

Memorandum

To: Will Clemens, Chair
California Uniform Construction Cost Accounting Commission

Date: September 11, 2018

From: **State Controller's Office**
Kimberley K. Chow, Legal Counsel
State Controller's Office

Subject: LEGAL GUIDANCE ON COMMISSIONER TRAVEL EXPENSES AND COMMISSIONER TERMS

Chair Clemens,

This memorandum is in reply to your e-mail communication dated May 24, 2018 regarding questions raised during the last meeting concerning Commissioner travel expense reimbursements and Commissioner terms. The questions posed and responses will be addressed below.

Commissioner Travel Expense Reimbursements

1. Why was there a change to the account (from SCO budget to CUCCAC restricted account) from which commissioner travel expenses are reimbursed?
2. If the CUCCAC restricted account is exhausted, where will commissioner travel expense be reimbursed from and is there a limit to how much will be reimbursed?
3. Is there any legal requirement specifying which account to use for commissioner travel reimbursement?

Pursuant to Public Contracts Code (PCC), section 22015, the State Controller's Office is required to "make available for the conduct of the Commission's business, such staff and other support as does not conflict with the accomplishment of the other business of the office of the Controller." Additionally, "each member of the commission shall serve without compensation, but shall be

reimbursed for travel and other expenses necessarily incurred in the performance of the member's duties." Finally, section 22015 states that "[t]he Commission may accept grants from federal, state, or local public agencies, or from private foundations or individuals, in order to assist it in carrying out its duties, functions, and powers under this chapter."

Although the statute does not explicitly state where Commissioner travel reimbursements should be made from, it can be reasonably argued that in light of the fact that the Legislature has not provided any funding, coupled with the fact that the Commission is required to only meet once a year (PPC 22016), as well as the fact that support provided by the Controller's office should be de minimus, and considering the language that any such support does not otherwise interfere with the operations of this office, it appears the Legislature intended the Commission to be independently funded using receipts through grants and donations and not generally supported by the general fund. It should be noted in this regard, that the appropriation made by the Legislature is for the support of the Controller's operations. As indicated above, the Legislature has not provided for funding to the Commission nor has it augmented the Controller's support appropriation for purposes of funding the operations of the Commission. Consequently, to the extent the Commission has received donations or grants as provided under the statute, the travel expenses of its members should be paid from such funds. To do otherwise would be to make general fund money available through the Controller's support appropriation in a manner not otherwise contemplated by the Legislature.

While the statute only requires the Commission to meet once per year, there may be instances where the Commission must meet more than once per year to carry out its duties. Therefore, to the extent where the Commission has funds available, those funds shall be used to reimburse Commissioner travel expenses for the first required annual meeting and any subsequent necessary meetings. Should the Commission funds become exhausted and where a meeting is necessary to render decisions, the Controller's Office may cover travel expenses of the Commissioners incurred by that meeting to the extent that such reimbursement does not in any way interfere in the operations of the Controller's Office.