

California Uniform Construction Cost Accounting Commission

Minutes of Wednesday, March 18, 2015

1. Call to order

Vice Chair Linda Clifford called meeting to order at 10:15 am.

California Uniform Construction Cost Accounting Commission:

Present: Linda Clifford, Jeff Armstrong, Eddie Bernacchi, Robert Campbell, Guiselle Carreon, Will Clemens, Cesar R. Diaz, Lisa Ekers, Steven L. Hartwig, David McCosker, David Cruce, and Michael R. Hester.

Absent: George Hicks (excused)

Guests: Nathaniel Holt (Commissioner Holt attended the meeting as a member of the public via teleconference. He listened but did not participate as he called in from a location not previously listed on the agenda. Public notice of all meeting locations is required pursuant to the Bagley-Keene Open Meeting Act.)

Cathryn Hilliard, Construction Industry Force Account Council (CIFAC)
Ed Buonaccorsi, County of Sonoma, Julia Donoho, AIA, Esq., member of the public.

State Controller's Office: Hitomi Sekine, Bureau Chief, Local Government Policy & Reporting
Lili Apgar, Fiscal Analyst, Local Government Policy Section
Michael Gungon Fiscal Analyst, Local Government Policy Section

All in attendance wish for Chair George Hicks' speedy recovery.

2. Introductions

The commissioners, staff, and guests all introduced themselves.

3. Approval of the Minutes for the Meeting December 17, 2014

Commissioner McCosker motioned and Commissioner Cruce seconded to approve the minutes of the December 17, 2014 meeting pending minor edits to Item 9b. The motion passed 11-0, with Commissioner Ekers abstaining.

Commissioner Clifford noted that the Contractors State License Board is now subject to voting by roll call due to a recent legislative requirement. She asked the SCO to review if the Commission is subject to the same procedures.

4. Commission Update (Refer to attachment Item 4)

A. Report on new participating agencies

The SCO presented an updated participating agencies listing, noting 19 new agencies have opted into the CUPCCAA (Act), bringing the number of agencies participating in the Act to 882. The SCO confirmed all new participating agencies were sent welcome letters.

B. Funding update

The SCO reported the Commission had \$3,109.58 of unrestricted funds available for its use. Commissioner Carreon proposed the idea of raising funds by charging admission to outreach workshops. The Commission discussed requests to industry associations for possible grants.

5. Public Comment

Ed Buonaccorsi of Sonoma County asked for the Commission's interpretation of new legislation for open bid contracts. Commissioner Clifford inquired if the legislation is in relation to FAQ question 25, which has not yet been reviewed by the subcommittee. Commissioners Bernacchi, Campbell, and Diaz explained the recent legislation is more specific to the Public Contract Code for formal bids and outside the Commission's scope for overseeing the Act.

6. Staff Comment/Requests

The SCO reminded the Commission the annual filing of Form 700 – Statement of Economic Interests is due to the Fair Political Practices Commission by April 1, 2015.

7. Reports of Officers

A. Chair – No report.

B. Vice Chair – No report was made by the Vice Chair.

Vice Chair Clifford asked for the Commission and public to weigh in on the preference of meeting location. The majority voted 6-4, with Commissioners Campbell and Clemens stating no preference, to hold Commission meetings at the State Controller's Office downtown Sacramento location.

C. Secretary

- i. Annual Report to the Legislature – Vice Chair Clifford will sign the report for Chair Hicks and forward to SCO for submission to the Legislature.

8. Committee Reports

A. Draft to clarify FAQ questions 5, 9, and 25

- i. FAQ question 5 – After review of FAQ question 5, the Commission concluded no revision is needed.
- ii. FAQ question 9 – The term “qualified contractors” had previously been revised and approved by the Commission. Commissioner Carreon stated school districts follow two codes, thus further clarification for school districts is needed, which she would provide to the Commission.
- iii. FAQ question 25 – Commissioner Carreon stated school districts separately identify change orders. Question 25 requires more review, which will be provided by Commissioner Carreon.

The subcommittee, led by Commissioner Carreon, will draft revisions to FAQ questions 9 and 25 and send to Chair Hicks for approval.

Vice Chair Clifford requested the SCO provide access to the projector for the next meeting so that the agenda and other documents can be viewed by all attendees, including the Commissioners.

B. Clarification of force account limit guidelines in relation to Job Order Contracts (JOCs) –

Commissioner Clifford presented the Commission had received an inquiry requesting clarification of the Commission’s decision at the December 17, 2014 meeting regarding job order contracts. Per information from Chair Hicks, the SCO Legal Counsel notified Chair Hicks the request had been withdrawn as the constituent expressed they had received the clarification they needed. Mr. Buonaccorsi (Sonoma) asked the commission if he could contact SCO Legal Counsel to inquire where the clarification had been received. Although the inquiry was withdrawn, the subject was originally introduced by CIFAC. Commissioner Clifford stated a formal response letter to CIFAC and the County of Ventura should still be drafted. The Commission agreed to review a draft response letter at the next meeting.

9. Commissioner Comments/Requests

Commissioner Hartwig indicated in his experience, legal counsel is present at most public hearing meetings for assistance, if needed. Commissioner Hartwig requested if SCO Legal Counsel is available to sit in at Commission meetings. The SCO will consult with Legal Counsel and notify the Commission as to the decision to provide legal staff at Commission meetings.

10. Old Business

A. Legislative Update – Commissioner Bernacchi presented the proposed legislative language which has not received opposition. The proposed language will be vetted to CSAC by the end of next week and likely be added to the omnibus bill during the May revision timeline. If the legislation is

approved, the Commission would need to update the Cost Accounting Policies and Procedures manual in Fall 2015 for implementation in January 2016.

- B. Funding the Commission – Commissioner Bernacchi explained the current proposed legislative language does not include authorization for the Commission to impose a fee to participating agencies, as the idea had received opposition from agency representatives. Should the Commission wish to seek specific allocation for funding, a separate legislative bill would be required.

The Commission discussed recent trainings provided by Commissioner Carreon to participating agencies. Commissioner Clifford acknowledged CIFAC's involvement and assistance to participating agencies and the Commission also related to questions asked.

The Commission discussed other avenues for seeking funding to operate. Commissioner Carreon introduced the possibility of the Commission charging a registration fee for outreach workshops. Commissioner Bernacchi expressed he wished to outreach to the new controller for audit support.

Commissioner Clifford agreed fundraising is needed because funding is necessary to carry on the duties of the Commission. Commissioner Ekers stated some agencies may not donate public funds but rather subscription or membership fees. Commissioners Clifford and Campbell agreed to begin drafting a letter to seek donations and grants from industry and participating agencies. The Commission asked the SCO if they would assist the Commission with a mail merge. The SCO will review the Commission's request with management.

11. New Business (Refer to attachment Item 11)

- A. Define required elements of public notice pursuant to Public Contract Code section 22044 – Vice Chair Clifford informed the Commission of a letter received from the public with regards to the process followed by Sonoma County in relation to the Commission's recent finding. The letter was discussed between the Chair and Vice Chair with regard to whether the County included sufficient information in its report from the Public Works Director. While it was agreed that the written report was sufficient, it is also clear that a process for reporting a finding to the participating agency is not included in the Public Contract Code. It was agreed current legislation does not address the process. Ms. Julia Donoho, member of the public asked to speak. She explained she believed the Commission's finding against the County of Sonoma was not properly addressed at the County Board of Supervisors meeting. In her opinion, the item was vague; there was no discussion and no opportunity was given to board members to ask questions.

Commissioner Bernacchi acknowledged the current legislation, although clear, is over 30 years old and should be revised through appropriate discussions by the Commission.

Commissioner Ekers explained the issue is related to the Brown Act and therefore cannot be discussed by the Commission as it is outside the Commission's jurisdiction.

Commissioner Clifford described her and Chair Hicks' review of the county agency's report and minutes of the board meeting were very thorough. It was thought that perhaps the Commission's letter should have been included in the agency's report. Commissioner Clemens suggested the Commission's finding would have been more clear to the public had the Commission's letter been included with the agency's report.

Cathryn Hilliard, member of the public representing CIFAC, asked to speak and provided the Commission's finding against the County of Sacramento as an example, stating the

Commission's letter had not been included in the agency's report to its governing board that would have allowed for a well-executed and thorough public hearing.

The Commission discussed providing a sentence in the Commission finding template to recommend a participating agency attach the letter with the agency's report to their governing board. Vice Chair Clifford recommended the language for action be discussed at the next meeting. The Commission may consider proposing legislative language to address this requirement in the future. Commissioner Clifford will provide sample language for the Commission at the next meeting.

Vice Chair Clifford inquired if the SCO could provide in the future on the agenda a listing of inquiries the Commission receives so all Commission members stay informed. The SCO provide the requested listing on the agenda for the next hearing.

12. Next Meeting

The Commission tentatively scheduled the next meeting date for Thursday, June 25, 2015 from 9:30am – 1:30pm at the State Controller's Office downtown Sacramento location.

13. Adjournment

Commissioner Hartwig motioned and Commissioner Carreon seconded to adjourn the meeting. The motion passed 12-0 and the meeting was adjourned at 11:50am.

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