

California Uniform Construction Cost Accounting Commission

Minutes of Monday February 13, 2017

These minutes were officially approved by the Commission at the subsequent public meeting on May 12, 2017.

1. Call to order

Chair Linda Clifford called the meeting to order at 10:05 a.m.

Present: Linda Clifford, Will Clemens, Guiselle Carreon, George Hicks, Ken Kayser, Steven L. Hartwig, David Cruce, Michael Hester, Robert Campbell, Nathaniel Holt, Eddie Bernacchi, and Paavo Ogren

Absent: Cesar Diaz and Jeff Armstrong

Guests: No public guest were in attendance

State Controller's Office: George Lolas, David Brownfield, Anita Dagan, Jenny Jones, Debbie Torres, and Josh Buchanan

2. Introductions

Chair Clifford mentioned that the first action of the day was to swear in the new member that was appointed to the California Uniform Construction Cost Accounting Commission by the State Controller. George Lolas, Chief Operating Officer for the State Controller's Office, was present to administer the Oath of Office to Mr. Paavo Ogren. Commissioner Ogren was appointed by the Controller on February 6, 2017, to represent Special Districts. Mr. Lolas left the meeting after the Oath was administered. Chair Clifford asked Commissioner Ogren to provide a brief history of his background in working with Special Districts.

The Commissioners and staff all introduced themselves.

3. Approval of the Minutes

A. Meeting held on November 7, 2016

The November 7, 2016, meeting minutes were approved with the following amendments brought forth by Commissioner Campbell:

Change language on page three (3), first sentence of the fourth paragraph.

Commissioners Hartwig and Campbell asked whether the inquiry updates are considered public information and should be shared.

Change to:

At the meeting held on July 8, 2016, Commissioners Hartwig and Campbell asked whether the inquiry updates are considered public information and should be shared.

On page six, sixth paragraph, first sentence suggested change for FAQ 26 change “contract” to “project.”

Commissioner Hartwig moved and Commissioner Hicks seconded to approve the minutes, with the two aforementioned amendments. (The motion passed with 9 yays, 0 nays, and 3 abstentions by Commissioners Campbell, and Bernacchi, who were not in attendance at the November 7, 2016 meeting. One additional abstention by newly appointed Commissioner Ogren.)

4. Commission Updates (Refer to attachments for Item 4)

A. Participating Agencies

The State Controller's Office (SCO) presented an update on the participating agencies, noting eleven (11) new agencies along with two (2) additional resolutions by agencies which had already opted into the Uniform Public Construction Cost Accounting Act (UPCCAA). The participating agencies, including newly opted in agencies totaled 1,032 to date.

Chair Clifford thanked Commissioner Carreon and Commissioner Hicks for their ongoing outreach on behalf of the Act.

The SCO presented the letter that was signed by Commissioner Carreon as attachment 4AII. The letter was addressed to Richard Fitzpatrick, Superintendent of the Corning Union Elementary School District. Chair Clifford thanked Commissioner Carreon for signing the letter to the 1,000th agency congratulating them for opting into the Act.

Commissioner Bernacchi and Commissioner Hicks were assigned to strengthening the CUCCAC Public Agency notification letter by recommending that the various agencies opt in and join the Act.

The SCO staff presented the final revisions to the letter as an attachment 4AIII. The letter was approved and Chair Clifford asked the SCO staff to email to suggested agencies.

B. Funding Update

i. Update

The SCO reported the Commission had \$8,854.90 of unrestricted funds available. Chair Clifford mentioned that this fund can be used to perform audits and outreach for the Commission.

C. Inquiry Update

The SCO presented a report on inquiries received since the last meeting. Chair Clifford suggested to the Commission the need for an update on the Frequently Asked Questions (FAQs) to reflect the new inquiries received. A discussion was held later in the meeting to address specific FAQ updates.

D. Commission Vacancy

As the SCO has filled the Commission vacancy of Special Districts, there are no vacancies.

5. Public Comment

No comment from the public.

6. Staff Comments/Requests

A. Amended Bylaws

Chair Clifford mentioned at the last meeting that SCO counsel approached her and asked if they could draft an update to the CUCCAC bylaws for approval. This would help to ensure that the Commission can keep the amended bylaws in line with legal requirements and ordinances that apply to the bylaws. Chair Clifford agreed and the SCO counsel revised the bylaws, which are currently being presented for review and approval. Chair Clifford referred to agenda item 6A, Amended bylaws; Resignation, termination, and absences as it is addressed in the Act. Chair Clifford reminded the Commissioners that they stand as a representative for each constituency they represent. The Chair reiterated that, "attendance and engagement are very important to making sure that input comes from all stakeholders."

Commissioner Hicks moved and Commissioner Hartwig seconded to accept the amended bylaws (The motion passed unanimously with 12 yays, 0 nays).

B. Form 700

Ms. Torres shared that she has received a couple of completed Form 700s that have been turned in to the Fair Political Practices Commission. She mentioned as a reminder April 1 is the last day to electronically file the forms without a late penalty. Chair Clifford mentioned to make sure all Form 700s are completed by the first week in March and not at the last minute on March 31, 2017. Not turning in the Form 700 is grounds for dismissal from the Commission and also bears a daily penalty.

C. Ethics

Ms. Torres from SCO will send the Commissioners a reminder email by March 1, 2017, if their due date is approaching or remains past due.

7. Reports of Officers

A. Chair

There was no report from the Chair

B. Vice Chair

Vice Chair Clemens mentioned that he is speaking to the County General Services Directors Association in April 2017. He mentioned this is another opportunity for outreach for the Commission.

C. Secretary

Secretary Carreon mentioned that she had attended a workshop where she presented in the Sacramento area on February 3, 2017. Secretary Carreon mentioned she had spoken with Eric Bakke from the Los Angeles Unified School District regarding his interest in joining in the Act.

8. Committee Reports (Refer to attachment Item 8A & 8C)

A. Frequently Asked Questions (FAQs).

i. Volunteer Labor

At the previous CUCCAC meeting, Commissioner Carreon mentioned that some school districts would like to use volunteer labor from the California Conservation Corps. The question was submitted to SCO Legal to review and the final revision is listed below and will be added as a new FAQ.

Does a value need to be assigned to the volunteer labor when the California Conservation Corps, or some such volunteer organization provides volunteer labor on a public project?

No. Volunteer labor from the California Conservation Corps, or some such volunteer organization does not need to be included as a cost of a public project for bid limits purposes where no costs are associated with the volunteer labor.

Commissioner Cruce left the meeting at 11:47 a.m.

ii. Welcome Letter Revision

a. School Districts

Chair Clifford had assigned Commissioner Carreon at the last meeting to prepare letters to the school districts to remind them about Public Contract Code (PCC) 22034. The final revision for the language is as follows:

As a participating member of the Act, there are many advantages, including expedited bid processes and increased bid limits. Agencies joining the Act mid-year or having a fiscal year other than a calendar year and choose to maintain a list of registered contractors should advertise as soon as practical then re-advertise in November each year as outlined on page 6 of the Cost Accounting Policies and Procedures Manual.

b. Cities, Counties, Special Districts, and Community Colleges

Chair Clifford assigned Commissioners Hicks and Hartwig to prepare all letters to other agencies to remind them about PCC 22034. The final decision was to delete the following paragraph:

Remove the following:

“As a participating member of the Act, there are many advantages, including expedited bid processes and increased bid limits. Agencies joining the Act mid-year or having a fiscal other than a calendar year should advertise for their contractors’ list as soon as practical, then re-advertise in November each

year as currently required as outlines on page 6 of the Cost Accounting Policies and Procedures Manual.”

c. Revision of FAQ #26 Language

Suggested change for FAQ #26:

Question: How does a public agency process change orders when the standard code conflicts with the Act?

Answer: For work that a public agency wants to do with its own forces, the total cost of the project may not exceed \$45,000. All costs are counted including design, demolition, engineering, supplies, materials, labor, equipment and all other costs. Over \$45,000 and up to \$175,000, the public project can be bid informally following the procedures in the Act. Again, all costs must be included. If the public agency is a school district, there are often additional limits and restrictions and it is recommended that the agency consult with their legal counsel to make sure that these additional requirements are met. For contracts the total cost of the contract may not exceed \$45,000 including change orders. For informally bid contracts, under the Act, the limit is \$175,000 including change orders. If the public 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.

The Commission had a discussion to remove FAQ #26 provided that questions 20 and 21 provides guidance to FAQ #26. Commissioner Bernacchi moved and Commissioner Hartwig seconded to remove FAQ #26. (The motion passed unanimously with 12 yays, 0 nays).

iii. Donation Letter Update

Chair Clifford mentioned item 8III (donation letter) that the Commission has used this letter in the past and suggested that the SCO update the letter and have the Commission review the letter again. The updated donation letter was present as item 8III and was approved to send out via email. Chair Clifford mentioned that Commissioner Cruce is a member of Southern California Contractors Association and will send out the donation letter to that organization. Commissioner Bernacchi will send out the letter to other organizations that he is affiliated with.

B. Legislative Update

Commissioner Bernacchi stated that changes in the Act will not able to be included in the omnibus act any longer due to issues of concern. Commissioner Bernacchi met with Chair Jim Cooper from the California State Assembly Budget Subcommittee 4 and requested to add the language in a budget trailer bill. Heather Scott, who is the legislative person for the SCO, has been working with Commissioner Bernacchi, and they are in the staging process to see what happens.

Commissioner Bernacchi mentioned if language does not go through in a budget trailer bill, then they will have to run the language through a separate bill and send it to the Governor's Office.

C. CUCCAC Manual Update

i. Current Status of Manual

Anita Dagan, Manager for Local Government Policy, presented an update to the Cost Accounting Policies and Procedures Manual. Ms. Dagan mentioned that there were some recent changes to several bills and new legislative changes that were implemented that has to be added to manual.

Chair Clifford asked the SCO staff to make sure when the manual is posted that the Commission knows about the posting date. Chair Clifford thanked the SCO staff for all their work and effort that they have put into the manual.

ii. Proposed Changes – Non-legislative

None at this time.

iii. Proposed Changes – Legislative

The following are a list of proposed changes related to SCO and its support of CUCCAC:

1. Audits
2. Attendance of staff at the meetings
3. Commissioner Bernacchi mentioned if the verbiage "if available" is removed, the support of the Commission's responsibilities becomes a mandatory obligation of the SCO and would be included in the SCO budget.

The changes were sent to California State Assembly Budget Subcommittee 4 requesting to change language in a budget trailer bill.

9. Commissioner Comments/Requests

There were no Commissioner comments or requests.

10. Old Business

There was no old business

11. New Business

- A. Change order limits for schools are not the same as they are for counties and cities. Schools need to abide not only by the Act, but may also have further restrictions because of their ordinance and policies.
- B. Los Angeles Unified School District's best value procurement process.
- C. Los Angeles Unified School District specific exception and potential conflicts with the Act.

Secretary Carreon mentioned there were not any obstacles for the Los Angeles School District not to join in the Act.

12. Next Meeting

The Commission agreed to schedule the next meeting date for Friday, May 12, 2017, from 10:00 a.m. – 2:00 p.m. at the State Controller’s Office, 300 Capitol Mall, Suite 635, Sacramento, CA 95816.

13. Adjournment

Commissioner Hartwig moved and Commissioner Holt seconded to adjourn the meeting. The Meeting was adjourned at 12:30 p.m.

If you would like more information regarding this meeting, please contact:

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