

CUCCAC Inquiries
September 1, 2023 – November 27, 2023

Organization	Subject	Status
CA State University	CA State Universities	Closed
Business	Qualified Contractor Request	Closed
Special District	District's participation in CUPCCAA	Closed
Business	Interpretation of CUPCCAA	Closed
School District	Agencies Listing in Journals	Closed
Special District	Opting-in to the Act	Closed
City	Proposed changes to Public Contract Code 22032	Closed
School District	CUPCCAA Limits	Closed
School District	CUPCCAA -Answer key-sheet	Closed
Special District	Transition to CUPCCAA	Closed
Business	CUPCCAA Non-Compliance	Closed
Special District	UPCCAA Questions	Closed
School District	Question on bid splitting and CUPCCAA	Closed
City	Bid Bond Requirement	Closed
City	Public Works Project	Closed
School District	Resolution Number	Closed
School District	Trade Journal Posting	Closed

CA State Universities

Q: Can State Universities (UC and CSU) opt-in to CUPCCAA?

A: CA State Universities are disqualified from opting into CUPCCAA because they are agencies of state government not local government.

Qualified Contractor Request

Q: I am writing to express my interest in becoming a qualified contractor on your list of prequalified contractors-CUPCCAA. As a dedicated professional in the Plumbing field with more than 20 years of proven experience, I have successfully completed a multitude of projects across various scopes and complexities. My unwavering commitment to delivering exceptional results, adhering to timelines, and providing the highest level of client satisfaction has been pivotal to my track record.

That's why I would like to ask what is the process that I have to follow to appear on the list of prequalified contractors-CUPCCAA.

A: 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 California Uniform Public Construction Cost Accounting Act (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

District's participation in CUPCCAA

Q: I am very interested in having our District join CUPCCAA, however, I had a question regarding whether we are eligible to opt in. The District is named in specific contract code, if we opt into the CUPCCAA does this supersede these codes? I have spoken to our CFO and he is under the impression that because we are named in the code "ARTICLE 127. Monterey Peninsula Water Management District [21620 - 21624] (Article 127 added by Stats. 1984, Ch. 1128, Sec. 69.)" We would not be able to implement the CUPCCAA.

Our specific bidding requirements are laid out in this section of public contract code: Article 127 of PCC. If you could let me know if this excludes us from the act that would be wonderful

A: CUPCCAA was introduced to give agencies, through an opt-in process, a legal way of performing work up to a certain dollar threshold with their own forces (force account work). In addition, it gives those agencies the ability to contract out for work up to a certain value without bidding. It also sets another dollar limit beneath which the agency can utilize an informal bid process that is somewhat simpler than the normal formal bid procedures. These provide the participant with "exceptions" to the Public Contract Code.

I do not see any reason why you could not opt into CUPCCAA and take advantage of these shortcuts that could make your contracting program more efficient and flexible. There are several special districts, including water districts that participate in the Act. These agencies are listed on the State Controller's Office website.

Interpretation of CUPCCAA

Q: I'm trying to figure out whether staff level monitoring and inspection should be included in estimating the cost of a public project. Our particular public agency does not have staff level inspectors and must contract out the monitoring and inspection of our capital improvement projects.

Section 3.05 of the Cost Accounting Policies and Procedures Manual states, "It is the stated objective of the law and the Commission to have public agencies estimate the cost of public projects that track these project costs in a manner similar to private industry. Essential to achieving this objective is the understanding and agreement by both parties as to the components of costs that are included in public projects. The major classification of cost components for construction projects includes: direct, indirect, and overhead costs."

Section 3.07 states, "Indirect costs can be identified with a project but not with a specific job or unit of production within the project. Indirect costs generally include two categories of costs: labor and other miscellaneous project site expenses." Labor includes "quality control and inspection, field supervisors,"

However, Public Contract Code section 22031, subdivision (c), states, "The value of force account work necessary to facilitate capital projects for the purpose of contracting to the private sector, including design, engineering, inspection, testing, and other force account work necessary to administer private contracts, shall be excluded from the 30-percent limit in subdivision (b)."

There seems to be some acknowledgment that staff's duty to inspect and monitor shouldn't be considered part of the public project cost.

Can you please provide input regarding whether staff level monitoring and inspection should be included in estimating the cost of a public project

A: Staff level monitoring and inspections should be included in the cost estimate of a public project for purposes of determining whether the project exceeds the force account limit of \$60,000. Whether an agency includes this cost in an indirect allocation or in an overhead allocation is up to the discretion of the agency. Typically agencies include all indirect costs in the overhead allocation.

The purpose of adding an indirect or overhead cost allocation to the direct project costs is to ensure fairness when comparing total costs to that of the private sector contractors who include those costs in their bids.

Therefore, it is only necessary to allocate indirect and overhead costs to force account projects and not to projects performed by private contractors. That is why the Informal Bid limit of \$200,000 is based solely on the contractor's bid amount.

Section 22031 (c) specifically excludes force account inspection work for the purpose of determining the 30% limitation in subdivision (b)

Agencies Listing in Journals

Q: I was hoping to get some direction on creating our CUPCCAA list for the coming year. I understand we need to post in two required journals and then at least two from our county. The county ones were so easy and the journals responded right away.

The national ones are the most difficult to confirm.

2. Construction Bidboard (Ebidboard)
 11622 El Camino Real, #100 San Diego, CA 92130
 Phone: 800-479-5314
 Email: support@ebidboard.com
 Website: www.ebidboard.com

I "think" our request got posted, but I'm waiting to hear if they did it. Only paid subscribers can see the full listing, but there is one right around the same time as I was in contact with them that lists CUPCCAA.

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

This one says they have a free editorial, but that the editors can decide if they want to list your request or not. And they will not confirm publication. I have not asked how much the paid listing is, but my understanding was that this should be free.

As far as our requests for contractors, how long should they be listed in the trade journals?

A: There is no stipulated time frame for how long a notice inviting contractors to be added to the agency's list of qualified contractors should be listed in a trade journal. Each trade journal may have their own standard policy concerning the time frame for how long a request for contractors will be listed, but a 3-5 business day window should be sufficient. We suggest confirming with the specific trade journal what their standard policy is for this service beforehand.

Please Note: 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. If either of these situations are the case, the Commission requests that users find an alternative method of notifying potential contractors of published jobs and how to be added to their informal bidding lists (e.g., county's web page)

Opting-in to the Act

Q: Our Public Water District is wanting to participate in the Act and wanted to clarify whether we need approval of an Ordinance or Resolution by our Board, or both? We found a sample Ordinance online, but wondering if you have a sample Resolution as well?

A: The governing board 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. Once an agency has opted into the Act, it will remain a part of the program.

Public Contract Code 22034 requires that an agency that has opted-in to the Act adopt an Informal Bidding Ordinance. More information about this requirement can be found at the following link:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=22034.&lawCode=PCC

Sample documents are available in the Cost Accounting Policies and Procedures Manual at: http://www.sco.ca.gov/ard_cuccac.html. The sample resolution can be found on page 6 of the manual in section 1.02

Proposed changes to Public Contract Code 22032

Q: I am following up on the Commission meeting of September 15, 2023, Item 10A – Proposed Changes to CUPCCAA. Were the increase in limits approved? Has the Legislature approved any changes? If so, may I have the bill number?

A: The Commission assigned a working group to review the proposed CUPCCAA changes and will discuss them further at the next meeting on December 8, 2023.

Draft meeting minutes for the September 15th meeting will be posted soon to the CUCCAC webpage at the following link: https://www.sco.ca.gov/ard_cuccac.html

The Commission has not introduced a bill yet but plans to do so early next year

CUPCCAA Limits

Q: On September 15, 2023 there was an item regarding proposed CUPCAA limit changes for 2024. Were the proposed bid limit changes approved?

A: The Commission assigned a working group to review the proposed CUPCCAA changes and will discuss them further at the next meeting on December 8, 2023.

Draft meeting minutes for the September 15th meeting will be posted soon to the CUCCAC webpage at the following link: https://www.sco.ca.gov/ard_cuccac.htm

CUPCCAA -Answer key-sheet

Q: I would like to know if you are able to provide the CUPCCAA questionnaire and answer key sheet. Not sure if this is something we can obtain from you. Please advise.

A: Unfortunately I am not aware of any CUPCCAA questionnaires.
The resources we have available for CUPCCAA are listed on our California Uniform Construction Cost Accounting Commission webpage at the follow link:
https://www.sco.ca.gov/ard_cuccac.html

Transition to CUPCCAA

Q: Our district is looking into transitioning to CUPCCAA.
I have looked over the manual and FAQ's, which were really helpful, and I was wondering if I might be able to schedule a call with someone to answer some other questions I have.

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 Clemens is the Special Districts' representative, and would likely be able to schedule a call with you.

You may also address any questions to our inbox at LocalGovPolicy@sco.ca.gov and we will provide assistance or forward your questions to the commission for additional guidance

CUPCCAA Non-Compliance

Q: Please direct me to the appropriate person or department/section that handles grievances and/or non-compliance issues for the California Uniform Construction Cost Accounting Commission. I am unable to locate any specific email or other contact info on your website.

A: Please direct any grievances or non-compliance issues for the California Uniform Construction Cost Accounting Commission or the California Uniform Public Construction Cost Accounting Act to LocalGovPolicy@sco.ca.gov.

Bid Bond Requirement

Q: The Informal bidding and Formal bidding processes in the act do not mention bond requirements. Should we assume Section 20170 of PCC applies if there is no mention in the accounting act? What about other bonding requirements like performance and payment bonds?

A: The Act supersedes only the bidding procedures used once a public agency has opted into the Act and has notified the Controller. All other contracting requirements of the PCC remain applicable.

UPCCAA Questions

Q: Are we subject to the cost accounting procedures outlined in the manual for Contractor performed work or only District's own forces? My understanding for contractors is that the Public Contract Code still governs, and they are required to submit their wage information to DIR?

Q2: Can we receive lump-sum bids for projects? That is, do bids need to be itemized or are lump sum bids acceptable?

Q3: Can we send Notice Inviting Bids (NIB) to only a select few on the contractor list that we develop and get approved from you all or does the entire list need to receive the NIB? From reading, it appears all in the specific work category need to receive the NIB.

Q4: Lowest bid is still applicable?

A1: Your understanding is correct. The Public Contract Code governs all third-party contracts, including payroll reporting.

A2: Lump-sum bids are acceptable. There is no requirement for itemized bids.

A3: If a contractor is on the agency's contractor list, the contractor must be notified by the agency of public projects for which he or she is licensed to perform (Public Contract Code Section 22034(a)(1)).

A4: PCC 22038 (b) states, "If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses."

Question on Bid Splitting and CUPCCAA

Q: Our school district uses CUPCCAA for construction projects. If we buy the materials needed through a cooperative agreement or through solicitation of quotes, and as an example we would be working on a roofing project, and then we go to our list of contractors through CUPCCAA to install, would we be bid splitting if the total cost of the project (materials and install) exceeds \$109,300.00?

A: If the total cost of the project exceeds the \$60,000 threshold, the project must use the informal or formal bidding procedures set forth in Public Contract Code (PCC) Section 22032(b) or (c) of the Act.

PCC Sec. 22033 states, "It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding."

The example provided would be a case of bid splitting if the project is not advertised and bid according to the provisions of the Act since the cost of the materials and the install are contracted separately and the total cost of the project exceeds the \$60,000 threshold

Public Works Project

Q: We have a public works project that we want to manage in house, but it is approximately \$500,000. We are leaning on the exception language in PCC 22038.

However, I was advised to reach out to find out if we have, or need to, opt into this program in order to have the flexibility to do this work in house.

It is my understanding that the City is considering using its electrician(s) to perform the necessary electrical work on a sewer lift station that is in need of pump replacement and other improvements, but will bid out the other construction related work.

Please let me know what we need to do to remain compliant

A: The problem with separating out the electrical work, which is an essential part of the pump replacement project, is that it violates Section 22033 of the Public Contract Code that restricts "bid-splitting". A participating agency is not allowed to self-perform or contract out pieces of a single project separately that should be part of the overall project that is out for bid. The bidders for the pump replacement should be requested to include the costs of necessary electrical work in their proposals. You can also request separate bid proposals for the electrical work as long as it is competitively bid.

If you do not receive responsive bid proposals for this electrical work after going through the proper process, you can proceed using the rules in Section 22038.

If the entire pump replacement project is valued at \$60,000 or less, you can contract or self-perform as you please. If it is \$200,000 or less, you can follow the rules for an informal bidding process. Beyond that, you would be required to formally bid the project out

Resolution Number

Q: We have recently been approved by our board for CUPCCAA, now I am curious on what our next process is. We have a letter to send out to the State, but I did not add a resolution number to it. Is that something that I need to do personally before sending in our letter, or is that something that will be approved by State then a resolution letter will be sent to us?

A: In order to opt-in to the Act, 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 (Section 22030). Sample documents are 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.

The only requirement for the letter is that it notifies the Controller of your intent to opt-in to CUPCCAA. This may be a formal letter to the Controller provided as a pdf or mailed accompanying the copy of the signed resolution. This may also be in the body of an email providing us with notification of your intent to opt-in to the Act and the signed copy of the resolution.

Trade Journal Posting

Q: I am trying to fulfill the CUPCCAA requirements for 2024. In the procedures manual for Santa Clara County, I am required to notify number 2 (Construction Bidboard - Ebidboard) on the organization list. I emailed support@ebidboard.com on November 1st with our updated 2024 CUPCCAA Public Notice. I didn't hear back from them so contacted them again a week ago. After still not hearing a response, I went to their website and was redirected to bidnet.com. I called bidnet.com and they told me that Construction Bidboard merged with them months ago and that they no longer provide this service.

In order to stay compliant, is there another organization that I need to send my public notice to

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)