

California Uniform Construction Cost Accounting Commission

Meeting Agenda
Thursday, January 28, 2016
10:00AM – 2:00PM

Teleconference Number: (888) 278-0296
Participation Code: 221558

Locations

California State Controller's Office

300 Capitol Mall
6th Floor, Terrace Room
Sacramento, CA 95814

San Diego County Office of Education

6401 Linda Vista Road, Room 608
San Diego, CA 92111

Attendance

California Uniform Construction Cost Accounting Commission		
<i>Name</i>	<i>Position</i>	<i>Representing</i>
Linda Clifford, Chair	Chief Financial Officer	C.C. Myers, Inc. – Contractors State License Board
Will Clemens, Vice Chair	Public Works Department Administrator	County of San Luis Obispo – Counties
Guiselle Carreon, Secretary	Commercial Warrants and Accounts Payable Manager	San Diego County Office of Education – School Districts (ADA <25,000)
Jeff Armstrong	Apprenticeship Director	Northern California Laborers' Union – Labor
Eddie Bernacchi	President	Politico Group – Subcontractors
Robert Campbell	Auditor-Controller	County of Contra Costa – Counties
David Cruce	VP- Estimating, Business Development & Materials	Papich Construction Co., Inc. – General Contractors
Cesar Diaz	Legislative Director	State Building and Construction Trades Council – Labor
Lisa Ekers	Port Director	Santa Cruz Harbor – Special Districts
Steven L. Hartwig	Director of Public Works	City of Vacaville – Cities
Michael R. Hester	President	McGuire and Hester – Subcontractors
George Hicks	Director of Public Works	City of Fairfield – Cities
Nathaniel Holt	Director of Purchasing and Contracts	Pomona Unified School District – School Districts (ADA >25,000)
David A. McCosker	Chairman of the Board	Independent Construction Co. – General Contractors

State Controller's Office		
<i>Name</i>	<i>Position</i>	<i>Representing</i>
Anita Dagan	Manager	Local Government Policy Section
Jenny Jones	Supervisor	Local Government Policy Section
Michael Gungon	Fiscal Analyst	Local Government Policy Section
Debbie Torres	Fiscal Analyst	Local Government Policy Section

Meeting Agenda

1. **Call to Order**
 - a. Voting by Roll Call
2. **Introductions**
3. **Approval of the Minutes (Refer to attachment Item 3)**
 - a. Meeting November 17, 2015
4. **Commission Update (Refer to attachment Item 4)**
 - a. Participating Agencies
 - i. New
 - b. Funding Update
 - c. Inquiry Update
5. **Public Comment**
6. **Staff Comments/Requests**
 - a. Use of recorder
7. **Reports of Officers**
 - b. Chair
 - c. Vice Chair
 - d. Secretary
8. **Committee Reports (Refer to attachment Item 8a)**
 - a. Frequently Asked Questions (FAQs) – Review and discuss
 - b. Legislative Update –
 - a. Identify future legislative changes if needed.
 - c. CUCCAC Manual Update
 - a. Current status of manual
 - b. Proposed changes – non-legislative
 - c. Proposed changes – legislative
9. **Commissioner Comments/Requests**

10. Old Business

- a. Ventura County

11. New Business

12. Next Meeting

13. Adjournment

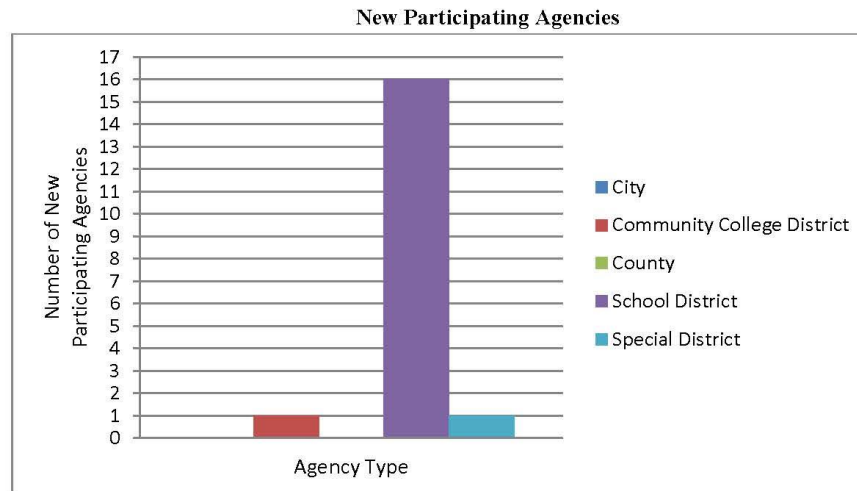
If you would like further information regarding this meeting or require special accommodation for attending this meeting, please contact:

State Controller's Office
Local Government Policy Section
localgovpolicy@sco.ca.gov

Commission Update
For the period November 18, 2015 – January 28, 2016

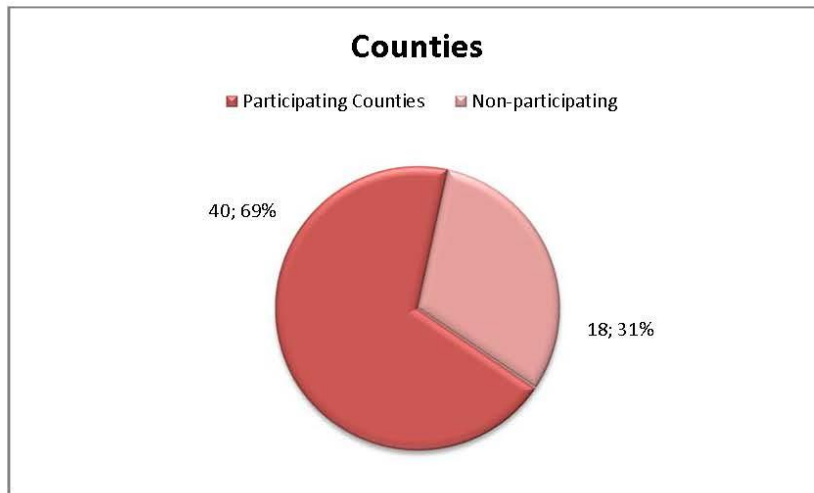
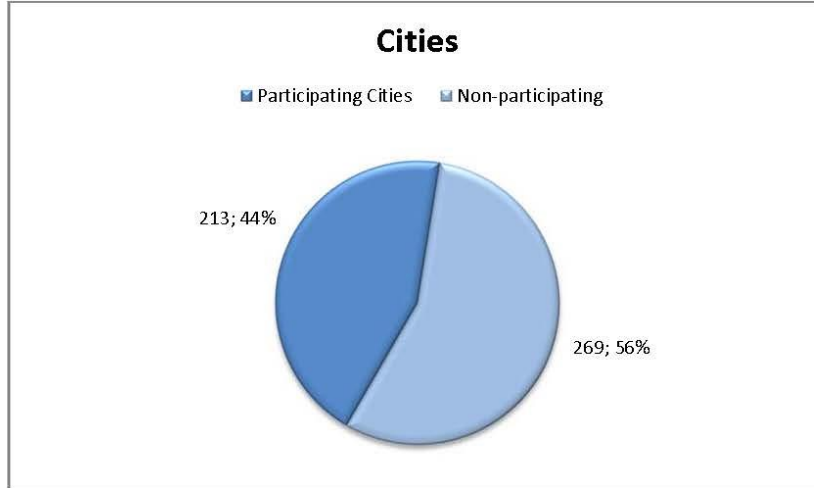
4a. Report on new participating agencies

18 new agencies have opted into the CUPCCAA, bringing the number of agencies participating in the Act to **944**. Reconciliation of participating agencies by SCO is continually ongoing.

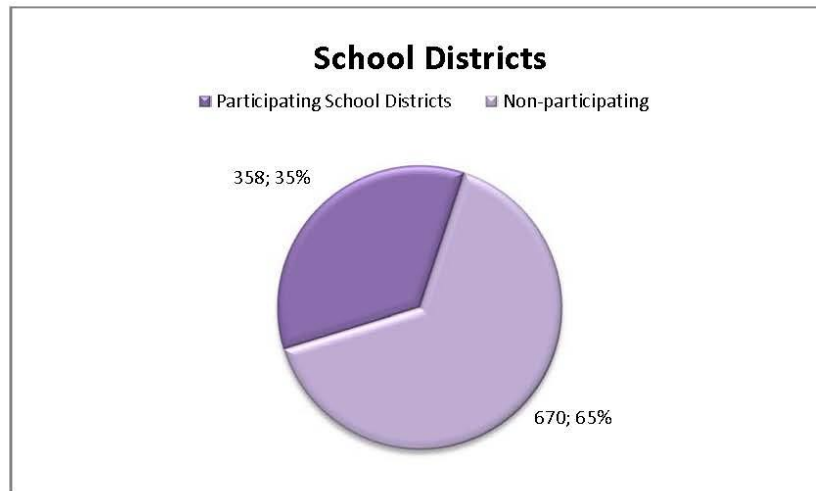
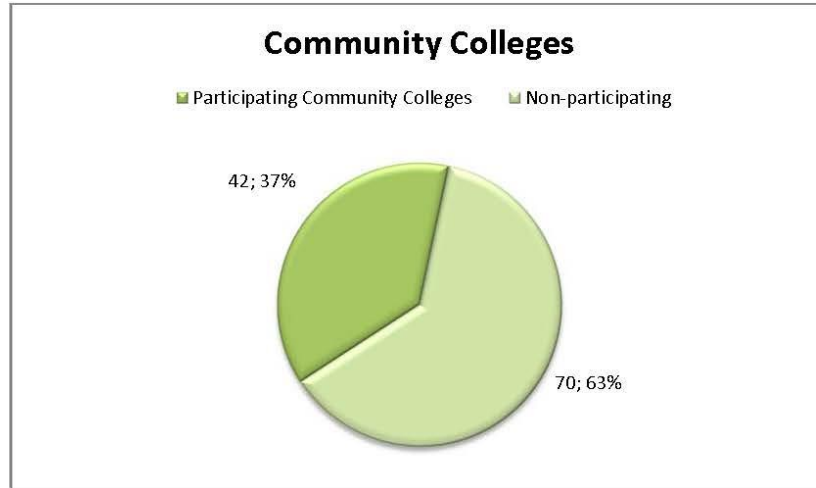


	Agency	Date Opted In	Agency Type
1	San Francisco Unified School District	10/27/15	School District
2	Santa Rosa City School District	10/28/15	School District
3	Hanford Elementary School District	10/28/15	School District
4	Temple City Unified School District	10/28/15	School District
5	Brea Olinda Unified School District	11/9/15	School District
6	Columbia Union School District	11/10/15	School District
7	Arcadia Unified School District	11/10/15	School District
8	Laton Unified School District	11/10/15	School District
9	Lakeport Unified School District	11/12/15	School District
10	Armona Union Elementary School District	11/12/15	School District
11	Golden West Community Services District	11/14/15	Special District
12	Sylvan Union School District	11/17/15	School District
13	Bel Marin Keys Community Services District	11/19/15	Community College District
14	Vista Unified School District	11/19/15	School District
15	East Whittier City School District	12/07/15	School District
16	Pleasant Valley Joint Union Elementary School District	12/09/2015	School District
17	Willows Unified School District	12/10/15	School District
18	Mendocino Unified School District	12/17/2015	School District

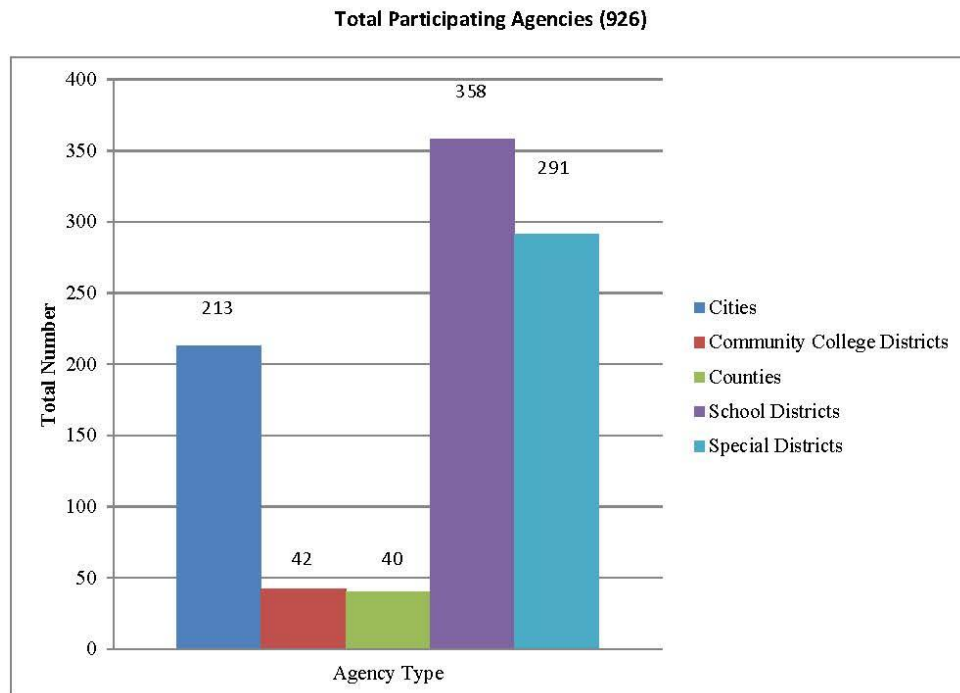
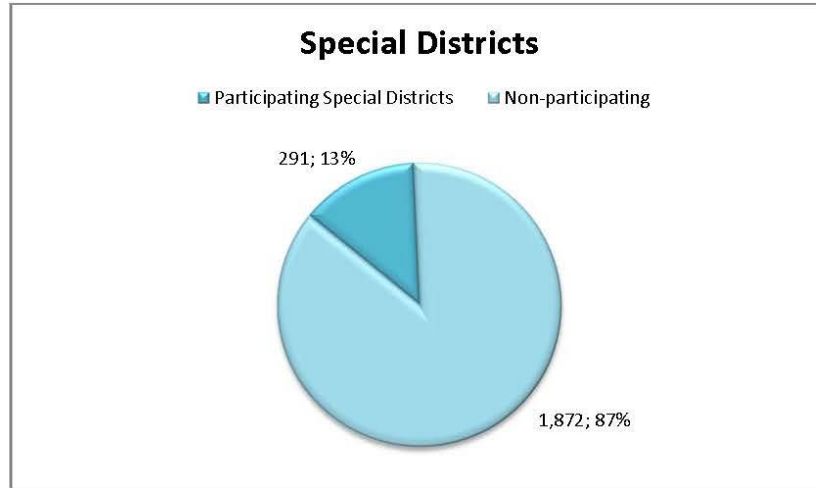
Commission Update
For the period November 18, 2015 – January 28, 2016



Commission Update
For the period November 18, 2015 – January 28, 2016



Commission Update
For the period November 18, 2015 – January 28, 2016



Commission Update
For the period November 18, 2015 – January 28, 2016

4b. Funding update

The Commission has \$5,354.90 of unrestricted donations available for its use.

	Conditional	Unconditional	Total
Beginning Balance 10/28/2015	\$ 0	\$ 1,354.90	\$ 1,354.90
Donations received			
Construction Industry Force Account Council (CIFAC)	\$ 0	\$ 1,500.00	\$ 1,500.00
United Contractors	\$ 0	\$ 2,500.00	\$ 2,500.00
Ending Balance 1/12/2016	\$ 0	\$ 5,354.90	\$ 5,354.90

Note: Travel Expense Claims are now to be paid from SCO funds.

Commission Update
For the period August 21, 2015 – November 17, 2015

4c. Report on Inquiries Received

Fourteen (14) inquiries have been received by the State Controller's Office during the period November 25, 2015 to January 14, 2016.

No.	Date Received	Organization Requesting	Subject Title	Assigned To	Date Courtesy Receipt Sent	Status	Date of Completion
1	25-Nov-15	Maria Delira - City of West Covina	Project cost accounting	M. Gungon	09-Dec-15	Complete 12/21/15 Little mention of "piggybacking" contracts in the PCC; 1/12/16 Provided update with SCO Legal guidance	21-Dec-2015
2	30-Nov-15	Angela Brinker - Kitchell/BRJ	UCCAP Question	D. Torres	08-Dec-15	Called 12/8/15 Ms Brinker advised will have an answer for her by the end of the week; 12/11/15 Conferred with Chair Clifford regards to inquiry. Complete sent final answers to questions.	23-Dec-2015
3	01-Dec-15	Sara Prueett - Shasta Union High School District	CA Uniform Construction Cost Accounting Commission	D. Torres	10-Dec-15	12/21/15 Complete 12/21/15 Conferred with Chair. Completed referenced manual for answers.	21-Dec-2015
4	02-Dec-15	Patricia McKnight - Paso Robles Joint Unified School District	CUPCAA Question	M. Gungon	10-Dec-15	Complete 12-17-15 Conferred with Chair	17-Dec-2015
5	07-Dec-15	Santa Rosa City School District (Randall Hankins) 707-528-5409	Request for the most current Cost Accounting and Procedures	D. Torres	08-Dec-15	12/08/15 Order is with Karen in Reprographics rec'd confirmation from Karen order is ready. Called Randall Hankins on 12/8/15 advising Manuals will be mailed in the couple days.	14-Dec-2015
6	15-Dec-15	Laura Burgdorf - Servpro	CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT	M. Gungon	15-Dec-15	12/30/15 Complete; 12/29/15 Waiting on final approval of draft response; 12/28/2015 Vetted to Commissioner Carreon; 12/15/2015 Confirmed Red Bluff Joint Union High School District has opted in; 12/21/2015 Drafting response. 12/30/15 Complete	30-Dec-2015

Commission Update
For the period August 21, 2015 – November 17, 2015

No.	Date Received	Organization Requesting	Subject Title	Assigned To	Date Courtesy Receipt Sent	Status	Date of Completion
7	17-Dec-15	Andrew Poster - Town of Atherton	Contractors List for the Uniform Public Construction Cost Accounting Act	D. Torres	17-Dec-15	Sent draft ltr to Chair Clifford for review on 12/18/15; 12/21/15 Sent Follow Up Email to Mr. Poster; Sent answer 12/28/15 complete	28-Dec-2015
8	31-Dec-15	Laura Burgdorf - Servpro	CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT	M. Gungon	31-Dec-15	12/31/15 Second question received; 1/6/16 Sent to Chair; 1/12/16 Informed her that CUCCAC does not decide the license they should have	12-Jan-2016
9	31-Dec-15	Lars Ewing - Lake County	CUCCAC Question	D. Torres	04-Jan-16	1/08/16 Commissioner Campbell sends a question to Chair and Vice Chair. We were CC'd Vice Chair Clemens resolved the question. Complete	8-Jan-2016
10	05-Jan-16	Randall Harr - Law Office of Randall Harr	CUCCAC Inquiry	D. Torres	05-Jan-16	1/5/16 Courtesy email sent; 1/6/16 Researching; sent a followup; 1/13 escalated question to Chair	In Progress
11	05-Jan-16	Debie Stampfli-Susanville Sanitary District	CUCCAC Inquiry	D. Torres	06-Jan-16	Confirmation of Opting into the ACT. Completed	6-Jan-2016
12	05-Jan-16	Jessica Rauch - Ventura Port District	June 2015 Edition Cost Accounting Policies and Procedures Manual	M. Gungon	07-Jan-16	1/7/2016 Called to clarify question and left voicemail; 1/12/16 Called again to follow up	In Progress
13	14-Jan-16	Brian Martinez - Grass Valley School District	CUPCAA Guidelines for Projects of \$0 Net Cost to Agency	D. Torres	14-Jan-16	Researching	In Progress
14	13-Jan-16	Chris Schroeder-City of Milpitas	Public projects under \$45,000 performed by negotiation or P.O.	M. Gungon	13-Jan-16	Spoke with Mr Schroeder 1/13/16 regarding question, requested to speak with a commissioner. Forwarded ph# to Chair Clifford 1/14	14-Jan-2016

Use of Recorder

We would like with the approval of the Commission to bring a voice recorder for future meetings. The use of a voice recorder would ensure that the minutes are accurate, completed on time, and posted to the State Controller's Office public website in a shorter timeframe than it has been in the past.

According to the Act (please see the bold section below), the recording would be erased within 30 days or upon Commission Approval of said minutes. We would use the tape only as a reference tool, to ensure the minute notes have been clearly transcribed from the meeting.

Below are the Government Codes in reference to the meetings and the authority, if approved to record a meeting.

GOV CODE § 11124.1 Authority to record meetings

“(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings. (b) **Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the taping or recording.** Any inspection of an audio or video tape recording shall be provided without charge on an audio or video tape player made available by the state body. (c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.”

GOV CODE § 11126.1. Minutes; availability.

“The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. **Such minute book may, but need not, consist of a recording of the closed session.**”

All legal representation and/or those specific topics addressed by legal will be exempt from the recordings.

Thanking you in advance for your consideration in this manner.

CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

FREQUENTLY ASKED QUESTIONS (FAQs)

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 \$45,000 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 Uniform Public Construction Cost Accounting Act (Act) is enacted under Public Contracts Code (PCC) 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 (PCC 22032).

- a) Public projects of \$45,000 or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order (PCC 22032(a)).
- b) Public projects of \$175,000 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 \$175,000 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 challenges 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, counties, 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. Once an agency has opted into the Act it will remain a part of the program until it opts out. There is no need for renewal/re-opting in.

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). Six 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?

The 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](#).

School districts may use the Standard Accounting Code Structure to comply with the tracking requirements.

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.

9. The Public Contract Code section 22034(a)(1) states “the agency shall maintain a list of qualified contractors¹...”. What is meant by the term “qualified contractors”?

The term “qualified contractors” (PCC 22034(a)(1)) is intended to define contractors who request to be added to an agencies list for specified types of specialty work and are licensed and otherwise legally qualified to perform that work as licensed contractors. In addition, the Commission has determined that nothing in the Act prohibits a participating agency from, at their discretion, using an objective pre-qualification process in the formation and maintenance of their contractor’s lists. ~~This change will be added to the language on Section 3, page 7, of the Cost Accounting Policies and Procedures Manual.~~

10. Can a local agency disqualify or exclude certain contractors from the Qualified Contractor’s List required pursuant to PCC 22034(a)(1)?

Agencies may disqualify contractors from the Qualified Contractors List when a contractor fails to furnish information to meet the minimum criteria as established by the Commission pursuant to PCC 22034(a)(1).

11. For agencies that do not maintain an informal bidders list, are they allowed to choose who will get notifications on information 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.

There is no exemption to maintaining a list of bidders. Pursuant to PCC 22034(a)(1), ~~t~~he 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 PCC 22034 Public Contract Code~~ states 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 however, and allows notifications to the required trade journals and exchanges be used as an alternate if desired. For agencies that 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.

12. What is the difference between qualifying contractors under UPCCA and prequalification of contractors under PCC 20101?

Qualification of contractors is a process that allows contractors to register with the agency for notification of public works opportunities. The prequalification process under PCC 20101 is a more complex process that requires a standardized questionnaire and evaluation of contractors using standard scoring criteria.

¹ The term Qualified Contractors is pending legislative change. The proposed term is Registered Contractors.

13. Must a local agency: (1) Notify contractors pursuant to PCC 22034(a)(2)(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?

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

14. 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.

15. 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:

- a) Maintenance work to be performed by contract?
- b) Purchase of heavy equipment?
- c) Purchase of materials?

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 (\$45,001 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).

The purchase of equipment and supplies fall under PCC 20111; however, when purchased or used as part of a public works project, the costs associated with the purchase or use become part of the project cost and must be considered when applying the bid limits under the Act.

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

At the present, no required membership fees or dues are assessed. ~~However, the~~The Commission has never 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.

17. 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:

- a) Cost accounting policies and procedures;
- b) Informal bidding procedures;
- c) Accounting review procedures.

The cost accounting requirements follow those common to the construction industry. The informal bidding up to \$175,000 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.

18. 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 [Chapter 7](#) ~~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.

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

The Act only supersedes 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 supersede other contracting requirements for performance bonds, prevailing wages, and certificates of insurance, etc.

20. Can a signatory agency, claim to be 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?

No. The Commission has ruled in the past that where the Act is silent, the Public Contract Code applies.

21. If signatory agencies are not following the advertising requirements in the Act, will the Commission address those agencies? Can a complaint be brought to the Commission?

Yes, a complaint can be brought to the Commission. [PCC 22042](#) lists the categories of complaints that the Commission can consider.

22. PCC 20112 specifically requires school districts to advertise twice for a two week period, while PCC 22037 requires advertising once, 14 days in advance of the date of opening of bids. Which code applies to school districts?

[PCC 22037](#). When the Act is in conflict with any other code, the Act shall supersede. Districts may choose to maximize their outreach by continuing to advertise twice.

23. May an agency contract separately for like work at the same site at the same time using the under \$45,000 Force Account method?

~~Per section 22033 of the Public Contract Code~~ [PCC 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". Separating "like work" would only be permitted as long as the total of all the "like work" is less than \$45,000.

Otherwise, the work would be required to be advertised and bid according to the provisions of the Act (i.e. bid informally if the total amount is less than \$175,000 and bid formally if the total amount exceeds \$175,000).

24. May an agency bid out 2 separate projects that occur at the same time and site, but are different types of work?

Yes, there is no violation if the work is being competitively bid. If the agency wants to use the negotiated or informal bidding processes, the agency must apply the appropriate limits to each of the projects. Each project must be separate in scope. Projects may not be separated by trade to avoid bidding. If the total of all jobs is greater than \$45,000; the informal or formal bid limit will apply.

25. How does an agency 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, under the Act, the limit is \$175,000. If the agency is a school district, there may be additional limits and it is recommended the agency consult with their legal counsel for interpretation of change order limits.

26. Does an agency by opting into the Act, automatically bring

a) all departments of the agency into the Act?

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

b) all districts under control of the board into the Act?

Special Districts, which are governed by a board of supervisors or city council, are only subject if a separate election is made for each special district.

27. PCC ~~section~~ 22034 requires that participating agencies adopt an Informal Bidding Ordinance. What do school and special districts that cannot adopt Ordinances do to comply?

For those agencies who cannot legally adopt an Ordinance, a Board Policy / Administrative Regulation or other legally applicable action of the governing board may be substituted. Such substitute shall include the provisions of PCC 22034 (a) through (f). If an Ordinance is adopted, it does not take effect until 30 days following its second reading. If a substitute to an Ordinance such as Board Policies / Administrative Regulations are utilized which go into effect immediately upon adoption, no 30-day waiting period is required before utilizing the procedures outlined in the Act.

FORWARD

The Uniform Public Construction Cost Accounting Act (Act), enacted in 1983 under Public Contract Code Section 22000 et seq., allows local agencies to perform public project work of up to \$45,000 with their own workforces if the agencies elect to follow the cost accounting procedures set forth in the *Cost Accounting Policies and Procedures Manual* by the California Uniform Construction Cost Accounting Commission.

Every five years, the California Uniform Construction Cost Accounting Commission reviews the informal bid limits for inflation and other factors to determine whether adjustments should be made. If an adjustment is made, the State Controller notifies the affected public agencies. The adjustment may become effective before it appears as a formal change in the Public Contract Code pursuant to Public Contract Code Section 22020. The most recent bid limits can be found at http://www.sco.ca.gov/Files-ARD-Local/cuccac_cuccac_bidlimits.pdf.

Any local agency can voluntarily elect to become a participating agency of the Act. Local agencies include cities, counties, redevelopment agencies, special districts, school districts, and community college districts. Participating agencies benefit from the raised force account limit and the informal bidding procedures. More projects are completed in a timely manner as a result of the streamlined awards process and the reduction in paperwork related to advertising and report filing.

Procedure for Establishment and Maintenance of List of Registered Contractors

1.04 Procedure for Establishment and Maintenance of List of Registered Contractors Per Section 22034 of the Public Contract Code

Section 22034 of the Public Contract Code specifies the requirements for mailing, faxing, or emailing notices to contractors for work to be bid under the Act. As specified therein, an agency shall provide notices either by:

- a) Mailing, faxing, or emailing notices to all construction trade journals specified in Section 22036
- b) Mailing, faxing, or emailing notices to all contractors on the list established by the agency for the work being paid.
- ~~b) B~~
- c) or both (a) and (b) pursuant to Section 22034(a)

In the event an agency elects to provide notice by mailing, faxing, or emailing notices to all contractors on the list established by the agency for the work being bid, the agency shall utilize the following procedure to establish and maintain the list of registered contractors outlined in Section 22034 (a) (1).

1. During November of each year, each Public Agency which has elected to become subject to the Uniform Public Construction Cost Accounting Act and intends to utilize the notice provisions outlined in section 22034 (a) shall establish a new or update its existing list of registered contractors by mailing, faxing, or emailing a written notice to all construction trade journals designated for that Agency under Section 22036, inviting all licensed contractors to submit the name of their firm to the Agency for inclusion on the Agency's list of qualified bidders for the following calendar year.
2. The notice shall require that the contractor provide the name and address, fax number, and email address to which a Notice to Contractors or Proposal should be mailed, faxed, or emailed, a phone number at which the contractor may be reached, the type of work in which the contractor is interested and currently licensed to do (earthwork, pipelines, electrical, painting, general building, etc.) together with the class of contractor's license(s) held and contractor license numbers(s). In addition, the Commission has determined that nothing in the Act prohibits a participating agency from, at their discretion, using an objective pre-qualification process in the formation and maintenance of their contractor's lists.
3. The Public Agency may create a new contractors list starting January 1 of each year. The Agency may include any contractor names it desires on the list, but the list must include, at a minimum, all contractors who have properly provided the Agency with the information required under #2 above, either during the calendar year in which the list is valid or during November or December of the previous year.

The Commission recommends that the Agency automatically include the names of all contractors who submitted one or more valid bids to the Agency during the preceding calendar year.

4. A contractor may have their firm added to an Agency's contractors list at any time by providing the required information.

22010 (continued)

(4) Seven members who shall each be experienced in, and knowledgeable of, public works construction under contracts let by public agencies; two each representing cities, counties, respectively, and two ~~members representing school districts, and representing school districts (one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000),~~ and one member representing a special district. At least one of the two county representatives shall be a county auditor or his or her designee.

(b) The member of the Contractors' State License Board who is a general engineering contractor as that term is defined in Section 7056 of the Business and Professions Code shall serve as an ex officio voting member.

22011

Appointment
Recommendations

The Controller, in an effort to select highly qualified commission members, shall solicit from organized representatives of the construction industry and public agencies recommendations for appointments to the commission.

22012

Members; Accounting
Experience

At least one commission member of the seven representing the construction industry and at least one of the seven representing public agencies shall have previous accounting experience.

22013

Chairperson; Term

The commission members shall select a chairperson from among its membership. The chairperson shall serve as chair for a term of two years from the date of selection. In no event shall two consecutive chairpersons be appointees representing either the construction industry or public agencies.

22014

Members; Terms; Vacancies

(a) The members of the commission shall hold office for terms of three years, and until their successors are appointed, ~~except as otherwise provided for in this section.~~

~~(b) In the case of members initially appointed by the Controller, two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1985; two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1986; and three representing the construction industry and three representing public agencies shall be appointed to serve until July 1, 1987.~~

~~(be)~~ Members may be reappointed by the Controller, for subsequent terms of three years.

(c) The Controller may appoint a successor for any commissioner after his or her three-year term expires.

(d) The Controller shall, within 90-120 days, ~~after expiration of any term,~~ appoint a replacement to fill ~~the any~~ vacancy on the ~~C~~commission.

22015

Staff; Members'
Compensation; Grants

(a) The Controller shall 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.

(b) 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. Reimbursement rates shall conform to the Controller's travel guideline rates.

(c) The commission may accept grants from federal, state, or local public

22016
Meetings

The commission shall meet not less than once each year, at a time and place chosen by its membership.

22017
The Commission's Four
Principal Duties

The commission shall do all of the following:

- (a) After due deliberation and study, recommend for adoption by the Controller, uniform construction cost accounting procedures for implementation by public agencies in the performance of, or in contracting for, construction on public projects. The procedures shall, to the extent deemed feasible and practicable by the commission, incorporate, or be consistent with construction cost accounting procedures and reporting requirements utilized by state and federal agencies on public projects, and be uniformly applicable to all public agencies that elect to utilize the uniform procedures. As part of its deliberations and review, the commission shall take into consideration relevant provisions of [the](#) Office of Management and Budget Circular A-76, as periodically revised.
- (b) After due deliberation and study, recommend for adoption by the Controller cost accounting procedures designed especially for implementation by California cities with a population of less than 75,000. The procedures shall incorporate cost accounting and reporting requirements deemed practicable and applicable to all cities under 75,000 population which elect to utilize the uniform procedures. For the purpose of these cost accounting procedures, the following shall apply:
 - (1) Cities with a population of less than 75,000 shall assume an overhead rate equal to 20 percent of the total costs of a public project, including the costs of material, equipment, and labor.
 - (2) Cities with a population of more than 75,000 may either calculate an actual overhead rate or assume an overhead rate equal to 30 percent of the total costs of a public project, including the costs of material, equipment, and labor.
- (c) Recommend for adoption by the Controller, procedures and standards for the periodic evaluation and adjustment, as necessary, of the monetary limits specified in section 22032.
- (d) The commission shall make an annual report to the Legislature with respect to its activities and operations, together with those recommendations as it deems necessary.

22018
Recommended Procedure;
Controller's Review

The Controller shall, upon receipt of the commission's recommendations, review and evaluate the recommended procedures and either formally adopt or reject the recommended procedures within 90 days of submission by the commission.

22019
Adoption; Promulgation of
Uniform Procedure

Upon determining that the recommended uniform construction cost accounting procedures will serve the best interest of the state and public agencies, and upon formal adoption by the Controller, the Controller shall promulgate the uniform procedure for all public agencies electing to participate, together with instructions for their adoption and implementation by any public agency.

22020

Five Year Consideration;
Material Changes;
Adjustments

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 that commences not less than 60 days following the Controller's notification to all public agencies of the adjustment. That notification shall also describe the provisions of this chapter and the benefits of using its provisions.

Article 3. Public Projects: Alternative Procedure**22030**

Application of Article

(a) This article applies only to a public agency whose governing board has by resolution elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010) and which has notified the Controller of that election. In the event of a conflict with any other provision of law relative to bidding procedures, this article shall apply to any public agency which has adopted a resolution and so notified the Controller.

(b) A county, whether general law or charter, containing a population of less than 500,000 may award individual contracts as provided in Section 20128.5.

22031

Alternative Procedures

(a) Prior to January 1, 2013, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

(b) On or after January 1, 2013, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1 for both of the following:

(1) Maintenance and emergency work.

(2) New road construction and road reconstruction as long as the total annual value of the new road construction and the road reconstruction performed under the procedures set forth in subdivision (c) of Section 20395 does not exceed 30 percent of the total value of all work performed by force account other than maintenance as reported in the Controller's Streets and Roads Annual Report as of January 1 of each year.

(c) On or after January 1, 2013, for a county with a population of less than 50,000, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

(d) The requirements set forth in Section 22038 shall apply to any county subject to this section.

(e) Any county board of supervisors or county road commissioner acting pursuant to the authority granted in paragraph (2) of subdivision (b) shall declare its intention to use this authority prior to commencing work.

22032

Contracting Procedures; Dollar Amount Limitations

- (a) Public projects of forty-five thousand dollars (\$45,000) 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 hundred seventy-five thousand dollars (\$175,000) or less may be let to contract by informal procedures as set forth in this article.
- (c) Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

76 Op. Atty. Gen. 126,7-14-93 = Job order contracts - General law county or general law city may not enter into a "job order contract" in excess of \$50,000 for the performance of public projects involving minor construction, and the renovation, alteration, painting, and repair of existing facilities, except under narrowly defined statutory conditions applicable only to counties.

22033

Separation of Work Orders of Projects; Evasion of Provision of Article

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.

22034

Informal Bidding Ordinance

Each public agency which 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) if 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.

(a) 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)(2) All contractors on the list for the category of work being bid or all construction trade journals specified in Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals specified in Section 22036, shall be mailed a notice inviting informal bids unless the product or service is proprietary.

(c) All mailing of notices to contractors and construction trade journals pursuant to subdivision (b) shall be completed not less than 10 calendar days before bids are due.

(d)(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.

~~(e)(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.

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

22035
Emergencies

(a) In case of emergency when repair or replacements are necessary, the governing body may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the governing body, by contractor, or by a combination of the two.

(b) In case of an emergency, if notice for bids to let contracts will not be given, the public agency shall comply with Chapter 2.5 (commencing with Section 22050).

22035.5
Overcrowded Justice
Facilities; Court Ordered
Relief; Application of Section
22034

In counties that are under court order to relieve justice facility overcrowding, the procedures and restrictions specified in Section 20134 shall apply to all contracts issued under this chapter.

22036
Determination of Construction
Trade Journals to Receive
Notice of Informal and
Formal Construction
Contracts

The commission shall determine, on a county-by-county basis, the appropriate construction trade journals which shall receive mailed, faxed, or emailed notice of all informal and formal construction contracts being bid for work within the specified county.

22037
Notice Inviting Formal Bids;
Information; Publication

Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of the public agency; or, if there is no newspaper printed and published with the jurisdiction of the public agency, in a newspaper of general circulation which is circulated within the jurisdiction of the public agency, or, if there is no newspaper which is circulated within the jurisdiction of the public agency, publication shall be by posting the notice in at least three places within the jurisdiction of the public agency as have been designated by ordinance or regulation of the public agency as places for the posting of its notices. The notice inviting formal bids shall also be mailed to all construction trade journals specified in Section 22036. The notice shall be mailed at least 15 calendar days before the date of opening the bids. In addition to notice required by this section, the public agency may give such other notice as it

deems proper.

22038

Rejection of Bids; Failure to
Receive Bids; Options

(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 for 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.

22038 (continued)

(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.

(b) 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.

(c) If no bids are received through the formal or informal procedure, the project may be performed by the employees of the public agency by force account, or negotiated contract without further complying with this article.

22039

Adoption of Plans,
Specifications, and Working
Details

The governing body of the participating public agency or its designated representative shall adopt plans, specifications, and working details for all public projects exceeding the amount specified in subdivision (c) of Section 22032.

22040

Plans, Specifications of
Working Details;
Examination

Any person may examine the plans, specifications, or working details, or all of these, adopted by the public agency for any project.

22041

Exemptions

This article does not apply to the construction of any public building used for facilities of juvenile forestry camps or juvenile homes, ranches, or camps established under Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 3 of the Welfare and Institutions Code, if a major portion of the construction work is to be performed by wards of the juvenile court assigned to those camps, ranches, or homes.

22042

The commission shall review the accounting procedures of any participating

Accounting Procedures
Review

public agency where an interested party presents evidence that the work undertaken by the public agency falls within any of the following categories:

- (a) Is to be performed by a public agency after rejection of all bids, claiming work can be done less expensively by the public agency.
- (b) Exceeded the force account limits.
- (c) Has been improperly classified as maintenance.

22042.5
Informal Bidding Procedures
Review

The commission shall review practices of any participating public agency where an interested party presents evidence that the public agency is not in compliance with Section 22034.

22043
Work Done by Public Agency;
Commission Review
Request

(a) In those circumstances as set forth in subdivision (a) of Section 22042, a request for commission review shall be in writing, sent by certified or registered mail received by the commission postmarked not later than five-eight business days from the date the public agency has rejected all bids.

(b) In those circumstances set forth in subdivision (b) or (c) of Section 22042, a request for commission review shall be by letter received by the commission not later than five-eight days from the date an interested party formally complains to the public agency.

(c) The commission review shall commence immediately and conclude within the following number of 30 days from the receipt of the request for commission review-:

(1) Forty-five days for a review that falls within subdivision (a) of Section 22042.

(2) Ninety days for a review that falls within subdivision (b) or (c) of Section 22042.

(d) During the review of a project that falls within subdivision (a) of Section 22042, the agency shall not proceed on the project until a final decision is received by the commission.

(e) A request for commission review pursuant to Section 22042.5 shall be in writing, sent in certified or registered mail, and received by the commission no later than eight days from the day when an interested party formally complains to the public agency. The commission review shall commence immediately and conclude within 90 days from the receipt of the request for commission review.

22044

Written Findings; Failure to
Comply with Chapter; Action

The commission shall prepare written findings, which shall be presented to the public agency within 30 calendar days of formal commission review. Should the commission find that the provisions of this chapter or of the uniform cost accounting procedures provided for in this chapter were not complied with by the public agency, the following steps shall be implemented by that agency:

(a) On those projects set forth in subdivision (a) of Section 22042, the public agency has the option of either (1) abandoning the project, or (2) awarding the project to the lowest responsible bidder.

(b) On those projects set forth in subdivision (b) or (c) of Section 22042, the public agency shall present the commission's findings to its governing body within 30 calendar days of receipt of written notice of the findings and that governing body shall conduct a public hearing with regard to the commission's finding within 60~~30~~ calendar days of receipt of the findings.

(c)(1) On findings of noncompliance pursuant to Section 22042.5, the public agency shall notify its governing body of the commission's findings within 60 calendar days of receipt of written notice of the findings from the commission.

(2) The public agency shall notify the commission in writing, within 90 days of receipt of written notice of the findings, of the public agency's best efforts to comply.

22044.5

Compliance; Removal from
Act

If the commission makes a finding, in accordance with section 22043, on three separate occasions within a 10-year period, that the work undertaken by a public agency falls within any of the categories described in Section 22042, the commission shall notify the public agency of that finding in writing by certified mail and the public agency shall not use the bidding procedures provided by this article for five years from the date of the commission's findings.

22045

Implementation of Procedures
Review: Commission
Recommendations

(a) No later than January 1, 1985, the commission shall recommend, for adoption by the Controller, written procedures implementing the accounting procedures review provided for in this article.

(b) The Controller shall, upon receipt of the commission's recommendation, review and evaluate the recommended procedures and either formally adopt or reject the recommended procedures within 90 days of submission of the commission.

Chapter 2.5 Emergency Contraction Procedures

22050

(a)(1) In the case of an emergency, a public agency, pursuant to a four- fifths

CHAPTER 2 SECTION 1 -INTRODUCTION

Uniform Public Construction Cost Accounting Act

2.01 The Uniform Public Construction Cost Accounting Act

As specified in the State of California Public Contract Code, all governmental jurisdictions are limited to the dollar amount of public project work that can be performed using internal resources. The jurisdictions are further required to follow various bidding procedures in undertaking construction work performed or contracted in the jurisdiction. The passage of Chapter 1054, Statutes of 1983, Uniform Public Construction Cost Accounting Act (Act), and subsequent amendments provides for alternative bidding procedures by public agencies in undertaking public project work, provided they subscribe to uniform construction cost accounting policies and procedures developed in accordance with the law.

The purpose of this document is to give public agencies those construction cost accounting policies and procedures required in accordance with this above-mentioned legislation. To assist in understanding these policies and procedures, we have provided examples of typical transactions that would occur under this program. These examples are for illustrative purposes only and, although they may be used, should not be considered required formats for public agencies operating under this program.

2.02 Public Agency

~~The law~~Public Contract code section 22002(a) provides the definition of a public agency for the purposes of the Act. ~~applies to all public agencies. Public agencies including are~~ cities, counties, chartered cities and chartered counties, any special district and any other agency of the state responsible for the local performance of governmental or proprietary functions within ~~unlimited~~ boundaries. "Public agency" includes a nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

2.03 Public Projects

~~The law~~As defined in Public Contract Code section 22002(c), ~~includes all public projects performed~~ projects performed by public agencies ~~may include~~ related to the following:

- Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any publicly owned, leased or operated facility.
- Painting or repainting of any publicly owned, leased or operated facility.
- In the case of publicly owned utility system, construction, erection, improvement or repair of dams, reservoirs, power plants and electrical transmission lines of 230,000 volts and higher.

2.04 Exemptions

Construction of any public building used for facilities of juvenile forestry camps or juvenile homes, ranches, or camps established under Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, if a major portion of the construction work is to be performed by wards of the juvenile court assigned to those camps, ranches or homes, is exempt from the provisions of the Act.

In addition, in cases of great emergency, as determined by the governing body of the public agency, including, but not limited to, states of emergency defined in Section 8558 of the Government Code, when repair or replacements are necessary to permit the continued conduct of the operation or services of a public agency or to avoid danger to life or property, the governing body by majority vote, may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the governing body, by contract, or by a combination of the two. The governing body, by majority vote, may delegate to the appropriate county administrative officer or city manager the power to declare a public emergency subject to confirmation by the governing body, by a four-fifths vote, at its next meeting.

2.05 Bid Limitations

For those agencies whose governing board has by resolution elected to become subject to the uniform construction cost accounting policies and procedures and which have notified the State Controller of that election, the following bid limitations will be in effect pursuant to Public Contract Code Section 22032 and 22034(f):

- Public projects of forty-five thousand dollars (\$45,000) or less may be performed by the employees of a public agency by force account (for definition see Section II), by negotiated contract, or by purchase order.
- Public projects of one hundred seventy-five thousand dollars (\$175,000) or less may be let to contract by informal procedures as set forth in this legislation.
- Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall, except as otherwise provided in this legislation, be allowed to contract by formal bidding procedures.
- If all bids received are in excess of one hundred -seventy-five thousand dollars (\$175,000), the governing body of the public agency may by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars (\$187,500), or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.
- ~~Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall, except as otherwise provided in this legislation, be allowed to contract by formal bidding procedures.~~

2.06 Award of Bid

Section 22038 of the The lawPublic Contract Code -allows the public agency-, in its discretion, to 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, provides a written notice to an apparent low bidder that:

- Informs the lowest responsible bidder of the agency's intention to reject the bid.
- Is mailed to at least two (2) business days prior to the hearing at which the agency intends to reject the bid.

If after the first invitation for bids all bids are rejected, the public agency shall have the option, after reevaluating its cost estimates of the project, of one of the following:

- The public agency may abandon the project or re-advertise for bids in the manner described by this legislation.

- By passage of a resolution by a four-fifths majority of its governing body declaring that its employees can perform the project more economically, the public agency may have the project done by force account without further complying with this legislation.

If a contract is awarded, it shall be awarded to the lowest bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.

If no bids are received, the project may be performed by employees of the public agency by force account or by informal bidding procedures set forth in Section 22034 of the Public Contract Code.

California Uniform Construction Cost Accounting Commission

2.07 California Uniform Construction Cost Accounting Commission

Chapter 1054 created the California Uniform Construction Cost Accounting Commission (CUCCAC, the Commission). The Commission is comprised of 14 members, 13 members appointed by the State Controller and one member of the Contractors' State License Board pursuant to Section 22010 of the Public Contract Code. Commission membership includes representatives from the construction industry who have experience as general contractors and subcontractors on public works construction projects; representatives of organized labor; and public agency officials who are involved in letting public works construction contracts.

The Commission is empowered to review and recommend for adoption by the State Controller uniform public construction cost accounting policies and procedures to be followed by public agencies in the performance of or in contracting for construction of public projects under this program.

2.08 Implementation

The public agency must perform several administrative steps to comply and elect into the law. The major steps include:

- Notifying the State Controller of the election.
- Adopting ordinances or regulations providing informal bidding procedures as required by the law.
- Complying with the cost accounting construction policies and procedures presented in this manual.

The CUCCAC shall review the accounting procedures of any participating agency where an interested party presents evidence that the work undertaken by the public agency falls within any of the following categories stated in PCC 22042:

- Is to be performed by a public agency after rejection of all bids, claiming work can be done less expensively by the public agency.
- Exceeded the force account limits.
- Has been improperly classified as maintenance.

Changes to the Uniform Public Construction Cost Accounting Act

Effective January 1, 2016

Omnibus Bill SB 184 – Codes related to CUCCAC and CUPCCAA

SEC. 24.

Section 22010 of the Public Contract Code is amended to read:

22010.

There is hereby created the California Uniform Construction Cost Accounting Commission. The commission is comprised of 14 members.

(a) Thirteen of the members shall be appointed by the Controller as follows:

- (1) Two members who shall each have at least 10 years of experience with, or providing professional services to, a general contracting firm engaged, during that period, in public works construction in California.
 - (2) Two members who shall each have at least 10 years of experience with, or providing professional services to, a firm or firms engaged, during that period, in subcontracting for public works construction in California.
 - (3) Two members who shall each be a member in good standing of, or have provided professional services to, an organized labor union with at least 10 years of experience in public works construction in California.
 - (4) Seven members who shall each be experienced in, and knowledgeable of, public works construction under contracts let by public agencies; two each representing cities, counties, respectively, and two ~~representing school districts (one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000), and one~~ *members representing school districts, and one* member representing a special district. At least one of the two county representatives shall be a county auditor or his or her designee.
- (b) The member of the Contractors' State License Board who is a general engineering contractor as that term is defined in Section 7056 of the Business and Professions Code shall serve as an ex officio voting member.

SEC. 25.

Section 22014 of the Public Contract Code is amended to read:

22014.

- (a) The members of the commission shall hold office for terms of three years, and until their successors are ~~appointed, except as otherwise provided for in this section.~~ *appointed.*
- ~~(b) In the case of members initially appointed by the Controller, two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1985; two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1986; and three representing the construction industry and three representing public agencies shall be appointed to serve until July 1, 1987.~~
- ~~(c)~~ *(b)* Members may be ~~reappointed~~ *reappointed, by the Controller,* for subsequent terms of three years.
- (c) The Controller may appoint a successor for any commissioner after his or her three-year term expires.*
- (d) The Controller shall, within ~~90 days after the expiration of any term.~~ *120 days,* appoint a replacement to fill ~~the any~~ vacancy on the commission.

SEC. 26.

Section 22015 of the Public Contract Code is amended to read:

22015.

- (a) The Controller shall 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.

(b) 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. *Reimbursement rates shall conform to the Controller's travel guideline rates.*

(c) The 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.

SEC. 27.

Section 22017 of the Public Contract Code is amended to read:

22017.

The commission shall do all of the following:

(a) After due deliberation and study, recommend for adoption by the Controller, uniform construction cost accounting procedures for implementation by public agencies in the performance of, or in contracting for, construction on public projects. The procedures shall, to the extent deemed feasible and practicable by the commission, incorporate, or be consistent with construction cost accounting procedures and reporting requirements utilized by state and federal agencies on public projects, and be uniformly applicable to all public agencies which elect to utilize the uniform procedures. As part of its deliberations and review, the commission shall take into consideration relevant provisions of *the* Office of Management and Budget Circular ~~A-76~~ *A-76, as periodically revised.*

(b) After due deliberation and study, recommend for adoption by the Controller cost accounting procedures designed especially for implementation by California cities with a population of less than 75,000. The procedures shall incorporate cost accounting and reporting requirements deemed practicable and applicable to all cities under 75,000 population which elect to utilize the uniform procedures. For purposes of these cost accounting procedures, the following shall apply:

(1) Cities with a population of less than 75,000 shall assume an overhead rate equal to 20 percent of the total costs of a public project, including the costs of material, equipment, and labor.

(2) Cities with a population of more than 75,000 may either calculate an actual overhead rate or assume an overhead rate equal to 30 percent of the total costs of a public project, including the costs of material, equipment, and labor.

(c) Recommend for adoption by the Controller, procedures and standards for the periodic evaluation and adjustment, as necessary, of the monetary limits specified in Section 22032.

(d) The commission shall make an annual report to the Legislature with respect to its activities and operations, together with those recommendations as it deems necessary.

SEC. 28.

Section 22030 of the Public Contract Code is amended to read:

22030.

(a) This article applies only to a public agency whose governing board has by resolution elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010) and which has notified the Controller of that election. In the event of a conflict with any other provision of law relative to bidding procedures, this article shall apply to any public agency which has adopted a resolution and so notified the Controller.

(b) A county, whether general law or charter, containing a population of less than 500,000 may award individual annual contracts as provided in Section 20128.5.

SEC. 29.

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)~~ *(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*

Agenda Item 8c

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.

~~(b) (2) All contractors on the list for the category of work being bid or. The public agency may elect to mail, fax, or email a notice inviting informal bids to all construction trade journals specified in Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals specified in Section 22036, shall be mailed a notice inviting informal bids unless the product or service is proprietary. 22036.~~

~~(e) All mailing of notices to contractors and construction trade journals pursuant to subdivision (b) shall be completed not less than 10 calendar days before bids are due.~~

~~(4) (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)~~ (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)~~ (d) If all bids received are in excess of one hundred seventy-five thousand dollars (\$175,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars (\$187,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.

SEC. 30.

Section 22036 of the Public Contract Code is amended to read:

22036.

The commission shall determine, on a county-by-county basis, the appropriate construction trade journals which shall receive ~~mailed~~ *mailed, faxed, or emailed* notice of all informal and formal construction contracts being bid for work within the specified county.

SEC. 31.

Section 22039 of the Public Contract Code is amended to read:

22039.

The governing body of the *participating* public agency *or its designated representative* shall adopt plans, specifications, and working details for all public projects exceeding the amount specified in subdivision (c) of Section 22032.

SEC. 32.

Section 22042.5 is added to the Public Contract Code, to read:

22042.5.

The commission shall review practices of any participating public agency where an interested party presents evidence that the public agency is not in compliance with Section 22034.

SEC. 33.

Section 22043 of the Public Contract Code is amended to read:

22043.

(a) In those circumstances set forth in subdivision (a) of Section 22042, a request for commission review shall be in writing, sent by certified or registered mail received by the commission postmarked not later than eight business days from the date the public agency has rejected all bids.

(b) In those circumstances set forth in subdivision (b) or (c) of Section 22042, a request for commission review shall be by letter received by the commission not later than eight days from the date an interested party formally complains to the public agency.

(c) The commission review shall commence immediately and conclude within the following number of days from the receipt of the request for commission review:

(1) Forty-five days for a review that falls within subdivision (a) of Section 22042.

(2) Ninety days for a review that falls within subdivision (b) or (c) of Section 22042.

Agenda Item 8c

(d) During the review of a project that falls within subdivision (a) of Section 22042, the agency shall not proceed on the project until a final decision is received by the commission.

(e) A request for commission review pursuant to Section 22042.5 shall be in writing, sent by certified or registered mail, and received by the commission no later than eight days from the day an interested party formally complains to the public agency. The commission review shall commence immediately and conclude within 90 days from the receipt of the request for commission review.

SEC. 34.

Section 22044 of the Public Contract Code is amended to read:

22044.

The commission shall prepare written ~~findings~~ *findings, which shall be presented to the public agency within 30 calendar days of formal commission review*. Should the commission find that the provisions of this chapter or of the uniform cost accounting procedures provided for in this chapter were not complied with by the public agency, the following steps shall be implemented by that agency:

(a) On those projects set forth in subdivision (a) of Section 22042, the public agency has the option of either (1) abandoning the project, or (2) awarding the project to the lowest responsible bidder.

(b) On those projects set forth in subdivision (b) or (c) of Section 22042, the public agency shall present the commission's findings to its governing body *within 30 calendar days of receipt of written notice of the findings* and that governing body shall conduct a public hearing with regard to the commission's findings within ~~30-60~~ *60 calendar* days of receipt of the findings.

(c) (1) On findings of noncompliance pursuant to Section 22042.5, the public agency shall notify its governing body of the commission's findings within 60 calendar days of receipt of written notice of the findings from the commission.

(2) The public agency shall notify the commission in writing, within 90 days of receipt of written notice of the findings, of the public agency's best efforts to comply.