

# California Uniform Construction Cost Accounting Commission

Meeting Agenda

Friday, December 8, 2023

10:00AM – 2:00PM

[Click here to join the meeting](#)

Teleconference Number (Audio Only)  
916-318-8201 (United States (Sacramento))  
Phone Conference ID: 237 153 339#

## Locations

California State Controller's Office  
Buckeye Meeting Room  
3301 C Street, Suite 750  
Sacramento, CA 95816

Live Oak Infrastructure  
3450 Broad Street  
San Luis Obispo, CA 93401

Compton Unified School District  
417 Alondra Blvd  
Compton, CA 90220

Earth Construction & Mining  
11542 Knott Street, Suite 10  
Garden Grove, CA 92841

LIUNA - Local 220  
2201 H St  
Bakersfield, CA 93301

<b>Name</b>	<b>Position</b>	<b>Representing</b>
John Nunan <i>Chair</i>	Consultant	<i>General Contractors</i>
Leeann Errotabere <i>Vice Chair</i>	Director of Purchasing	<i>School Districts</i>
Nathaniel Holt <i>Secretary</i>	Chief Facilities Officer & Bond Program Manager	Compton Unified School District <i>School Districts</i>
Eddie Bernacchi	President	National Electrical Contractors Association – Politico Group <i>Subcontractors</i>
Will Clemens	General Manager	Oceano Community Services District <i>Special Districts</i>
Johannes Hoevertsz	Director of Transportation and Public Works	County of Sonoma <i>Counties</i>
Mike James	Assistant City Manager & Public Works Direct	City of El Cajon <i>Cities</i>
Chuck Poss	President	Earth Construction and Mining <i>Subcontractors</i>
Hertz Ramirez	Business Manager	Laborers' International Union of North America <i>Labor</i>
Chad D. Rinde	Director of Finance	County of Sacramento <i>Counties</i>
Jeremy Smith	Deputy Legislative Director	State Building and Construction Trade Council <i>Labor</i>
Mary Teichert	Chief Operating Officer	Teichert Construction <i>Contractors State License Board</i>
Jennifer Wakeman	Assistant Administrative Services Director / Financial Services Manager	City of Lafayette <i>Cities</i>
Peter Worhunsky	President & CEO	Live Oak Infrastructure Group <i>General Contractors</i>

## State Controller's Office Staff

<b>Name</b>	<b>Position</b>	<b>Representing</b>
Ethan Jaffe	Staff Counsel	State Controller's Office (SCO) <i>Legal Office</i>
Jia Liu	Supervisor	SCO <i>Local Government Policy Section</i>
Luis Gonzalez	Policy Analyst	SCO <i>Local Government Policy Section</i>
Anthony Carver	Policy Analyst	SCO <i>Local Government Policy Section</i>

# Meeting Agenda

## 1. Call to Order

## 2. Introductions

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

A. Minutes for meeting held September 15, 2023

## 4. Commission Updates (Refer to attachments 4A, 4B, and 4C)

A. Participating agencies

i. New

ii. Withdrawing

B. Funding update

C. Inquiry update

## 5. Public Comments

## 6. Staff Comments/Requests

A. SCO Staff Update

B. Ethics Courses & Form 700

C. Appointment & Reappointment Updates

## 7. Reports of Officers

A. Chair

B. Vice Chair

C. Secretary

## 8. Committee Reports (Refer to attachment 8A)

A. Legislative Update

i. Proposed Changes to CUPCCAA

B. CUCCAC Manual

i. Proposed changes – Legislative updates

ii. Proposed changes – Non-Legislative updates

## 9. Commissioner Comments/Requests

## 10. Old Business

## 11. New Business

## 12. Next Meeting

## 13. Adjournment

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## Participating Remotely

<b>Name</b>	<b>Position</b>	<b>Representing</b>
Nathaniel C. Holt	Chief Facilities Officer & Bond Program Director	Compton Unified School District <i>School Districts</i>
Eddie Bernacchi	President	National Electrical Contractors Association – Politico Group <i>Subcontractors</i>
Chuck Poss	President	Earth Construction and Mining Subcontractors
Hertz Ramirez	Business Manager	Laborers' International Union of North America Labor
Peter Worhunsky	President & CEO	Live Oak Infrastructure Group <i>General Contractors</i>

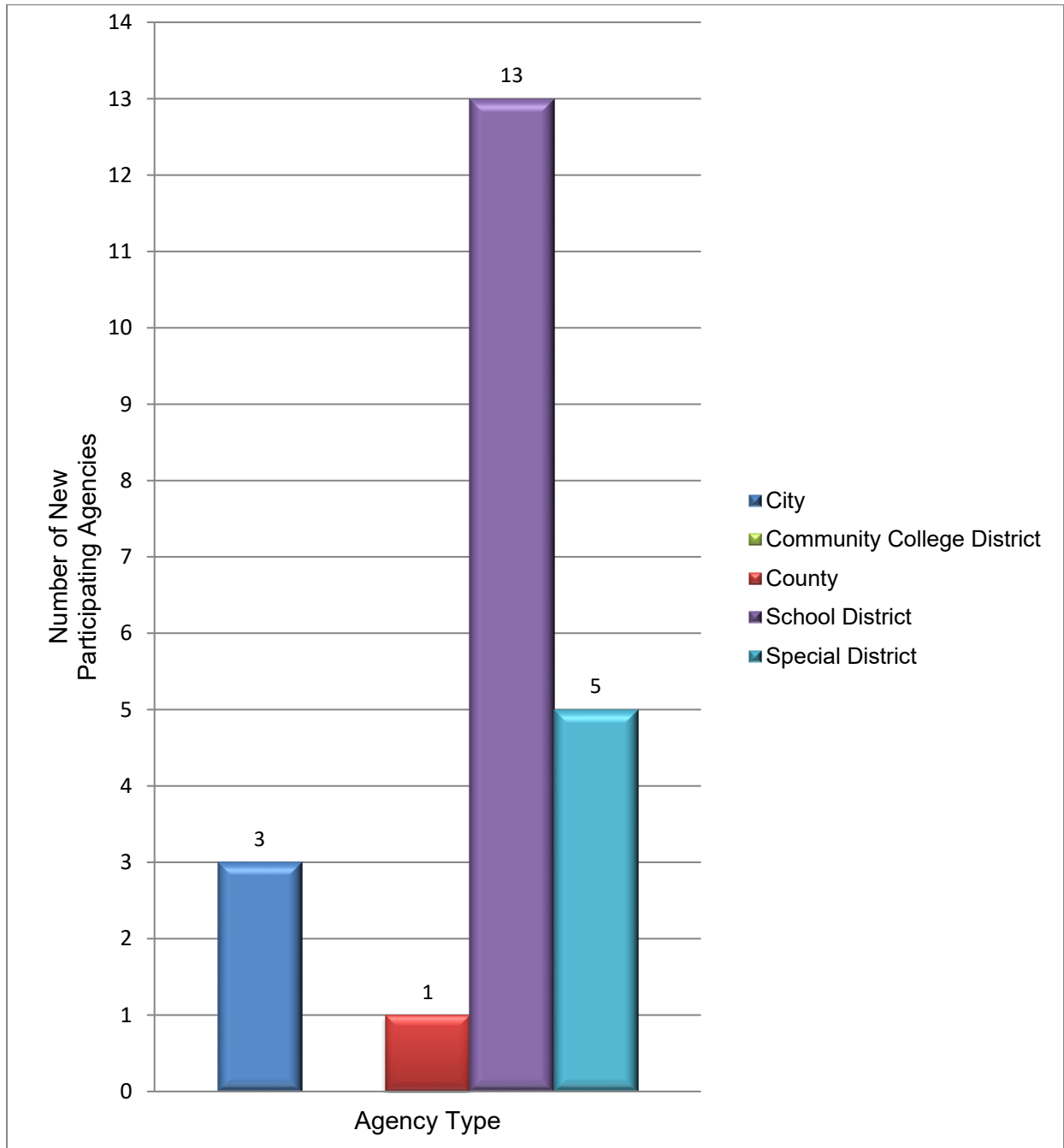
If you would like further information regarding this meeting or require special accommodations for attending this meeting, please contact:

State Controller's Office  
Local Government Policy Section  
[LocalGovPolicy@sco.ca.gov](mailto:LocalGovPolicy@sco.ca.gov)

### Report on new participating agencies

The State Controller’s Office has received 22 resolutions from agencies that have opted into the California Uniform Public Construction Cost Accounting Act (CUPCCAA), bringing the number of agencies participating in the Act to 1585.

**New Participating Agencies**

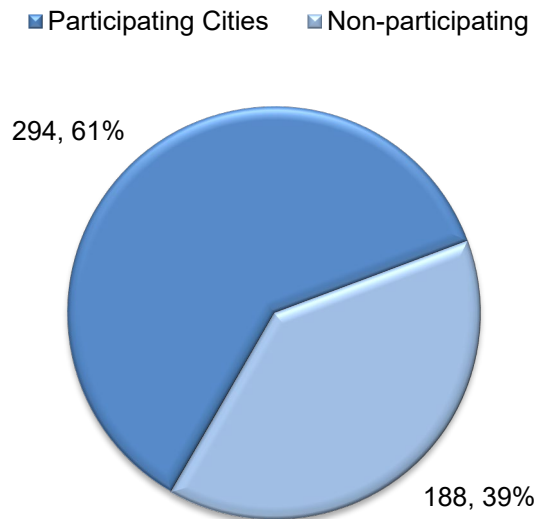


Participating Agencies Update  
For the period September 1, 2023 – November 27, 2023

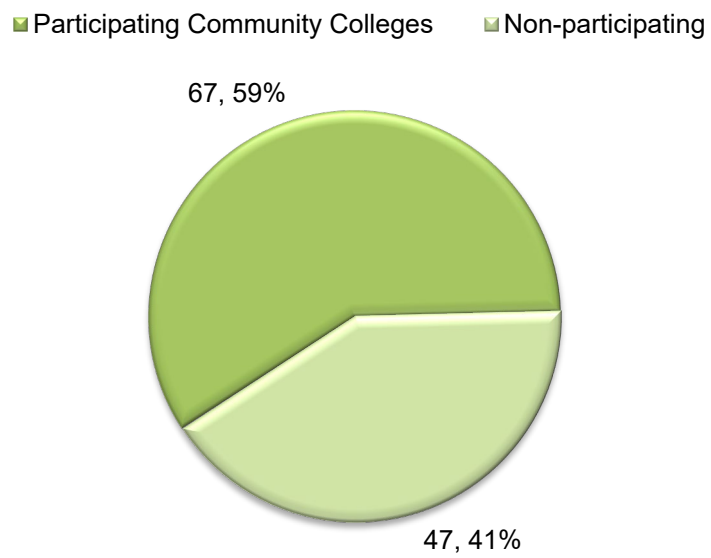
Item 4A

	Agency	Date Opted In	Agency Type
1	City of Covina	9/15/2015	<b>City</b>
2	Marin Clean Energy	2/15/2018	<b>Special District</b>
3	Graves School District	4/26/2023	<b>School District</b>
4	Colusa County Office of Education	6/21/2023	<b>School District</b>
5	Big Creek Elementary School District	9/6/2023	<b>School District</b>
6	Big Bear Municipal Water District	9/7/2023	<b>Special District</b>
7	Alameda County Office of Education	9/12/2023	<b>School District</b>
8	City of Hermosa Beach	9/12/2023	<b>City</b>
9	Mendota Unified School District	9/13/2023	<b>School District</b>
10	Maple Elementary School District	9/14/2023	<b>School District</b>
11	Flournoy Elementary School District	9/19/2023	<b>School District</b>
12	City of American Canyon	9/19/2023	<b>City</b>
13	Westmorland Union Elementary School	10/10/2023	<b>School District</b>
14	Johnstonville Elementary School District	10/11/2023	<b>School District</b>
15	Ferndale Unified School District	10/11/2023	<b>School District</b>
16	Delphic Elementary School District	10/11/2023	<b>School District</b>
17	Big Springs Union Elementary School District	10/12/2023	<b>School District</b>
18	Birchim Community Services District	10/17/2023	<b>Special District</b>
19	Madera Irrigation District	10/17/2023	<b>Special District</b>
20	Tustin Unified School District	10/23/2023	<b>School District</b>
21	Tres Hermanos Conservation Authority	11/08/2023	<b>Special District</b>
22	San Benito County	11/10/2023	<b>County</b>

### Cities



### Community Colleges

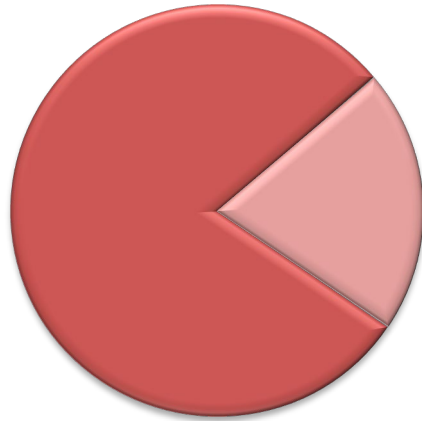




## Counties

■ Participating Counties   ■ Non-participating

46, 79%

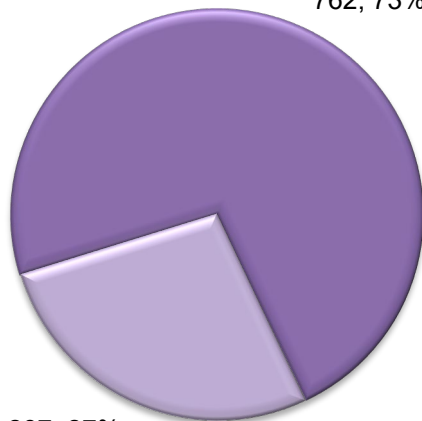


12, 21%

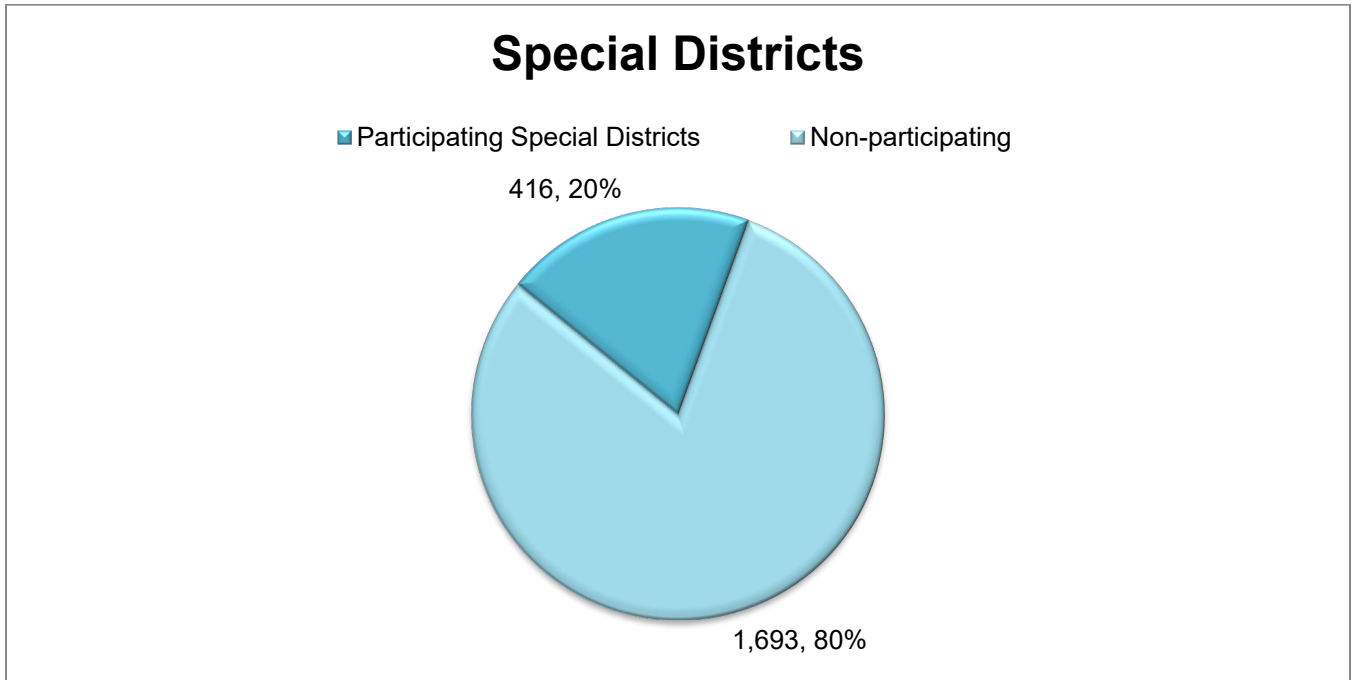
## School Districts

■ Participating School Districts   ■ Non-participating

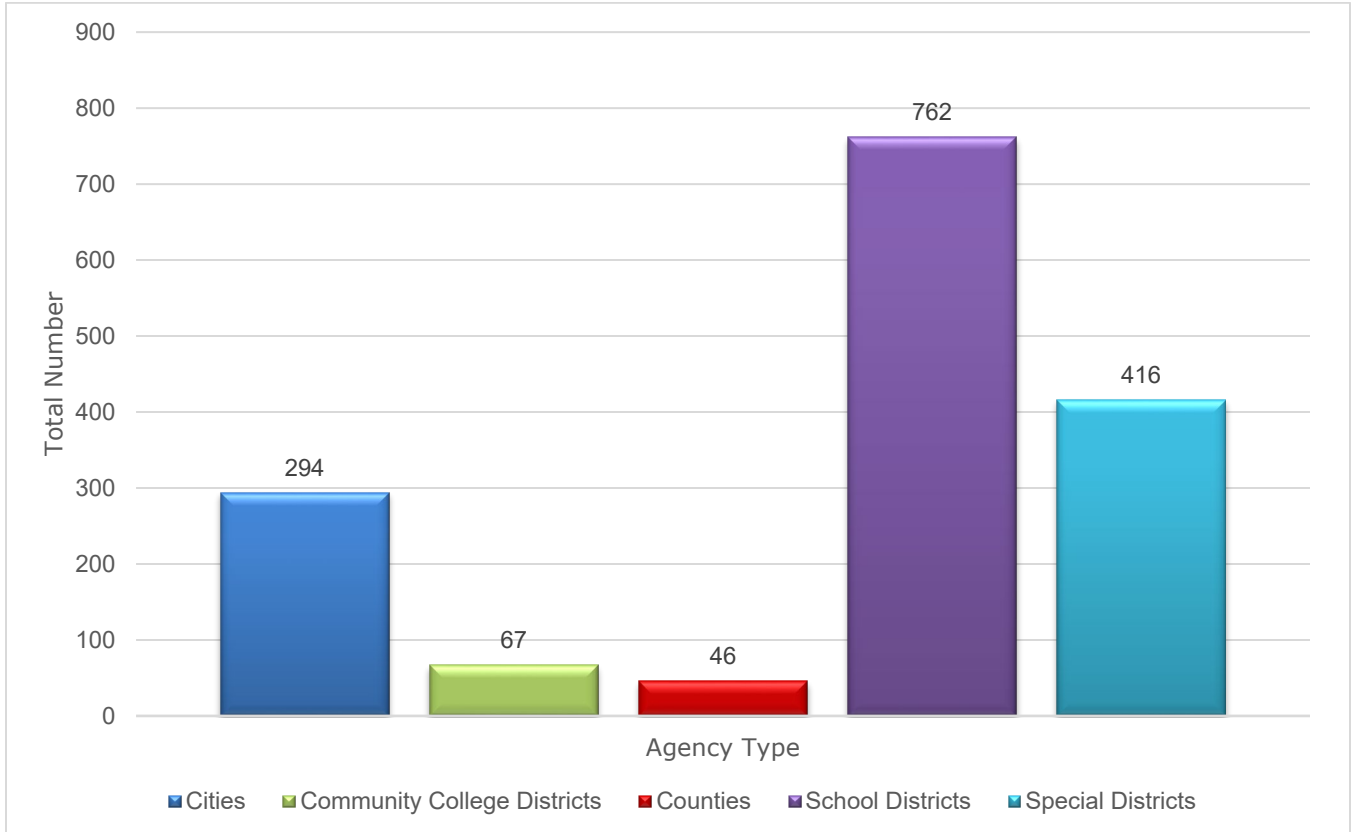
762, 73%



287, 27%



### Total Participating Agencies (1,585)



**Commission Funding Update for the  
Period September 1, 2023 – November 27, 2023**

Beginning balance as of September 1, 2023	\$	17,375.58
Grant – CCAP 11/14/23*	\$	625.00
	\$	18,000.58
Travel claims since September 1, 2023		
Commissioner 1 – Meeting in Sacramento	\$	597.95
Commissioner 2 – Meeting in Sacramento	\$	412.66
Commissioner 3 – Meeting in Sacramento	\$	504.28
Commissioner 4 – Meeting in Sacramento	\$	118.63
Total travel claims	\$	<u>1,633.52</u>
Total funds	\$	<u>16,367.06</u>

\* California Construction Advancement Program 3<sup>rd</sup> quarter grant

**CUCCAC Inquiries**  
**September 1, 2023 – November 27, 2023**

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

**CA State Universities**

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

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

## Qualified Contractor Request

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

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

A: Each agency that participates in CUPCCAA maintains its own list of contractors. The California Uniform Public Construction Cost Accounting Commission's webpage has a list of agencies that are participating in the California Uniform Public Construction Cost Accounting Act (CUPCCAA). A vendor may contact each agency directly to let them know you would like to be on their list of contractors. For a list of participating agencies, please see the "Participating Agency Lists" header at the following link: [https://www.sco.ca.gov/ard\\_cuccac.html](https://www.sco.ca.gov/ard_cuccac.html)

More Information regarding how a vendor can get on a public agency's list of registered vendors can be found in section 1.04.01 of the Cost Accounting Policies and Procedures Manual. Chapter 1 of the Manual provides an introduction and basic concepts of the Act for both public agencies and vendors.

The link for the manual can be found here: [https://www.sco.ca.gov/Files-ARD-Local/cuccac\\_manual\\_2021\\_edition.pdf](https://www.sco.ca.gov/Files-ARD-Local/cuccac_manual_2021_edition.pdf)

## District's participation in CUPCCAA

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

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

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

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

## Interpretation of CUPCCAA

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

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

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

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

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

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

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

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

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

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

## Agencies Listing in Journals

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

The national ones are the most difficult to confirm.

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

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

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

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

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

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

Please Note: Agencies are not required to mail a notice to a trade journal if the trade journal listed under their county is now charging for its services, or is out of business. If either of these situations are the case, the Commission requests that users find an alternative method of notifying potential contractors of published jobs and how to be added to their informal bidding lists (e.g., county's web page)

### Opting-in to the Act

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

A: The governing board must elect by resolution to become subject to the Act and must file a copy of the approved resolution with the State Controller's Office. Once an agency has opted into the Act, it will remain a part of the program.

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

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=22034.&lawCode=PCC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=22034.&lawCode=PCC)

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

### Proposed changes to Public Contract Code 22032

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

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

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

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

### CUPCCAA Limits

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

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

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



### **CUPCCAA -Answer key-sheet**

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

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

### **Transition to CUPCCAA**

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

A: The list of Commissioners on the California Uniform Construction Cost Accounting Commission (CUCCAC), which oversees CUPCCAA, can be found on the SCO website. Commissioner Clemens is the Special Districts' representative, and would likely be able to schedule a call with you.

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

### **CUPCCAA Non-Compliance**

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

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

### **Bid Bond Requirement**

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

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

### UPCCAA Questions

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

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

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

Q4: Lowest bid is still applicable?

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

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

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

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

### Question on Bid Splitting and CUPCCAA

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

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

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

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

## **Public Works Project**

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

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

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

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

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

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

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

## **Resolution Number**

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

A: In order to opt-in to the Act, the governing body must elect by resolution to become subject to the Act and must file a copy of the approved resolution with the State Controller's Office (Section 22030). Sample documents are available at: [http://www.sco.ca.gov/ard\\_cuccac.html](http://www.sco.ca.gov/ard_cuccac.html). Once an agency has opted into the Act, it will remain a part of the program.

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

### Trade Journal Posting

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

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

A: Participating Agencies are not required to mail a notice to a trade journal if the trade journal listed under their county is now charging for its services, or is out of business. Instead, the Commission requests that agencies find some other method of notifying potential contractors of published jobs and how to be added to their informal bidding lists (e.g. internet – county's web page)

## **Proposed Changes To The California Uniform Public Construction Cost Accounting Act (CUPCCAA)**

### **Public Contract Code Section 22002**

(a) "Public agency," for purposes of this chapter, means a city, county, city and county, including chartered cities and chartered counties, any special district, and any other agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Public agency" also includes a nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency. *"Public agency" also includes a "private entity" that satisfies the requirements of subdivision (f).*

(b) "Representatives of the construction industry" for purposes of this chapter, means a general contractor, subcontractor, or labor representative with experience in the field of public works construction.

(c) "Public project" means any of the following:

(1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, *installation*, and repair work involving any publicly owned, leased, or operated facility.

(2) Painting or repainting of any publicly owned, leased, or operated facility.

(3) In the case of a publicly owned *electric* utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

(d) "Public project" does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:

(1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.

(2) Minor repainting.

(3) Resurfacing of streets and highways at less than one inch.

(4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

(5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

(e) For purposes of this chapter, "facility" means any plant, building, structure, ground facility, utility system, subject to the limitation found in paragraph (3) of subdivision (c), real property, streets and highways, or other public work improvement.

*(f) For purposes of this chapter, "private entity" means an entity that has elected to become subject to the uniform construction cost accounting procedures set forth in Article 2*

(commencing with Section 22010), has notified the Controller of that election, and performs work that meets both of the following:

1. The work meets the definition of “public project” as defined in subdivision (c), and

2. The work is “paid for in whole or in part out of public funds” as defined in Labor Code section 1720, subdivision (b)

### **Public Contract Code Section 22032**

(a) Public projects of ~~sixty thousand dollars (\$60,000)~~ seventy thousand dollars (\$70,000) 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 thousand dollars (\$100,000) or less may be performed by negotiated contract, or by purchase order.

~~(b c)~~ Public projects of ~~two hundred thousand dollars (\$200,000)~~ two hundred twenty thousand dollars (\$220,000) or less may be let to contract by informal procedures as set forth in this article.

~~(e d)~~ Public projects of more than ~~two hundred thousand dollars (\$200,000)~~ two hundred twenty thousand dollars (\$220,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

### **Public Contract Code Section 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 c)~~ 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) 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.

(2) 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) 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) 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) If all bids received are in excess of ~~two hundred thousand dollars (\$200,000)~~ two hundred twenty thousand dollars (\$220,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at ~~two hundred twelve thousand five hundred dollars (\$212,500)~~ two hundred thirty-five thousand dollars (\$235,000) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.

#### **Public Contract Code Section 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 (~~e d~~) of Section 22032.

#### **Public Contract Code Section 22042**

The commission shall review the accounting procedures of any participating 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 set forth in Section 22032 (a)

(c) Has been improperly classified as maintenance.

(d) Has been split or separated into smaller work orders or projects, in violation of Section 22033.

(e) Has exceeded the limits or otherwise not met the requirements set forth in Section 22032 (b), (c) and (d).

#### **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.

#### **Public Contract Code Section 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), (c), (d) or ~~(e e)~~ 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), (c), (d) or (e e) 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 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.

(Amended by Stats. 2015, Ch. 269, Sec. 33. (SB 184) Effective January 1, 2016.)

#### **Public Contract Code Section 22044**

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), (c), (d) or (e e) 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 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.