procedures are only applicable for agencies that perform public project work by force account. This does not exclude from the program agencies whose public projects are all contracted out. In fact, they might want to review the benefits available and elect to participate now in the event conditions change at some time in the future_[gmc1].

9. Can a local agency disqualify or exclude certain contractors from the Qualified Contractors List required pursuant to PCC 22034(a)?

Agencies may disqualify contractors from the Qualified Contractors List required- when a contractor fails to furnish information to meet the minimum criteria as established by the Commission pursuant to PCC 22034(a).

10. Must a local agency: (1) Notify contractors pursuant to PCC 22034(b) if the contractor is believed not to have the skills, credentials, or experience to perform the work? (2) Consider bids submitted if the agency believes the contractor does not have the skills, credentials, or experience to perform the work?

(1) If a contractor is on the Qualified Contractors List (PCC 22034(b)), the contractor must be notified by the agency of public projects for which he is licensed to perform.
(2) All bids received from qualified contractors must be considered.

11. Does the Act allow flexibility in cases of great emergency and when repair or replacements are necessary to permit the continued conduct of the operations or services of a public agency?

PCC 22035 provides that in cases of great emergency the governing body may, by majority vote, proceed without adopting plans and giving notice to bids to let contracts. In addition, this section provides that the governing body may delegate to the appropriate agency manager the power to declare an emergency and/or proceed with repairs or replacements without approval by the board. PCC 22050 provides contracting procedures without giving notice for bids to let contracts for these emergencies.

12. Do the alternative bidding procedures apply only to public projects as defined in PC 22002(c) or can they be used for the following types of items:

(1) Maintenance work to be performed by contract?
(2) Purchase of heavy equipment?
(3) Purchase of materials?

(1) Pursuant to PCC 22003, a participating agency may use the alternative bidding procedures on maintenance work as defined in PC 22002(d), items 1-5. PCC 22003 is permissive and agencies can continue to exclude maintenance from the alternative bidding procedures. However, if an agency misclassifies a project (\$3045,000 or more) as maintenance and therefore, does not use the applicable bidding procedures, a review by the Commission may be conducted pursuant to PCC 22042(c).

(2) No

(3) Yes if consumed on a public contract subject to and defined by the policies and procedures manual.

13. What will membership in the Act cost my agency?

At the present, no required membership fees or dues are assessed. However, the Commission has only received direct state funding for a short period of its history. The State

has indicated that the participating agencies, contractors, and unions that benefit from the Commission should be responsible for its funding. Therefore, in November 2004, the Commission asked member agencies, contractor's associations, and construction related unions for voluntary donations to support the Commission. There may be additional requests for voluntary support. Any mandatory fees or dues would require legislation and would be for a nominal amount.

An agency with no or antiquated cost accounting may need to invest in a system that will satisfy the relatively simple cost accounting procedures of the program.

~~Considering the many benefits over the long run, the program deserves consideration.~~

14. What are the most common concerns?

There are three leading areas of expressed concern and mostly all are quickly alleviated when addressed properly. These are:

- (1) Cost accounting policies and procedures;
- (2) Informal bidding procedures;
- (3) Accounting review procedures.

The cost accounting requirements follow those common to the construction industry. The informal bidding up to \$125175,000 is seen by the agencies as an asset enhancing project completion. Maintenance of a Qualified Contractor Bid List is routine, since interested contractors make it a point to be included on the list. While a review could potentially hold up a project for 30 days pursuant to PCC 22043, formal complaints have been rare in the Commission's history.

15. Does an agency have to calculate an overhead rate in order to apply the accounting procedures?

Cities with populations of less than 75,000 may use an overhead rate of 20% of all direct costs in lieu of the overhead rate calculation specified in Section VI of the Cost Accounting Policies and Procedures Manual. Cities with a population of more than 75,000, counties, special districts, and school districts may use an overhead rate of 30% of all direct costs, in lieu of a calculated rate.

16. When a local entity opts into the Act, does the Act supercede other contracting legal requirements such as statutory requirements for performance bonds, prevailing wages, and certificates of insurance, etc?

The Act only supercedes the bidding procedures used once a public agency has adopted a resolution and notified the Controller. All other contracting requirements are applicable whether or not a public entity opts into the Act.

The specific mention of bidding procedures emphasizes the omission of other statutory requirements (such as bond payments, prevailing wages, addenda, change orders, etc) and implies that their applicability is found in specific statutory provisions rather than the Act.

Therefore, the Act does not supercede other contracting requirements for performance bonds, prevailing wages, and certificates of insurance, etc.

17. How do agencies process change orders when the standard code conflicts with the Act?

For contracts below \$45,000, the total cost of the contract may not exceed \$45,000. For informal contracts, the total cost of the project may not exceed \$187,500.

Change orders for formal bids would follows the requirements in PCC 20118.4.

17-18. Does an agency by opting into the Act automatically bring

- (1) All departments of the agency into the Act?
- (2) Districts under control of the governing board into the Act?

(1) When a local agency elects to become subject to the uniform construction cost accounting procedures, the entire entity is considered subject to the Act and no departments will be exempt.

(2) Special Districts, which are governed by a board of supervisors or city council, are only subject if a separate election is made.

Additional inquiries and questions can be directed to:
State Controller's Office
Division of Accounting and Reporting
Local Government Policies Section
3301 C Street, Suite 740
Sacramento CA, 95816



August 6, 2012

Jeff Armstrong, Chair
and Members of the California Uniform Construction
Cost Accounting Commission
c/o State Controllers Office
Local Government Policies Section
P.O. Box 942850
Sacramento, CA 94250

RE: Request for Clarification

Dear Chairperson Armstrong and Commissioners:

I understand that the Commission has scheduled a meeting for August 29th and hope this request can be included on the Agenda. I am writing on behalf of the Construction Industry Force Account Council (CIFAC) to ask for clarification on issues and questions that arise while we are working with public agencies that are signatory to the California Uniform Public Construction Cost Accounting Act (Section 22000 et seq.). The Construction Industry Force Account Council (CIFAC) is a non-profit organization that monitors governmental agencies to ensure they abide by the California Public Contract Code.

The Commission's response to the five questions below will help CIFAC define what types of complaints can be brought to the Commission for action. Here are our questions:

1. Can a signatory agency, claim to be exempt from requirements in the Public Contract Code (PCC) by claiming they only have to follow the language and procedures within the Act? CIFAC has found signatory agencies that ignore the following requirements because these requirements are found in the language in other parts of the PCC that is outside the Act.
 - Subcontractor listings –all subcontractors in excess of ½ of 1%
 - Mandatory pre-bid notice –a minimum of 5 days notice before the meeting
 - 72- hour bid opening extension on monetary specification changes
 - All bids opened in public.
2. If CIFAC finds signatory agencies that are not following the advertising requirements in the Act, will the Commission address those agencies? Can CIFAC bring a complaint against them to the Commission?
3. For Agencies that do not maintain an informal bidders list, are they allowed to choose who will get notifications on informal projects?
 - The Act requires that an informal bid project is either advertised and/or notifications are sent to all contractors on the informal bidders list. We have noticed that a very large

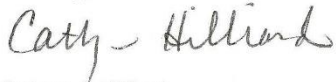


percentage of signatory local public agencies do not maintain or update an informal bidders list and are sending notices to only one or two contractors.

4. Will the Commission address the fact that agencies are not advertising annually for the informal bidders list?
5. If an agency does parts of a project and bids out parts of a project, will the commission consider this exceeding their force account limit or bid splitting?

We appreciate your consideration of our request for clarification and look forward to your response.

Sincerely,



Cathryn A. Hilliard
Executive Director