

# California Uniform Construction Cost Accounting Commission

## Meeting Agenda

Wednesday, September 19, 2018

10:00AM – 2:00PM

Teleconference Number: (888) 363-4734

Participation Code: 4461005

### Location

#### California State Controller's Office

300 Capitol Mall  
6<sup>th</sup> Floor, Terrace Room  
Sacramento, CA 95814

#### Compton Unified School District

429 South Oleander Street  
Facilities Room  
Compton, CA 90220  
310-639-4321 ext. 55350

### Attendance

California Uniform Construction Cost Accounting Commission		
<i>Name</i>	<i>Position</i>	<i>Representing</i>
Will Clemens, Chair	Central Services Department, Director	County of San Luis Obispo – Counties
Michael R. Hester, Vice Chair	President	McGuire and Hester – Subcontractors
Nathaniel Holt, Secretary	Chief Facilities Officer & Bond Program Manager	Compton Unified School District-School Districts
Linda Clifford	Consultant	Contractors State License Board
Guiselle Carreon	Retired	School Districts
Steven L. Hartwig	Public Works Director	City of American Canyon – Cities
Ken A. Kayser	Owner	Kayser Consulting – General Contractors
Paavo Ogren	General Manager	Oceano Community Services District – Special Districts
Eddie Bernacchi	President	NECA, Politico Group – Subcontractors
Robert Campbell	Auditor-Controller	County of Contra Costa - Counties
Julie Lucido	Public Works Director	City of Fairfield – Cities

### Attendance

California Uniform Construction Cost Accounting Commission		
<i>Name</i>	<i>Position</i>	<i>Representing</i>
Jeff Armstrong	Apprenticeship Director	Northern CA Laborers' Union-Labor
John Nunan	CEO	Unger Construction Company-General Contractors
Jeremy Smith	Deputy Legislative Director	State Building and Construction Trade Council-Labor

State Controller's Office		
<i>Name</i>	<i>Position</i>	<i>Representing</i>
Kimberley Chow	Staff Counsel	State Controller's Office (SCO) Legal Office
Renee Hszieh	Bureau Chief	SCO Local Government Policy Section
Sandeep Singh	Manager	SCO Local Government Policy Section
Alexandria Green	Policy Analyst	SCO Local Government Policy Section
Debbie Torres	Policy Analyst	SCO Local Government Policy Section

### Meeting Agenda

1. Call to Order
2. Introductions
  - A. Introductions
  - B. Oath of Office
    - i. Swear in Julie Lucido to represent Cities for the period of July 30, 2018, to July 29, 2021, or until a successor is appointed.
    - ii. Swear in Jeremy Smith to represent Labor for the period of June 25, 2018, to June 24, 2021, or until a successor is appointed.
3. Approval of the Minutes
  - A. Meeting on May 17, 2018
4. Commission Update
  - A. Participating Agencies
  - B. Funding Update
  - C. Inquiry Update
5. Public Comment

**6. Staff Comments/Requests**

- A. Ethics Training
- B. SCO Staff Update
- C. Commissioner's Contact Information

**7. Reports of Officers**

- A. Chair
- B. Vice Chair
- C. Secretary

**8. Committee Reports**

- A. CUCCAC Manual
  - i. Proposed Changes – Legislative Update
  - ii. Proposed Changes – Non-Legislative Update

**9. Commissioner Comments/Requests**

**10. Old Business**

- A. AB 2249 Chaptered
- B. SCO Legal Response
  - i. Retirement
  - ii. Commission Funding

**11. New Business**

- A. Revision of By-Laws

**12. Next Meeting**

**13. Adjournment**

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

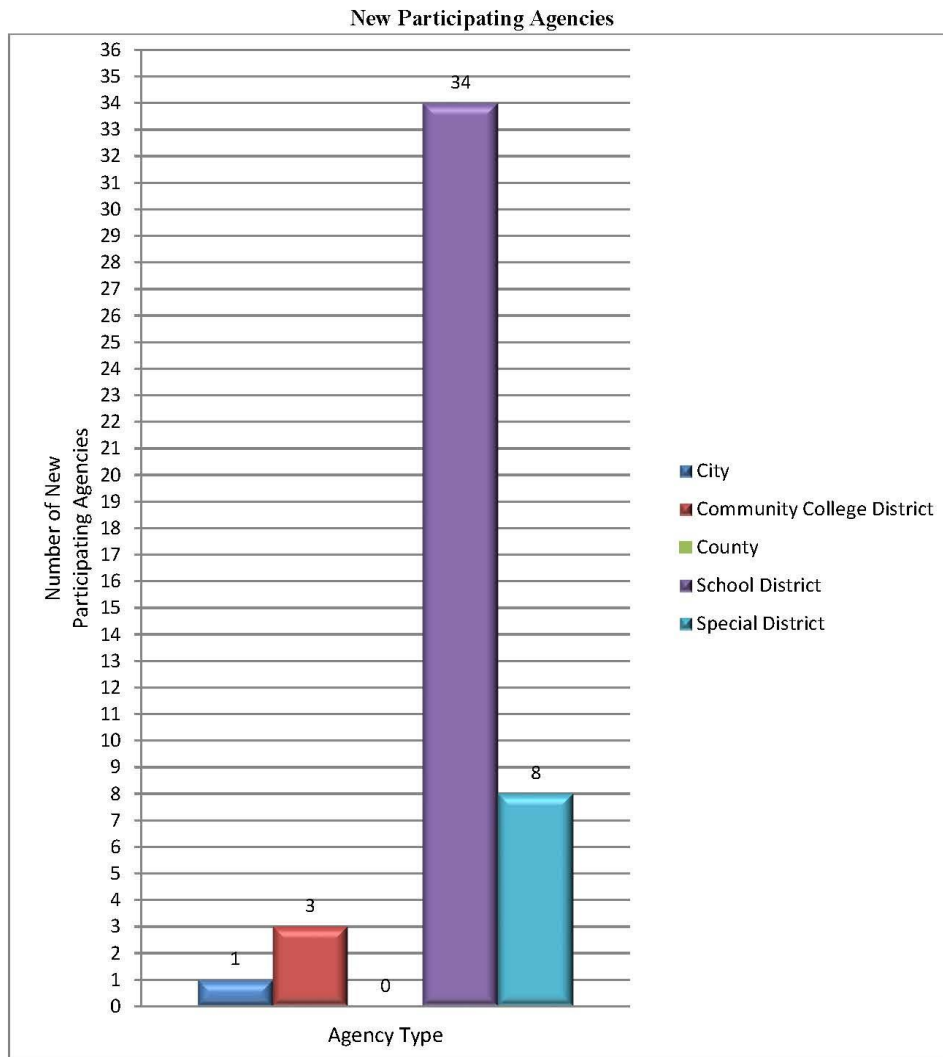
State Controller's Office  
Local Government Policy Section  
[localgovpolicy@sco.ca.gov](mailto:localgovpolicy@sco.ca.gov)

Participating Agency's Update  
For the period May 8, 2018 – September 7, 2018

Item 4A

**Report on new participating agencies**

The State Controller's Office has received 50 resolutions from agencies that have opted into the California Uniform Public Construction Cost Accounting Act (CUPCCAA), bringing the number of agencies participating in the Act to 1,170.



Participating Agency's Update  
For the period May 8, 2018 – September 7, 2018

Item 4A

	Agency	Date Opted In	Agency Type
*	Las Gallinas Valley Sanitary District	04/26/2018	Special District
*	Manchester Union Elementary School District	04/17/2018	School District
*	Lake County Office of Education	04/18/2018	School District
*	Plaza Elementary School District	04/26/2018	School District
*	Warner Unified School District	03/14/2016	School District
	Lassen Community College District	05/08/2018	Community College District
	Strathmore Union Elementary School District	05/14/2018	School District
*	Lake Elementary School District	04/17/2018	School District
*	Corona-Norco Unified School District	05/01/2018	School District
*	City of Livermore	04/09/2018	City
*	Lake Tahoe Community College District	04/10/2018	Community College District
	North of River Sanitary District No. 1	06/05/2018	Special District
	SamTrans – San Mateo County Transit District	06/06/2018	Special District
	Corning Union High School District	05/17/2018	School District
	City of Millbrae	05/22/2018	City
*	Esparto Unified School District	09/23/2015	School District
*	St. Helena Unified School District	06/21/2018	School District
	Lemon Grove School District	06/12/2018	School District
	Morgan Hill Unified School District	06/05/2018	School District
*	El Monte City School District	10/17/2016	School District
	Wrightwood Community Services District	06/26/2018	Special District
	Biggs Unified School District	06/25/2018	School District
	Grant Elementary School District	06/14/2018	School District
	South San Francisco Unified School District	05/24/2018	School District
*	Kernville Union School District	07/24/2013	School District
*	City of Union City	04/12/2005	City
	Forestville Union School District	06/11/2018	School District
*	Cinnabar Elementary School District	06/27/2017	School District
	Glenn County Office of Education	06/08/2018	School District
*	Azusa Unified School District	02/20/2018	School District
*	Shasta Union High School District	05/12/2015	School District
	Konocti Unified School District	06/20/2018	School District
	City of Diamond Bar	06/19/2018	City
	Reclamation District No. 1608	07/11/2018	Special District
*	Tahoe Forest Hospital District	09/28/2017	Special District
	Torrance Unified School District	07/16/2018	School District
	Sunnyside Union Elementary School	07/16/2018	School District
	Wheatland Union High School District	07/12/2018	School District
	Solano Community College District	07/18/2018	Community College District
	Reclamation District No. 828	07/19/2018	Special District
*	Monterey County Board of Education	04/18/2012	School District
*	City of Carson	02/07/2017	City
	Vallecitos School District	08/14/2018	School District
	Harmony Union School District	04/20/2017	School District

Participating Agency's Update  
For the period May 8, 2018 – September 7, 2018

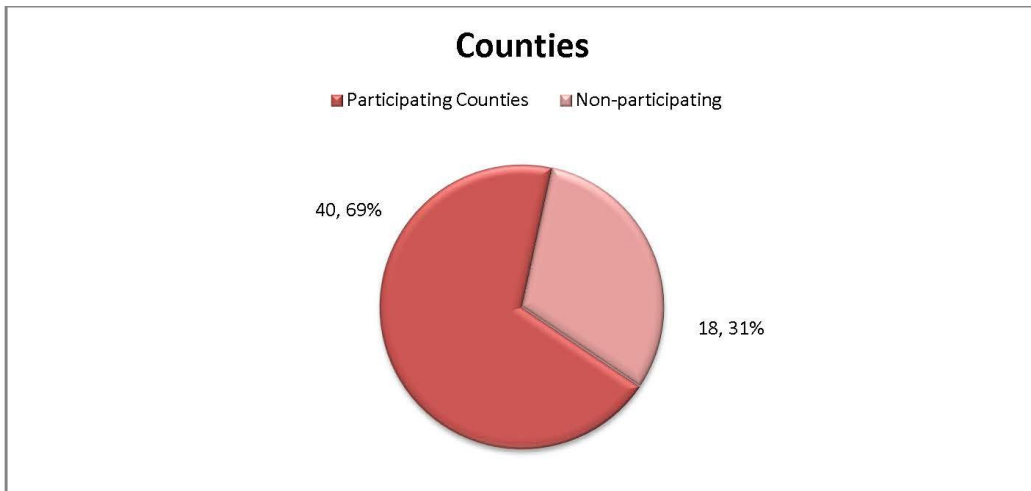
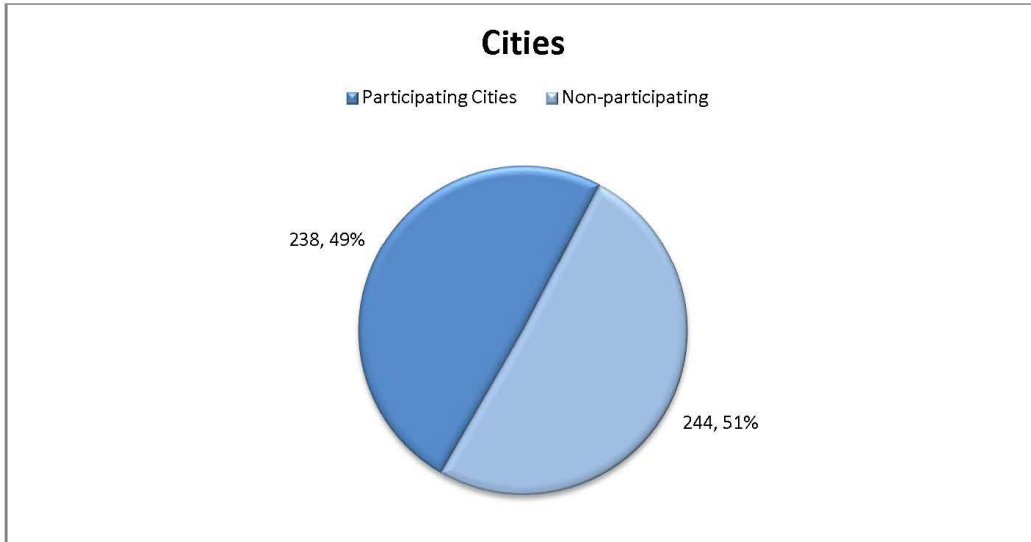
Item 4A

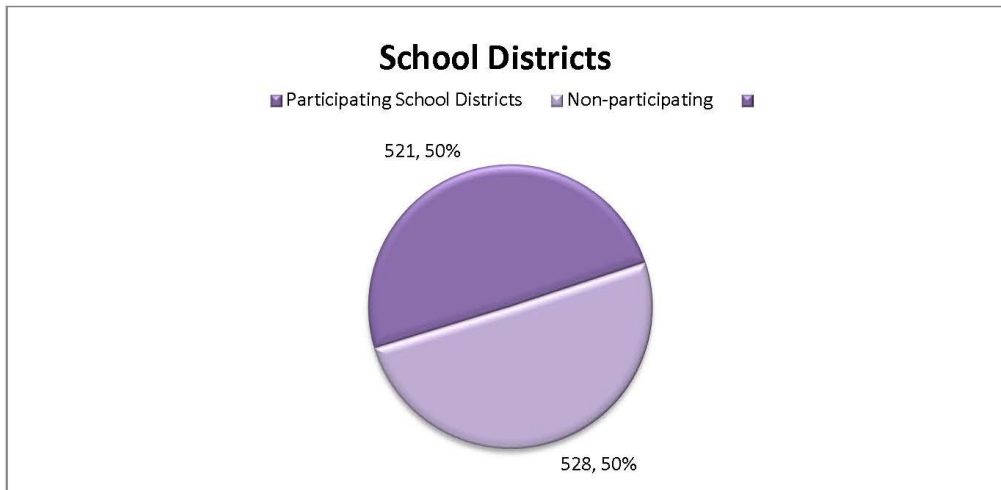
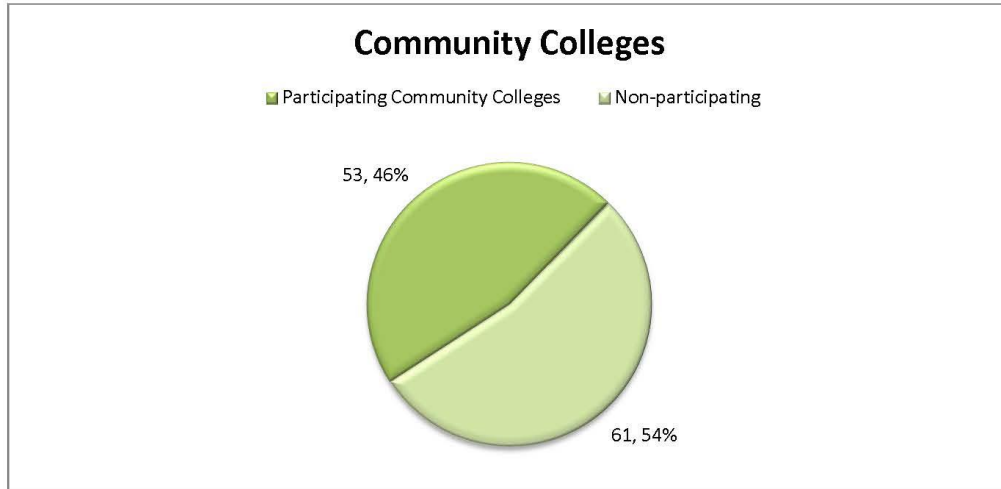
	<b>Agency</b>	<b>Date Opted In</b>	<b>Agency Type</b>
	Oroville Union High School District	08/15/2018	School District
	Monrovia Unified School District	08/22/2018	School District
	Williams S. Hart Union High School District	08/15/2018	School District
*	Palos Verdes Peninsula Unified School District	04/18/2018	School District
*	Central Contra Costa Sanitary District	05/03/2018	Special District
	Charter Oak Unified School District	08/09/2018	School District

The asterisk (\*) represents that the entity was not recognized as a participating agency prior to May 8, 2018, although they have opted into the act prior.

Participating Agency's Update  
For the period May 8, 2018 – September 7, 2018

Item 4A

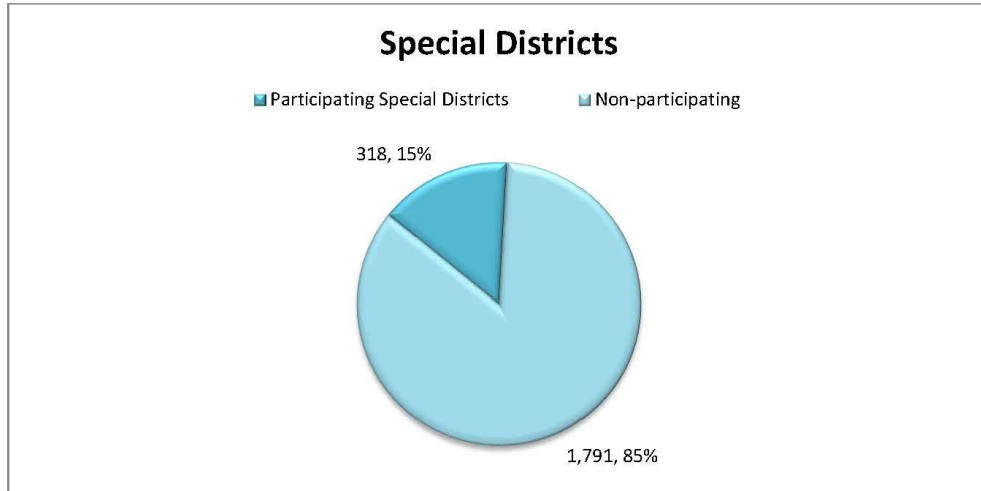




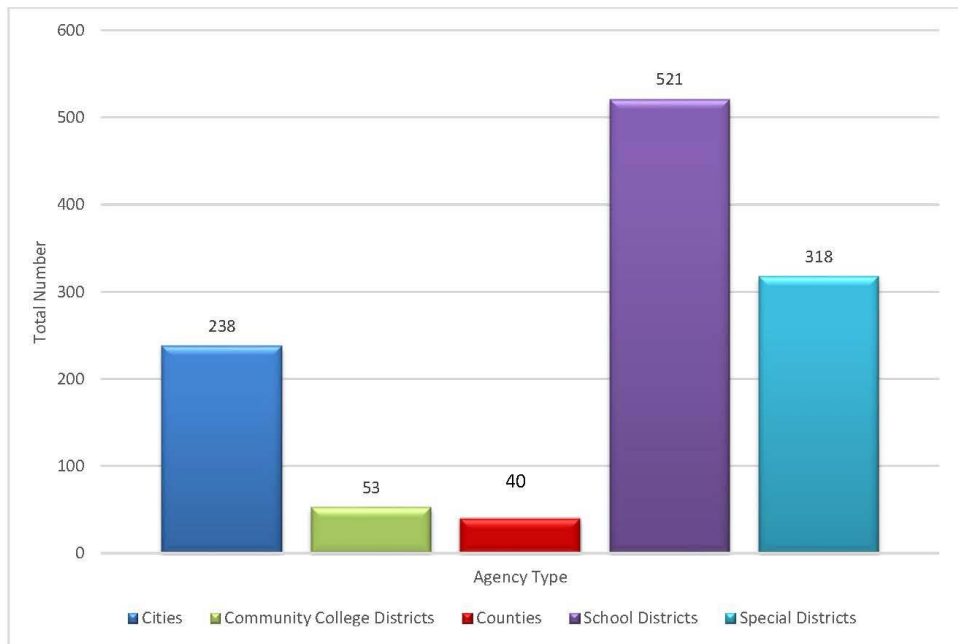


Participating Agency's Update  
 For the period May 8, 2018 – September 7, 2018

Item 4A



Total Participating Agencies (1,170)



Commission Funding Update  
For the period May 7, 2018 - September 7, 2018

Item 4B

**Funding update**

The Commission has \$12,055.57 of unrestricted donations available for use and reimbursement.

	<b>Unconditional</b>	<b>Total</b>
Beginning Balance 05/07/2018	\$ 12,778.69	\$ 12,778.69
Expensed Transactions:		
Chair Clemens Travel Expense	\$ - 292.65	
Commissioner Campbell Travel Expense	\$ - 141.76	
(12/15/2017-\$70.27, 5/17/2018 \$71.49)	\$ -288.71	\$ - 723.12
Commissioner Carreon Travel Expense		
Ending Balance 09/07/2018		\$ 12,055.57



**AB-2249 Public contracts: local agencies: alternative procedure.** (2017-2018)

**SECTION 1.** Section 22020 of the Public Contract Code is amended to read:

**22020.** In accordance with procedures and standards adopted pursuant to Section 22017, every five years the commission shall consider whether there have been material changes in public construction costs and make recommendations to the Controller regarding adjustments in the monetary limits prescribed by Section 22032, but in no case shall the amount, as adjusted, be less than fifteen thousand dollars (\$15,000). ~~Any adjustment shall be effective beginning with the fiscal year which commences not less than 60 days following the Controller's notification to all.~~ The Controller shall notify all participating public agencies of the ~~adjustment.~~ adjustment prior to the effective date. That notification shall also describe the provisions of this chapter and the benefits of using its provisions.

**SEC. 2.** Section 22032 of the Public Contract Code is amended to read:

**22032.** (a) Public projects of ~~forty-five sixty~~ thousand dollars ~~(\$45,000)~~ (\$60,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

(b) Public projects of ~~one two~~ hundred ~~seventy-five~~ thousand dollars ~~(\$175,000)~~ (\$200,000) or less may be let to contract by informal procedures as set forth in this article.

(c) Public projects of more than ~~one two~~ hundred ~~seventy-five~~ thousand dollars ~~(\$175,000)~~ (\$200,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

**SEC. 3.** Section 22034 of the Public Contract Code is amended to read:

**22034.** Each public agency that elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010) shall enact an informal bidding ordinance to govern the selection of contractors to perform public projects pursuant to subdivision (b) of Section 22032. The ordinance shall include all of the following:

(a) Notice to contractors shall be provided in accordance with either paragraph (1) or (2), or both.

(1) 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. All contractors on the list for the category of work being bid shall be mailed, faxed, or emailed a notice inviting informal bids unless the product or service is proprietary. All mailing of notices to contractors pursuant to this subdivision shall be completed not less than 10 calendar days before bids are due.

(2) The public agency may elect to mail, fax, or email a notice inviting informal bids to all construction trade journals specified in Section 22036.

(b) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

(c) The governing body of the public agency may delegate the authority to award informal contracts to the public works director, general manager, purchasing agent, or other appropriate person.

(d) If all bids received are in excess of ~~one two~~ hundred ~~seventy-five~~ thousand dollars ~~(\$175,000)~~, (\$200,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at ~~one two~~ hundred ~~eighty-seven twelve~~ thousand five hundred dollars ~~(\$187,500)~~ (\$212,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.

**Commissioner Terms**

1. Is there a legal reason why a Commissioner representing public agencies who retires from their employer cannot continue to serve out the balance of their terms and vote at commission meetings?
2. If not, is there a recommendation to clarify this issue.

It is well established that a public officer or entity has only those powers as are conferred by the law creating them, as well as implied powers that are necessary to the exercise of those powers expressly granted. (*American Federation of Labor v. Unemployment Ins. Appeals Bd.* (1996) 13 Cal.4<sup>th</sup> 1017, 1042). The Commission is a creature of statute and may only act within the authority granted by the legislature. In this case, PCC, section 22014 (a) states that "members of the commission may hold their office for terms of three years, and until their successors are appointed." A liberal interpretation of the statute would suggest that the retired Commissioners may continue to serve, and vote, as a holdover appointment until a replacement is named by the Controller.

## Memorandum

To: Will Clemens, Chair  
California Uniform Construction Cost Accounting Commission

Date: September 11, 2018

From: **State Controller's Office**  
Kimberley K. Chow, Legal Counsel  
State Controller's Office

Subject: LEGAL GUIDANCE ON COMMISSIONER TRAVEL EXPENSES AND COMMISSIONER TERMS

Chair Clemens,

This memorandum is in reply to your e-mail communication dated May 24, 2018 regarding questions raised during the last meeting concerning Commissioner travel expense reimbursements and Commissioner terms. The questions posed and responses will be addressed below.

### **Commissioner Travel Expense Reimbursements**

1. Why was there a change to the account (from SCO budget to CUCCAC restricted account) from which commissioner travel expenses are reimbursed?
2. If the CUCCAC restricted account is exhausted, where will commissioner travel expense be reimbursed from and is there a limit to how much will be reimbursed?
3. Is there any legal requirement specifying which account to use for commissioner travel reimbursement?

Pursuant to Public Contracts Code (PCC), section 22015, the State Controller's Office is required to "make available for the conduct of the Commission's business, such staff and other support as does not conflict with the accomplishment of the other business of the office of the Controller." Additionally, "each member of the commission shall serve without compensation, but shall be

reimbursed for travel and other expenses necessarily incurred in the performance of the member's duties." Finally, section 22015 states that "[t]he Commission may accept grants from federal, state, or local public agencies, or from private foundations or individuals, in order to assist it in carrying out its duties, functions, and powers under this chapter."

Although the statute does not explicitly state where Commissioner travel reimbursements should be made from, it can be reasonable argued that in light of the fact that the Legislature has not provided any funding, coupled with the fact that the Commission is required to only meet once a year (PPC 22016), as well as the fact that support provided by the Controller's office should be de minimus, and considering the language that any such support does not otherwise interfere with the operations of this office, it appears the Legislature intended the Commission to be independently funded using receipts through grants and donations and not generally supported by the general fund. It should be noted in this regard, that the appropriation made by the Legislature is for the support of the Controller's operations. As indicated above, the Legislature has not provided for funding to the Commission nor has it augmented the Controller's support appropriation for purposes of funding the operations of the Commission. Consequently, to the extent the Commission has received donations or grants as provided under the statute, the travel expenses of its members should be paid from such funds. To do otherwise would be to make general fund money available through the Controller's support appropriation in a manner not otherwise contemplated by the Legislature.

While the statute only requires the Commission to meet once per year, there may be instances where the Commission must meet more than once per year to carry out its duties. Therefore, to the extent where the Commission has funds available, those funds shall be used to reimburse Commissioner travel expenses for the first required annual meeting and any subsequent necessary meetings. Should the Commission funds become exhausted and where a meeting is necessary to render decisions, the Controller's Office may cover travel expenses of the Commissioners incurred by that meeting to the extent that such reimbursement does not in any way interfere in the operations of the Controller's Office.