

California Uniform Construction Cost Accounting Commission

Minutes of Thursday, September 20, 2019

The Commission at a subsequent public meeting on March 6, 2020, approved these minutes.

1. Call to order

Chair Will Clemens called the meeting to order at 10:01 a.m.

Present: Eddie Bernacchi, Robert Campbell, Will Clemens, Leeann Errotabere, Steven Hartwig, Michael Hester, John Nunan, Paavo Ogren, and Jeremy Smith

Via Teleconference: Nathaniel Holt

Absent: None

Unexcused Absence: Jeff Armstrong and Julie Lucido

Guest: Justin Bochmann from Construction Industry Force Account Council (CIFAC)

State Controller's Office: Harpreet Nakhwal, Sandeep Singh, Alexandria Green, and Debbie Torres

2. Introduction

Debbie Torres from the State Controller's Office (SCO) conducted roll call. Sandeep Singh, Manager for Local Government Policy, introduced SCO staff. Justin Bochmann from CIFAC introduced himself. Commissioner Holt joined via teleconference at 10:05 am. Commissioner Holt would be able to participate in the conversation, but would abstain from voting because his remote location had not been posted on the public website 10 days before the scheduled meeting.

3. Approval of the Minutes (Refer to attachment Item 3A)

A. Meeting held on May 23, 2019

Commissioner Hester motioned to approve the May 23, 2019 meeting minutes without changes; Commissioner Errotabere seconded the motion. The motion was approved 6-0. Commissioners Campbell, Ogren, and Smith abstained from voting, as they were not present at the May 23, 2019 meeting.

4. Commission Updates (Refer to attachment Item 4A and 4B)

A. Participating Agencies

Debbie Torres presented an update on participating agencies, noting that the SCO had received 35 resolutions from agencies that opted into the California

Uniform Public Construction Cost Accounting Act (Act). Participating agencies, including newly opted-in agencies, currently total 1,274.

Commissioner Ogren requested that the SCO staff separate Special Districts by industry field (cemetery, sewer, water district, etc.), and post the report on the CUCCAC webpage. SCO staff stated that it could be done, but the database must be re-designed to create such a report.

Sandeep Singh mentioned that the SCO website is moving forward with all documents to comply with ADA. In the future, SCO will review documents with the Commission to comply with the new ADA rules.

B. Funding Update

Debbie Torres reported that there was one donation from CIFAC, of \$2,500, and \$11,797.86 is available for unrestricted funds for the Commission use and reimbursement. Two Commissioner travel claims have not yet been processed out of Commission funds due to the SCO's accounting issue with the software. SCO staff informed the Commission that the funds will be deducted once the issue is resolved.

Commissioner Nunan will be submitting a grant request to Associated General Contractors (AGC) by October 15 to receive annual contributions. Commissioner Nunan stated that this grant will be generated for the Commission on a yearly basis and the amount will vary.

Commissioner Bernacchi stated that he would be sending a grant request to Northern California Mechanical Contractors Association (MCA) in December.

C. Inquiry Update

SCO staff presented a report on inquiries received since the last meeting.

5. Public Comment

No public comment.

6. Staff Comments/Requests

SCO staff asked the Commission members if they preferred printed or electronic materials. Chair Clemens responded that the printed packets are helpful.

7. Report of the Officers

A. Chair

Chair Clemens mentioned that he and Commissioner Ogren would be giving a presentation on the Act at the California Special Districts Association annual conference in Anaheim.

Chair Clemens also mentioned that he would be presenting at the State Controller's Conference with County Auditors in October.

B. Vice Chair

Nothing to report.

C. Secretary

Nothing to report.

8. Committee Reports

A. CUCCAC Manual

i. Proposed Changes – Legislative Update

No Changes

ii. Proposed Changes – Non-Legislative Update

No Changes

9. Commissioner Comments/Request

Commissioner Ogren mentioned that he would be retiring on December 21, 2019. Commissioner Ogren mentioned that he would send recommendations to replace him as the Special District's representative.

Commissioner Errotabere mentioned that she been contacted by seven school districts since the last CUCCAC meeting and noticed that one has opted into the Act. She stated that when giving presentations to school districts, she shares the benefits of participating in the Act; for example: staff time savings, dollar savings, and getting projects completed for the kids in a timely manner.

10. Old Business (Refer to attachment 10B)

A. Modernization of advertising requirements in the Act

Chair Clemens appointed Commissioners Bernacchi, Errotabere, Holt, Hartwig, and Hester to serve on the Subcommittee to gather language for agencies to advertise public projects online and in paper publications.

In relation to Public Contract Code, section 22036:

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.

The subcommittee proposed to add the change in section (d) (in blue) below to Public Contract Code section 22037:

Proposed changes:

(a) Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.

(b) 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 within 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.

(c) The notice inviting formal bids shall also be sent electronically by either facsimile or electronic mail and sent to all construction trade journals specified in Section 22036. The notice shall be sent 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.

(d) As an alternative to the public notice requirement described in subdivision (b), the public notice inviting formal bid requirement of this section may instead be met by meeting the requirements of subdivision (c) and publishing the public notice electronically on that agency's Internet Website at least 14 calendar days before the date of opening the bids.

(1) To be eligible to use the alternative public notice procedure provided in subsection (d) of this section, a link to the agency's public notices for invitation to bid must be published on the agency's primary Internet Website homepage and accessible through a prominent, direct link that is open to the public.

Public Contract Code Section 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 or Section 22037.

Chair Clemens will submit a written request to the Controller to add the proposed changes to the Bill.

Commissioner Bernacchi motioned that the Chair send a letter to SCO's executive staff to request assistance on proposing the revised language in an omnibus bill. Commissioner Hartwig seconded the motion. The motion was approved 9-0.

B. FAQ – Procurement

Chair Clemens proposed to add the new FAQ below to the CUCCAC webpage along with the other FAQs:

Can an agency separately bid out for the materials and supplies on a project to avoid contractor markup and then bid out for the installation labor or perform installation with its own forces?

An agency may separately procure the materials and supplies for a project; however, all costs (materials, supplies, labor) of a project must be included in the project cost estimate to determine whether the project falls within the force account, informal bid, or formal bid thresholds.

In addition, if installation is performed by force account, an overhead rate must be applied to all direct costs of the project and included in the cost estimate. For example, if materials/supplies cost \$50,000 to procure separately and the estimated labor cost to install is \$25,000, the project could not be performed with force account, but would fall within the informal bid threshold because the total cost estimate is \$75,000.

Chair Clemens motioned to adopt the additional FAQ to the list that is posted on the CUCCAC webpage; Commissioner Errotabere seconded the motion. The motion was approved 9-0.

11. New Business

- A. Commissioner Bernacchi motioned to extend all positions to serve another two-year term; Commission Campbell seconded the motion. The motion was approved 9-0.

2019 – 2021 CUCCAC officers:

Chair -Will Clemens

Vice Chair - Michael Hester

Secretary - Nathaniel Holt

Commissioner Errotabere mentioned that the Bylaws should be revised as follows:

Officers may be elected for multiple years, not exceeding ~~five~~, four years in the same position. In no event shall two consecutive chairpersons be appointees representing either the construction industry or public agencies.

12. Next Meeting

The Commission agreed to schedule the next meeting for:

Friday, March 6, 2020
10:00 a.m. – 2:00 p.m.
State Controller's Office
300 Capitol Mall, 6th Floor, 635 Terrace Room
Sacramento, California 95814

13. Adjournment

Chair Clemens moved to adjourn the meeting at 11:04 a.m.; Commissioner Bernacchi seconded the motion. The motion was approved 9-0.

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