

CUCCAC Inquiries
November 28, 2023 – April 9, 2024

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District vs Federal Procurement

Q: I am struggling to find a connection here but we are intending to use our Federal ESSER funds to purchase and install a generator and the bid for procurement plus the install is \$104k. The rules for Federal procurement refer to public contract code and code of federal regulations but I am not certain if in our state, CUPCCAA rules can be applied to this project. In other words, I would informally request bids to all contractors on my bidders list as the project is under the \$200k threshold but can I use CUPCCAA regulations on a federally funded project?

A: I'm assuming that the Federal funds you propose to use for this project are appropriate for the type of project you are planning. CUPCCAA does not really speak to the source of funding that an agency or district proposes. It is basically an exception to the Public Contract Code that allows agencies who have opted in to have flexibility in contracting for small projects. I know of no reason that you could not informally bid out this work as the Act allows. That being said, you should verify, in the directions that were given you by the Federal fund source, that there is not some explicit restriction to doing this.

Proposed CUPCCAA Changes

Q: If the attached CUPCCAA changes are approved on the December 8, 2023 meeting, when are the changes expected to go into effect for the participating agencies?

A: Once the Commission has agreed on the changes they would like to make to CUPCCAA, the Commission will need to introduce the changes in a bill, in either the Assembly or the Senate, this upcoming year. Once the bill has gone through the legislative process, the changes will go into effect on January 1st of the year following legislative approval.

Maintenance Work

Q: I am looking for information when we became participants of CUPCCAA. I'll like to find out if we became participants for both Construction and Maintenance, or if just construction. Would you be able to assist me?

A: Maintenance projects are not covered by CUPCCAA. Public Contract Code (PCC) Section 22002(d) states the following,

(d) "Public project" does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:

- (1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
- (2) Minor repainting.
- (3) Resurfacing of streets and highways at less than one inch.
- (4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
- (5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

However, a participating agency may choose to use the informal bidding procedures for maintenance work.

PCC Section 22003 states, "A public agency which has, by resolution, elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section

22010), may utilize the bidding procedures set forth in Article 3 (commencing with Section 22030) when contracting for “maintenance work,” as defined in Section 22002, or when contracting for any other work which does not fall within the definition of “public project,” as defined in Section 22002.

Bid Limit Increase Effective Date

Q: Can you tell me when the effective date on the CUCCAC Limits will change if the commission passes this item?

A: Once the Commission has agreed on the changes they would like to make to CUPCCAA, the Commission will need to introduce the changes in a bill, in either the Assembly or the Senate, this upcoming year. Once the bill has gone through the legislative process, the changes will go into effect on January 1st of the year following legislative approval.

CUPCAA School Districts

Q1: Can you please direct me to a list of school districts impacted by CUPCCA? We are an infrastructure provider for EVSE and want to ensure we're providing necessary guidance for those who may be impacted?

Q2: I do have a couple of follow-up questions regarding Sourcewell Cooperative Purchasing Agreement. Sourcewell's internal solicitation process includes a public notice and advertisement of the RFP, proposal opening, deep evaluation criteria, and an official award with posting and review of approved contract documents. We're running into complications with CUPCCA participating agencies being unable to utilize the contract for projects over \$200,000. Can you please advise?

Q3: Our team is seeking clarification on the statues below? (22036 and 22037) It is not clear whether an additional public bid is required in addition to the public bid Sourcewell held and InCharge secured. If not, what instruction can we provide districts for how to proceed with getting a quote from InCharge (through our Sourcewell contract)?

A1: Please refer to the list of Participating Agencies at https://www.sco.ca.gov/Files-ARD-Local/participating_agencies_-_general.pdf

A2: Using the Sourcewell platform to procure services is acceptable if compliance with all sections, including 22036 and 22037, of the Public Contract Code is strictly followed. Any third party that is handling contracting services for a CUPCCAA - signatory agency is required to adhere to the same rules that bind the agency to the Act

A3: It is the responsibility of the participating agency to ensure that a public bid is compliant with the alternative bidding procedures prescribed by CUPCCAA.
If a participating agency chooses to use a service like Sourcewell, the third-party service must also be compliant with the alternative bidding procedures.

The required construction trade journals that have been chosen by the Commission can be found in the Cost Accounting and Procedures Manual under Sections 1.05 and 1.07.
The public agency, or third-party service, may also select additional publications from its geographical area and include them on its list of publications to be notified.

If the public bid Sourcewell held is compliant with the bidding procedures prescribed in the Act, there would be no need to hold an additional public bid for the project

Rejection of a vendor's CUPCCAA app

Q: We have a CUPCCAA application that we are looking for additional guidance on. The vendor that submitted the application falsified a bid last year, then when he was called out on it he got angry, rude, and threatened to sue the district. This year we have a new CUPCCAA application from him. We would like to reject it as we have no intention of doing business with a company that would lie, mistreat, and threaten us. Is there anything we need to be concerned about or aware of before rejecting the application?

A: FAQ 13 from the SCO website states "The Commission has determined that nothing in the Act prohibits a participating agency from using additional objective pre-qualification standards in the formation and maintenance of their Qualified Contractors Lists if they so desire." The district can set its own reasonable objective standards as it sees fit and be in compliance with the Act

Rejecting a Bid

Q: Can you kindly confirm after we formally bid the project, if we determine that we can do any of the work more economically, are we then able to go beyond the \$60,000 limit since the work will have been competitively bid (provided we can substantiate the cost savings)?

A: Rejecting a bid under CUPCCAA is governed by Public Contract Code (PCC) Section 22038. PCC 22038 states, "(a) In its discretion, the public agency may reject any bids presented, if the agency, prior to rejecting all bids and declaring that the project can be more economically performed by employees of the agency, furnishes a written notice to an apparent low bidder. The notice shall inform the bidder of the agency's intention to reject the bid and shall be mailed at least two business days prior to the hearing at which the agency intends to reject the bid. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the public agency shall have the option of either of the following:

- (1) Abandoning the project or readvertising for bids in the manner described by this article.
- (2) By passage of a resolution by a four-fifths vote of its governing body declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with this article.

CUPCCAA Handbook Concerns

Q: I recently processed the mailed notices as required by the latest "Cost Accounting Policies and Procedures Manual" (2021) and had concerns about the publishing company's listed contact information. I work in Solano County and was required to send the notification letter to both Construction Bidboard and Dodge Data & Analytics. I mailed my Notice of Invitation and the associated Public Notice to both companies and received "Return to Sender" notices for both. I have double checked my addresses making sure that I did not accidentally make a mistake on my end, but it appears that I sent the notices to the addresses listed in the Handbook. I have attempted to reach both companies via email but have not yet heard back. I have sent additional notices to all other recommended trade journals for our County in hopes that this will help fulfill the requirement until further clarification can be received. Please let me know if you have a suggested remedy or workaround for this concern.

A: Participating Agencies are not required to mail a notice to a trade journal if the trade journal listed under their county is now charging for its services, or is out of business. Instead, the Commission requests that agencies find some other method of notifying potential contractors of published jobs and how to be added to their informal bidding lists (e.g. internet – county's web page).

Questions about opting in to CUPCAA

A: The City with a population under 30,000 is looking into opting into the California Uniform Public Construction Cost Accounting Act. Could you please provide guidance on the following?

1. Steps for opting in for agencies with <30,000 population.
2. Do we need to pass separate resolutions for procedures and informal bidding?
3. After adopting resolutions, is the next step to notify contractors or the State Controller?
4. Any additional requirements post-opt-in.
5. Impact on other agency departments under the Act.
6. Is annual advertising required for small cities?

Q1: Steps for opting in for agencies with <30,000 population.

A1: The governing body must elect by resolution to become subject to the Act and must file a copy of the approved resolution with the State Controller's Office (Public Contract Code (PCC) Section 22030). A sample resolution can be located under section 1.02 of the CUCCAC Procedures Manual available at: http://www.sco.ca.gov/ard_cuccac.html. Once an agency has opted into the Act, it will remain a part of the program. There are no additional steps necessary regarding population size for opting in.

Q2: Do we need to pass separate resolutions for procedures and informal bidding?

A2: Once an agency has opted into the act, the agency must adopt an informal bidding ordinance. Samples of the informal bidding ordinance can be located under section 1.03 of the CUCCAC Procedures Manual available at: California Uniform Public Construction Cost Accounting Act - Cost Accounting Policies and Procedures Manual 2021 Edition.

Q3: After adopting resolutions, is the next step to notify contractors or the State Controller?

A3: After adopting the resolution opting in to the Act, the next step is to notify the State Controller's Office via email at LocalGovPolicy@sco.ca.gov of the agency's intent to opt in and provide a signed copy of the resolution. An agency may also notify the State Controller's Office via mail at: Office of the State Controller

Local Government Programs and Services Division
Local Government Policy Section
P.O. Box 942850
Sacramento CA 94250

Q4: Any additional requirements post-opt-in.

A4: Please refer to answer 6 and the FAQ page located at: [California Uniform Construction Cost Accounting Commission - Frequently Asked Questions \(FAQ's\)](#).

Q5: Impact on other agency departments under the Act.

A5: The Act only applies to public projects and would not be utilized by departments that do not perform public projects.

Questions about opting in to CUPCAA (Continued)

Q6: Is annual advertising required for small cities?

A6: An agency who chooses to maintain a list of qualified/licensed contractors under PCC 22034(a), must advertise the list of qualified contractors at least once per calendar year. For more information you can review the FAQ page located at: California Uniform Construction Cost Accounting Commission - Frequently Asked Questions (FAQ's).

CUPCCAA Contractors List

Q: Hello, our agency adopted CUPCCAA at our board meeting yesterday. I know we need to ready a list of qualified contractors and advertise for this on a builder's exchange and in trade journals. Can you recommend links and or contacts for these? I have googled and can't located any website that would give you an option to advertise for contractors.

A: The contact information of the construction trade journals can be found in the Cost Accounting Policies and Procedures Manual under sections 1.05 and 1.07.

The procedures manual can be found on the California Uniform Construction Cost Accounting Commission webpage at the following link: https://www.sco.ca.gov/ard_cuccac.html An agency who chooses to maintain a list of qualified/licensed contractors under PCC 22034(a), must advertise the list of qualified contractors at least once per calendar year.

For more information, you can review the FAQ page located at: California Uniform Construction Cost Accounting Commission - Frequently Asked Questions (FAQ's) or section 1.04 of the procedures manual

Opting Out of CUPCCAA

Q: VVWRA wishes to "opt out" of the CUPCCA program. A resolution is being considered. Moving forward, I need to provide the next steps for their procurement guidelines. Specifically, which PCC guidelines should they adhere to moving forward?

A: To opt out of CUPCCAA a resolution will need to be passed. Just like with opting in, you can use a similar sample found in the Cost Accounting Policies and Procedures Manual on page 6 in the link below. The only difference being that instead of opting in, you will state that you are opting out of CUPCCAA. California Uniform Public Construction Cost Accounting Act - Cost Accounting Policies and Procedures Manual 2021 Edition

Adherence to Public Contract Code that falls outside of the purview of CUPCCAA exceeds the State Controller's Office's authority to comment.

Zoom Calls

Q: I was wondering if you offer Zoom calls or meetings for further clarification questions.

A: The list of Commissioners on the California Uniform Construction Cost Accounting Commission (CUCCAC), which oversees CUPCCAA, can be found on the SCO website. Commissioner Hoevertsz is the counties representative, and would likely be able to assist with any clarification and questions. Here is a link to the Commissioner's contact information: [Commission Members](#).

Contractor List Publishing

Q: I had an inquiry regarding the Cost Accounting Policies and Procedures Manual-2021Edition. We are sending out our Annual Notice to Contractors to invite them to join our contractor's list and normally publish in a newspaper and email to trade journals and our old contractor list. From reading the excerpt below, it is my understanding that we only need to email the notice to the trade journals and do not need to publish in our local newspaper. Is that correct? I wanted to confirm that only notices for formal bids need to be published in the newspaper, not the notice of invitation to be in our contractor's list.

A: There is no requirement to publish the Contractor's list invite in the local newspaper and you are correct that formal bids do need to be published in the local newspaper.

According to question 11 of the FAQ page: At least once per calendar year, each Public Agency that has elected to become subject to the Act and intends to use the notice provisions outlined in Section 22034(a) must establish a new list or update its existing list of qualified contractors by mailing, faxing, or emailing written notice to all construction trade journals designated for that Agency under Section 22036. The notice must invite all licensed contractors to submit the name of their firms to the Agency for inclusion on the Agency's list of qualified bidders for the following twelve (12) months. Effective January 1, 2016, a participating agency can choose a specific date of their choice in which to renew its list of qualified contractors.

Here is a link to the FAQ page for your reference: California Uniform Construction Cost Accounting Commission - Frequently Asked Questions (FAQ's)

How to File A Copy of the Signed Resolution to Opt into the UPCCAA

Q: Our Board has adopted a resolution to opt into the Act, how and where do I submit a copy per the instructions?

A: To file the documents with the State Controller's Office, please email your agency's resolutions/ordinances and cover letter to LocalGovPolicy@sco.ca.gov. Be sure to retain the original wet signature or digitally signed document for audit purposes.

CUPCAA school Districts

Q: Do you know where I would be able to find a list of school districts that currently participate in CUPCAA? I am trying to find out if Ramona Unified is a member.

A: The list of participating agencies can be found on the California Uniform Construction Cost Accounting Commission's webpage at the following link: https://www.sco.ca.gov/ard_cuccac.html. The list is updated on the first of every month.

CUPCCAA Procedures

1. Do we need to obtain three bids for each bid, or can we select from the list of bids priced at \$200,000 or less?
2. Would you be able to provide the sample notice to be sent to journals and contractors?
3. Are we still permitted to conduct formal bidding for projects valued under \$200,000?
4. Can you provide an example of the policy that we would adopt through resolution?
5. How will other bidding procedures be affected or impacted? For instance, will there be increased notifications to journals, etc.?
6. Is a 4/5ths vote required for all actions related to the act?
7. What is the overall summary of the act, and what are the advantages of opting in?
8. Regarding accounting, what annual reporting obligations are mandated?
9. Is the resolution a one-time occurrence?
10. The City Council remains responsible for approving funds for each project, correct?
11. If a project exceeds \$200,000, do we then proceed to the formal public bidding process?
12. How does this influence contracts with Sourcewell and other cooperative purchasing agreements?
13. What are the implications for addressing local emergencies?
14. Does this impose limitations on the council's decision-making authority?
15. Which other public agencies and neighboring cities utilize this approach?

A: Commissioner Hoevertsz spoke with the inquirer over the phone.

CUPCCAA Inquiry

Q: We manufacture and install digital signs for schools, churches, and municipal. To bid and work with CUPCCAA requests, do we need to have a California Contractor's License?

A: California law requires that the installation of signs (whether electronic or otherwise) be performed by a licensed contractor. There are specific categories of the licensing process for signage installation work. An option to carrying your own license would be to hire a licensed contractor to do your installation in the state.

LIST OF LEAs Opt-In to Maintenance

Q: I'm looking for the list of LEAs that opted in for maintenance. Where can I find this list?

A: The list of participating agencies is available on the California Uniform Construction Cost Accounting Commission webpage, which can be found at the following address: https://www.sco.ca.gov/ard_cuccac.html. The State Controller's Office does not maintain a list of participating agencies that have chosen to require the use of the alternative bidding procedures for maintenance either by resolution, ordinance, or their internal purchasing policies.

Please note that the alternative bidding procedures apply only to work that constitutes a "public project" as defined in Public Contract Code (PCC) section 22002(c) and has a construction cost within the limits described in PCC section 22032. The alternative bidding procedures do not apply to maintenance work as defined in PCC section 22002(c). However, as outlined in PCC section 22003, a participating agency may also use the alternative bidding procedures when contracting for maintenance if it so chooses

Request for Contact Info - Dodge Data & Analytics

Q: I am with the City of Lompoc Engineering Division and in need of current contact/ mailing information for Dodge Data & Analytics. I have made several attempts to mail our project bid documents to them and always have them returned as undeliverable. The last address I had was in New York City, NY. Are you able to assist me?

A: The Cost Accounting Policies and Procedures Manual 2021 Edition has listed the contact information for Dodge Data & Analytics as the following:

Dodge Data & Analytics
830 Third Avenue, 6th Floor
New York, NY 10022
Phone: 877-784-9556
Email: support@construction.com
Website: www.construction.com

For the most up to date information, please see the Dodge Data & Analytics contact information page at the following address: <https://www.construction.com/contact/> Please note, participating agencies are not required to mail a notice to a trade journal if the trade journal listed under their county is now charging for its services, or is out of business.

Instead, the Commission requests that agencies find some other method of notifying potential contractors of published jobs and how to be added to their informal bidding lists (e.g. internet – county's web page)

CUPCCAA Contractors

Q: Does a contractor need to be registered with the School District or State Agency to use CUPCCAA? Or is the contractor allowed to use the program if the School District is authorized to use the program?

A: Contractors do not need to be registered with the State Controller's Office or the School District to participate in CUPCCAA.

The Commission recommends that Agencies automatically include in their contractors lists the names of all contractors who submitted one or more valid bids to the Agency. A contractor may also have his or her firm added to an Agency's contractors list at any time by providing the required information.

For more information regarding an Agency's contractors list please see section 1.04 and 1.04.01 of the Cost Accounting Policies and Procedures Manual - 2021 Edition which can be found at: https://www.sco.ca.gov/ard_cuccac.html.

DBE and CUPCCAA

Q: I hope this message finds you well. Our agency is moving toward opting in to the California Uniform Public Construction Cost Accounting Act (CUPCCAA), which modifies our purchasing and bidding procedures to allow for public project work in the amount of \$60,000 or less to be performed by a public agency's workforce, negotiated contract, or by purchase order. Public projects in the amount of \$200,000 or less may use the informal or formal bidding procedures set forth in Section 22032(b) or (c) of the Act. Public projects at a cost of more than \$200,000 must use formal bidding procedures to let the contract pursuant PCC Section 22032(c).

My question is about how the CUPCCAA relates to Disadvantaged Business Enterprise regulations. Does CUPCCAA supersede DBE requirements written into grant contract agreements if the work is under the \$200,000 threshold? Basically, are we and our contractors still required to follow DBE outreach for the informal bidding process for work under \$200,000? I do know that CUPCCAA does not supersede contract conditions such as prevailing wage, bonding requirements, etc.

A: Chair Nunan gave the inquirer a call and addressed her inquiry.

Bid Splitting

Q: Would it still be considered bid splitting if the following apply:

- *Project total is over the \$60,000 threshold, but less than \$200,000
- *Material is purchased from Purchasing Coop
- *Labor portion is informally bid out to the list of CUPCCAA contractor

A: Under the conditions provided, separating the purchase of materials and the informally bid labor portion would constitute a case of bid splitting because the total cost of the project exceeds the \$60,000 threshold.

All costs (materials, supplies, labor) of a project must be included in the project cost estimate to determine whether the project falls within the force account, informal bid, or formal bid thresholds

CUPCCAA - Training

Q: I wanted to know if there were any trainings upcoming on CUPCCAA that I could attend with my team.

A: Unfortunately the State Controller's Office does not offer any trainings regarding CUPCCAA. The list of Commissioners on the California Uniform Construction Cost Accounting Commission (CUCCAC), which oversees CUPCCAA, can be found on the SCO website. Commissioner James and Commissioner Wakeman are the cities representatives, and would likely be able to assist with a training session.

Additionally, the Construction Industry Force Account Council (CIFAC) is a nonprofit organization that specializes in Public Contract Code compliance and education. I believe that they have some training materials, and would likely be willing to assist in order to ensure compliance with CUPCCAA. Please note that CIFAC is not directly affiliated with CUCCAC nor the State Controller's Office, and this is not a direct endorsement of their services.

Re-register for the Act

Q: Strawberry Recreation District is a State Special District. Our District passed an Ordinance to adopt the Public Contracts Accounting Code, but is not currently registered with your agency. How do we re-register to ensure we are in compliance when using the code to go out for bid?

A: If your agency intends to opt-in to the California Uniform Public Construction Cost Accounting Act, please email your agency's resolutions/ordinance and cover letter to LocalGovPolicy@sco.ca.gov. Be sure to retain the original wet signature or digitally signed document for audit purposes. Once an agency has opted into the Act, it will remain a part of the program.

Joining CUPCCAA

Q: I was inquiring about the process of becoming a member of your organization. Please let me know what the process would be.

A: The governing body of a public agency must elect by resolution to become subject to the California Uniform Public Construction Cost Accounting Act (CUPCCAA) and must file a copy of the approved resolution with the State Controller's Office.

Each agency that participates in CUPCCAA maintains its own list of contractors. The California Uniform Public Construction Cost Accounting Commission's webpage has a list of agencies that are participating in the CUPCCAA. A vendor may contact each agency directly to let them know you would like to be on their list of contractors. For a list of participating agencies, please see the "Participating Agency Lists" header at the following link: https://www.sco.ca.gov/ard_cuccac.html

More Information regarding how a vendor can get on a public agency's list of registered vendors can be found in section 1.04.01 of the Cost Accounting Policies and Procedures Manual. Chapter 1 of the Manual provides an introduction and basic concepts of the Act for both public agencies and vendors. The link for the manual can be found here: https://www.sco.ca.gov/Files-ARD-Local/cuccac_manual_2021_edition.pdf

Informal Bids

Q: If Informal bids are solicited and all bids come in over \$200,000 can the City still award within a tolerance? We ask because it appears that other cities in that situation will award if the cost is \$212,500. Is that allowable? Is that the correct maximum number? We've also heard that it may be ok to still award up to \$220K

A: The maximum award limit for informal bids is governed by Public Contract Code Section 22034 (d), which states the following, "If all bids received are in excess of two hundred thousand dollars (\$200,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at two hundred twelve thousand five hundred dollars (\$212,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable."

To receive notification of changes to the Uniform Public Construction Cost Accounting Act, please subscribe to the California Uniform Construction Cost Accounting Email Subscription Service at: https://www.sco.ca.gov/lgpsd_cuccac_notification_email.html.

Sample Fiscal (control) policy

Q: Do you have a sample Fiscal Control Policy that you might send me?

A: Sample documents for the California Uniform Construction Cost Accounting Act (CUPCCAA) can be found on the CUCCAC webpage at the following link: https://www.sco.ca.gov/ard_cuccac.html. The sample documents include a resolution to opt-in to CUPCCAA, an informal bidding ordinance, and a sample estimating form.

For assistance with other sample documents relating to CUPCCAA, please contact the commissioners. Their contact information may be found at https://www.sco.ca.gov/ard_cuccac_members.html