

<b>CUCCAC Inquiries April 23, 2022 – August 26, 2022</b>		
<b>Organization</b>	<b>Subject</b>	<b>Status</b>
School District	Contractor List	Closed
Special District	Public works procurement for CDBG via CUPCCAA	Closed
County	Provision for use of CO-OP agreements	Closed
External Marketer	Informal Bidding Threshold	Closed
City	Charter City and Bidding Threshold	Closed
External Marketer	Bidding Public Projects Info	Closed
School District	Contractor Bidding List-Particular product line requirement for Project	Closed
External Marketer	CUPCCAA Maintenance	Closed
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External Marketer	Exemption from All Bidding Requirements	Closed
External Marketer	Force Account Threshold	Closed
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School District	Change Orders for Informal Bid	Closed
School District	Sample Resolution	Closed
City	Sample Resolution Opt Out CUPCCAA	Closed

### **Contractor List**

Q: Good afternoon. Your email was at the bottom of an FAQ list I found online about the CUPCCAA process. Our school district is relatively new to using it, and hasn't used it much yet at all. The question we have at the moment regards the proper use of the annual list of contractors for work under \$60,000.

We understand that any work under \$60,000 can be done by our in-house people OR be let out to a contractor. One interpretation we are hearing is that the list of contractors only applies for work in the 60-200 thousand dollars range, and that work under 60,000 can be let out to ANY contractor. The other camp believes that the list MUST be used for anything that is a public works project even if it's under \$60,000. Which is correct?

On a related note, the FAQ seems to imply that if the work to be performed constitutes an emergency (e.g. sewer or main water line has broken and requires immediate attention), then we can go off-list no matter what and just get someone in there to fix it ASAP. Is that correct?

And finally, can I perhaps get a couple of quick examples of the exception for maintenance work? I read in the FAQ that the CUPCCAA procedures do not apply to "operations or maintenance work". In those instances, what are the recommended procedures for getting service for something like pesticide application, landscaping, etc.?

A1: Per Public Contract Code Section 22032, public projects of \$60,000 or less may be performed by "employees of a public agency by force account, by negotiated contract, or by purchase order." The agency's list of contractors is only required to be alerted of projects that will surpass the \$60,000 threshold for informal bidding, or \$200,000 for formal bidding. Thus, any work that falls under the \$60,000 threshold may be done through negotiated contract or purchase order from any contractor, not just those on an agency's list of registered contractors.

A2: Per Public Contract Code Section 22035 (a):

In cases 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.

Additional guidance for emergencies can be found in Chapter 2.5 of the Cost Accounting Policies and Procedures Manual, which includes additional requirements of Public Contract Code Section 22050.

A3. Since the maintenance work as described below is not considered a public project, those types of work projects that it would not be under the limitations of CUPCCAA. Therefore, any work that does not fall under the CUPCCAA procedures would be subject to your agency's own purchasing guidelines.

Maintenance work, as defined in Public Contract Code Section 22002, includes:

- 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.

Additional resources for CUPCCAA can be found in the [Cost Accounting Policies and Procedures Manual](#), with other resources being located on the [State Controller's Office Website](#).

Hopefully this has answered your question. If you have any additional questions, please do not hesitate to contact us at [LocalGovPolicy@sco.ca.gov](mailto:LocalGovPolicy@sco.ca.gov)

## **Public works procurement for CDBG via CUPCCAA**

Q: We are a special park district and a sub-recipient of CDBG funding to our county (Trinity County). We understand that our procurement methods must adhere to whichever policy (federal, state, local) is most strict. In our case, state policy is strictest.

Here is our problem: We recently went out to bid (competitive sealed) for a multi-faceted \$100,000 pool renovation project. Because we are located in a rural, isolated area, we received neither a single bid nor a single request for the bid package, even after inviting the fourteen general B contractors on our updated CUPCCAA list and after advertising in our local newspaper for two weeks.

Without even one bid, we cannot petition for single-source procurement. Given that the small purchase procurement threshold is \$60,000, we neither have the option of executing this project through that procurement method.

We feel that our only means to achieve our end is to go back out to bid but by breaking the project into work sections so that the landscape contractors could bid on the artificial turf installation, the solar contractors on the rooftop solar, and the concrete/paint/pool contractors on the pool deck resurfacing. Given that no general contractor was interested in this broad-based project, we see no other way to go forward.

Please contact us for your guidance as we want to make sure that we know our legal options in this unique and difficult predicament.

A: Typically, splitting one project into two or more smaller projects in order to circumvent the provisions of CUPCCAA is prohibited, per [Public Contract Code 22033](#). However, [Public Contract Code 22038 \(c\)](#) states that “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”.

Thus, since no bids were received by your agency, the provisions of CUPCCAA would not apply, and you would be free to break the project into several smaller projects in order to attract bids.

More information can be found in the [Cost Accounting Policies and Procedures Manual](#), with other CUPCCAA resources available on the [State Controller's Office Website](#).

Hopefully this is helpful, and please do not hesitate to contact us with any additional questions.

## **Provision for use of CO-OP Agreements**

Q: We have been looking through the guidance under CUCCA and have a question that we don't see can be resolved without further guidance. We were hoping the FAQ's would cover it but we are not seeing it.

Question is: If the County has a public construction project to replace flooring that is approx. 130K can the County use a State or Federal CO-OP agreement (that was competitively bid) for the work versus doing the informal bidding process required in the Act?

A: Thank you for contacting the State Controller's Office. Please see the below response to your inquiry:

Based on our research, the California Uniform Public Construction Cost Accounting Act (the Act) does not include any expressed authority to authorize a participating agency to use an existing contract for a new public project. Therefore, the usage of State or Federal CO-OP would not comply with the provisions of the Act. Due to the project's estimated price, the project would be subject to the informal bidding procedures detailed in the [Cost Accounting Policies and Procedures Manual](#).

Additionally, according to our records, SCO has not received a copy of the County of Santa Cruz's resolution adopting the Act. If the County of Santa Cruz has adopted the Act, please notify the State Controller's Office by responding to this email with a copy of the County's resolution.

Additional resources related to the Act can be found on the State Controller's Office website, including relevant legislation. The link to the State Controller's Office website can be found here:

[https://www.sco.ca.gov/ard\\_cuccac.html](https://www.sco.ca.gov/ard_cuccac.html)

Hopefully this has answered your question. If you have any additional questions, please do not hesitate to contact us at [LocalGovPolicy@sco.ca.gov](mailto:LocalGovPolicy@sco.ca.gov).

### **Informal Bidding Threshold**

Q: At what expenditure level of a contract is a public agency required by UPCCAA to submit to the informal bidding process?

A: Per [Public Contract Code 22032](#), public projects of two hundred thousand dollars (\$200,000) or less may be let to contract by informal procedures as set forth in this article. Public projects of sixty thousand dollars (\$60,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

More information regarding these thresholds can be found in the [Cost Accounting Policies and Procedures Manual](#), as well as the [Frequently Asked Questions Document](#).

### **Charter City and Bidding Threshold**

Q: Good Afternoon – The City of Gilroy is a Charter City. Our current charter code determines the public project threshold for formal bidding (\$35k) and has not been updated in decades. We would like to consider updating our charter to utilize California Uniform Public Construction Cost Accounting Act. We have the following questions:

- Can charter cities participate in the CUPCCA Act?
- If yes to above, what actions are necessary for charter cities to participate (ordinance, resolution etc.)?
- How often is the informal bidding amount updated. I see last two were done in 2012 and 2019. Is there a proposed legislation to increase the bidding amount given the current inflation rate?

If another person can better assist with this inquiry, please forward or let me know whom I should reach out to.

A1: Yes, [Per public contract code 22002](#), "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.

A2. The Governing Board must elect by resolution to become subject to the uniform construction cost accounting procedures promulgated by the State Controller pursuant to the [Public Contract Code section 22019](#). The resolution shall specify that the local agency will meet the requirements prescribed in the California Uniform Construction Cost Accounting Commission's *Cost Accounting Policies and Procedures Manual* and state the effective date the agency will implement the accounting and bidding procedures.

A3. [Per public contract code 22020](#), 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). The Controller shall notify all participating public agencies of the adjustment prior to the effective date. That notification shall also describe the provisions of this chapter and the benefits of using its provisions. The force account threshold is \$60,000, with informal bids being \$200,000 or less, and formal bids consisting of projects above \$200,000. When the Commission does elect to increase the thresholds, every agency that has opted into the Act is notified of the increase.

More information regarding the Act can be found in the [Cost Accounting Policies and Procedures Manual](#), as well as the [Frequently Asked Questions Document](#).

Hopefully this has answered your question. For any additional questions, please do not hesitate to contact the Local Government Policy Unit at [LocalGovPolicy@sco.ca.gov](mailto:LocalGovPolicy@sco.ca.gov).

### **Bidding Public Projects Info**

Q: I am a small business looking to work on Public Works projects. To start, I wanted to participate in the Uniform Construction Cost Accounting Act for smaller projects. Since we are a small business, we have limited experience navigating the complex process to be qualified for each city's bidding process. Hopefully I can speak with someone from the State if they can provide me with more direction and information on how to proceed especially regarding the qualified contractor list for each city.

A: A list of agencies that have opted into the California Uniform Public Construction Cost Accounting Act (the Act) can be found on the State Controller's Office website. Here is a link to the PDF of the list: [https://www.sco.ca.gov/Files-ARD-Local/participating\\_agencies\\_-\\_general.pdf](https://www.sco.ca.gov/Files-ARD-Local/participating_agencies_-_general.pdf)

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).

Additional resources related to the Act can be found on the State Controller's Office website, including an FAQ document and relevant legislation. The link to the State Controller's Office website can be found here: [https://www.sco.ca.gov/ard\\_cuccac.html](https://www.sco.ca.gov/ard_cuccac.html)

Hopefully this has answered your question. If you have any additional questions regarding these resources, please do not hesitate to contact us at [LocalGovPolicy@sco.ca.gov](mailto:LocalGovPolicy@sco.ca.gov).

Follow-up Q1: Thank you for the response. I read over the manual and have reached out to the two specified organizations "Construction Bidboard and Dodge Data & Analytics". They are promoting other platform services, and there is no clear direction to just sign up for their trade journal. Since the State classified these two journals, I reached out to them and there seems to be no clear indication they are trade journals.

Also, I tried reaching out to Construction Bidboard and there has been no response. I am reaching a roadblock and wanted to reach out to your department to hopefully help me clarify what I need to do. If someone can help clarify this to me, that would be much appreciated.

Follow-up A1: Based on your response, it sounds like you are contacting your county's respective trade journals. However, we believe you should be contacting the agencies that have opted into the Uniform Construction Cost Accounting Act (the Act). Agencies that have opted into the Act shall post their projects available for bids in their respective trade journals, but contractors looking to bid on projects should reach out to the agencies, not trade journals, in order to be placed on the agency's list of qualified bidders.

Section 1.04.01 of the Cost Accounting Policies and Procedures Manual states that a contractor "may have his or her firm added to an Agency's contractors list at any time by providing the required information" The Required information is as follows:

- The name and 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.);
- The class of contractor's license(s) held; and.
- The contractor license number(s).

Based on the information you have provided, we recommend that you directly contact the agencies that have opted into the Act in your county. This would include School Districts, Cities, Community College Districts, Special Districts, and even the County itself. I have attached an excel file containing all agencies that have opted into the Act per SCO's records. The results can be filtered by County for easier browsing.

Additionally, the Act permits public projects of \$60,000 or less to be performed by "employees of a public agency by force account, by negotiated contract, or by purchase order". Thus, the agency's list of contractors is only required to be alerted of projects that will surpass the \$60,000 threshold for informal bidding, or \$200,000 for formal bidding. Therefore, any work that falls under the \$60,000 threshold may be done through negotiated contract or purchase order from any contractor, not just those on an agency's list of registered contractors. This may be relevant due to your statement that you are interested in working on "smaller projects"

Any guidance not included in the Cost Accounting Policies and Procedures Manual would exceed SCO's scope of guidance.

Hopefully this response was helpful. Please do not hesitate to contact us with any additional questions.

Follow-up Q2: Thank you. I actually wanted to clarify the two publications listed on your SCO seems to be incorrect. I contacted both trade journals and they do not have any free publications as listed in your section 1.07. I have attached the screenshot for you. Can you recommend what I could do next as the SCO recommends I sign up for their weekly newsletter when they do not have one.

Follow-up A2: Section 1.07 of the Manual states that the trade journals “do not charge for publishing or otherwise disseminating a Notice to Contractors”. Thus, the websites do not charge for projects to be posted on their website/newsletters, but accessing the list of projects being bid may require an active subscription to view. The only free requirement relating to journals relates to agencies posting their projects, not free for all to view.

Some organizations also do not necessarily have to have a “newsletter” in the traditional sense of a weekly publication. For example, on ebidboard.com, their database is a real-time database of public works construction projects. This satisfies the requirement to post “a section listing projects being bid; or provide a telephone notice service to their members”. Based on this language, some organizations may restrict access to their services to members of their organization. Construction.com also requires a subscription to access their database of projects. Based on sampling a few of the trade journals listed in the manual, most required a membership to gain access to their services, with varied costs to join the respective organizations.

The list of trade journals listed in the manual was compiled by the commissioners of the California Uniform Construction Cost Accounting Commission and was last updated in November 2021. If any of the journals listed are no longer viable, please do not hesitate to contact us with your findings.

Hopefully this was helpful. Please do not hesitate to contact us with any additional questions.

### **Contractor Bidding List-Particular Product Line Requirement for Project**

Q: I'm piggybacking on this thread to ask kind of a follow-up question. We are looking at doing a project we estimate to be under \$200,000 to install new clock/bell/PA system at some school sites. As a result, I understand that no formal RFP and full posting process is required for this. I would like to invite all of the appropriate contractors on our contractor list to come out, do a walkthrough, and develop proposals for us for the project. We do want to use a particular product line for the project, and this would be a requirement of the project.

Would this be an acceptable approach to getting this project done? I ask because in my limited experience with E-Rate, we are not allowed to require a specific product line and must accept a "like product". If it matters, this new project for clocks and bells would be using federal ESSER III dollars.

Second, does your office offer or know of any upcoming trainings around school based construction projects that I can sign up for? Thanks!

A: [Per Public Contract Code Section 22034](#), 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. Additionally, sometimes in the case of modification of specific systems, there is a need to match some existing equipment or function that can't be achieved with another product. That being said, it is probable that some of the bidders may propose a different manufacturer as a substitution. Thus, it should be made clear in the bid documents that your agency is only considering the product you have selected.

Secondly, SCO is not aware of any training sessions for construction projects at this point. If we come across any, we will follow up with you with the relevant information.

Additional resources related to the Act can be found on the State Controller's Office website, including an FAQ document and relevant legislation. The link to the State Controller's Office website can be found here: [https://www.sco.ca.gov/ard\\_cuccac.html](https://www.sco.ca.gov/ard_cuccac.html)

Hopefully this has answered your question. If you have any additional questions regarding these resources, please do not hesitate to contact us at [LocalGovPolicy@sco.ca.gov](mailto:LocalGovPolicy@sco.ca.gov).

## **CUPCCAA Maintenance**

Q: Voicemail - Hi, good afternoon. Daniel, this is Kevin. With the Velocity Sports Group. I am trying to get a maintenance contract with Natomas Unified School District. I've never had to go through this at the school district before because our fees that are under five thousand dollars per visit. But I'm trying to find out how to join up with and get on their CUPCCAA list. So they will actually look at our contract and stuff. So if you can give me a call back to let me know what I need to do to join or give me the parameters if I even need to be on there? Like I said, I do a lot of the schools in the Bay Area and I've never heard of having to be on this list unless you're a contractor doing major projects of over like fifteen, twenty thousand dollars. So if you could call me back in and give me the information that I need to know it. So I know what I'm doing, I'd appreciate it. Thank you.

A1: As we discussed this morning, I've included a few resources related to the California Uniform Public Construction Cost Accounting Act (CUPCCAA), located at the following link:

[https://www.sco.ca.gov/ard\\_cuccac.html](https://www.sco.ca.gov/ard_cuccac.html)

The [Cost Accounting Policies and Procedures Manual](#) is a great resource for CUPCCAA, and contains all relevant Public Contract Code (PCC) statutes that apply to CUPCCAA. Per our discussion, the two most relevant PCC codes to your situation are PCC 22002 (page 21) and PCC 22032 (page 26). PCC 22002 states that a "public project" does not include maintenance work, which includes any 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.

Maintenance projects as defined above are not considered to be "public projects" and thus would not be subject to the provisions of CUPCCAA. Maintenance contracts and bids would be subject to the agency's own purchasing manual/procedures.

PCC 22032 lists the thresholds for CUPCCAA projects. Public projects less than \$60,000 "may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order." On these contracts, there is no requirement that the bidding contractor be on the agency's established list of contractors. More information regarding an agency's list of contractors can be found in sections 1.04-1.07 of the Cost Accounting Policies and Procedures Manual.



Additional information can be found on the [FAQ Document](#), and [California Public Contract Code](#).

Any additional inquiries and follow-ups related to CUPCCAA can be sent to [LocalGovPolicy@sco.ca.gov](mailto:LocalGovPolicy@sco.ca.gov), where myself or another member of the Local Government Policy Unit will respond.

Hopefully this was helpful, and please let me know if there's anything else I can help with.

### **Change Orders**

Q: Can you please send me information in regards to Public Works Contract Change Orders. Are there set parameters, i.e. if they exceed 15% they need to go back to the governing board for approval?

A: The California Uniform Public Construction Cost Accounting Act does not address change orders. Please consult with your legal counsel regarding any limitation on change orders that may apply to your city. There is no mention of change orders in the [Cost Accounting Policies and Procedures Manual](#) or the [Frequently Asked Questions Document](#).

Hopefully this has answered your question. Please do not hesitate to contact us with any additional questions.

### **Exemption from All Bidding Requirements**

Q: Please cite the code section exempting from even informal bidding requirements those projects that cost less than \$60,000.

A: [Public Contract Code \(PCC\) 22032](#) sets the dollar amount limitations for agencies that have opted into the California Uniform Public Construction Cost Accounting Act. PCC 22032 states the following:

- a) Public projects of sixty thousand dollars (\$60,000) 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 two hundred thousand dollars (\$200,000) or less may be let to contract by informal procedures as set forth in this article.
- c) Public projects of more than two hundred thousand dollars (\$200,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

Projects that fall below the \$60,000 threshold are not subject to the informal procedures described in the [Cost Accounting Policies and Procedures manual](#). Additional PCC sections are also included in the manual, starting at page 21.

Hopefully this has answered your question. Please do not hesitate to contact us with any additional questions.

### **Force Account Threshold**

Q: I have a question regarding exceeding the force account threshold limit of \$60,000. During the course of work with a contractor in which a negotiated contract was executed, field conditions required a change

order which put the contract over the \$60,000 limit. What should the public agency do because of this exceedance? Does it notify the State?

A: There is no requirement to notify the State if the \$60,000 limit is exceeded. However, this could cause an interested party to file a complaint with the Commission, which could result in a finding of violating the Act if substantiated.

Hopefully this has answered your question. Please do not hesitate to contact us with any additional questions.

### **Inquiry response PCC 22002(c)(3) from 2019**

Q: I am trying to track down a response to an inquiry discussed in the January 10, 2019 Uniform Construction Cost Accounting Commission Meeting. In particular, a City requested a response to the following inquiry:

“Is it the intent of the Commission that all of our other municipal utilities can interpret what is considered as a public project in the same manner as stated in Public Contract Code (PCC) 22002(c)(3) (not a public project, as no powerplant, dam or reservoir is involved)?”

Would it be possible to e-mail me a copy of the Commission’s response?

A: We contacted with this inquiry. Commissioner Clemens contacted the inquirer via phone: I called Daniel at the County of SLO and verbally discussed the issue from 2019 and satisfied his inquiry.

### **Change Orders for Informal Bid**

Q: Does contract code 20659 apply to informal bids, change orders not able to exceed 10%?

If a change order is necessary and agreed upon with the district and the vendor and the change exceeds 10% but is still within the informal bid limits is any additional documentation required?

A: The California Uniform Public Construction Cost Accounting Act does not address change orders. Please consult with your legal counsel regarding any limitation on change orders that may apply to your city. There is no mention of change orders in the [Cost Accounting Policies and Procedures Manual](#) or the [Frequently Asked Questions Document](#).

Hopefully this has answered your question. Please do not hesitate to contact us with any additional questions.

### **Sample Resolution**

Q: Do you by chance have a sample resolution?

A: A sample resolution can be found in section 1:02 on page 6 of [the Cost Accounting Policies and Procedures Manual](#).

Hopefully this has answered your question. Please do not hesitate to contact us with any additional questions.

## **Sample Resolution Opt Out CUPCCAA**

Q: Do you have a sample resolution to opt out of CUPCCAA?

A: Unfortunately, we do not have a sample resolution to opt out of CUPCCAA. To opt out, you can use a similar sample resolution that is used to opt in that can be found in section 1:02 on page 6 of the [Cost Accounting Policies and Procedures Manual](#). The only difference will be that instead of opting in, you will state that you are opting out of CUPCCAA.

Hopefully this has answered your question. Please do not hesitate to contact us with any additional questions.