

California Uniform Construction Cost Accounting Commission

Will Clemens
Director
Central Services Department
County of San Luis Obispo
Counties
Chair-CUCCAC

Michael R. Hester
President
McGuire and Hester
Subcontractors
Vice Chair-CUCCAC

Nathaniel Holt
Chief Facilities Officer & Bond
Program Director
Compton Unified School District
School Districts
Secretary-CUCCAC

Linda Clifford
California State License Board
Appointed

Guiselle Carreon
Commercial Warrants &
Accounts Payable Manager
San Diego County Office of
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School Districts

George R. Hicks Director
of Public Works City
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Cities

Jeff Armstrong
Apprenticeship Director
Northern CA Laborers' Union
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Eddie Bernacchi
President
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Ken A. Kayser
Construction Consultant
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March 7, 2018

Kevin Doble, Mayor
City of Ukiah
300 Seminary Avenue
Ukiah, California 95472

RE: CUCCAC Action – February 15, 2018

Dear Mayor and City Councilmembers:

On or about November 29, 2017 the North Coast Builders Exchange (NCBE) filed a formal complaint against the City of Ukiah with the California Uniform Construction Cost Accounting Commission (Commission) related to the construction of upgrading and installing new manholes which cost, according to the NCBE's complaint, exceeded the force account limits under the Act per Public Contract Code (PCC) Section 22042(b). The NCBE further stated that the City of Ukiah failed to keep accurate records of estimates, personnel and equipment costs as required by the Act.

A two-person working group of the Commission was assigned to review the complaint and relate their findings for the full Commission's consideration at the February 15, 2018 meeting in Sacramento, California.

The working group reviewed the information provided by NCBE as well as from the City of Ukiah. While the City was aware that the complaint had been filed, the City did not provide any information to the Commission until immediately before the CUCCAC meeting on February 15, 2018.

The working group gave its report at the February 15, 2018 meeting of the Commission. In addition, NCBE and the City of Ukiah's legal counsel and Public Works Director Tim Eriksen attended and spoke at the meeting.

Copies of the City's accounting records were provided to the Commission by NCBE and by Mr. Eriksen. The Commission found that neither set of accounting records were complete. Costs were missing so that determination of total and/or individual costs of the manhole installations in question was not possible. In addition, minutes of City Council meetings were insufficient to determine whether a full discussion of the actual or estimated cost of the work was provided to the City Council.

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Mr. Eriksen noted that the City had instituted a committee to review the City's procedures for complying with the Act because the City had been found to have violated section 22042 of the Act on two previous occasions within the past ten years. Mr. Eriksen stated that the committee met but had no minutes of the meetings.

The Commission found that the City of Ukiah had not violated section 22042 (b) of the Act, however, various commissioners expressed their concern that the City's procedures and processes are not sufficient to ensure compliance with the Act. The Commission urges the City of Ukiah to institute formal procedures as soon as possible that will ensure compliance with the Act which include, at a minimum, preparation of formal cost estimates and maintain detailed, complete accounting records which include all direct and indirect costs of the project(s) regardless of whether the work is bid informally or formally or performed by force account.

One of the Commission's goals is to assist public agencies in complying with the Act which greatly benefits both public agencies and the construction industry. There are resources that can assist the City in complying with the Act. The CUCCAC Cost Accounting Policies and Procedures Manual is available at https://www.sco.ca.gov/ard_cuccac.html.

Should you have any questions, please do not hesitate to contact me at (805) 781-5051.

Sincerely,

Will Clemens

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Chair

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March 7, 2018

Jay Sarno, Mayor
City of Santa Fe Springs
11710 E. Telegraph Road
Santa Fe Springs, California 90670

RE: CUCCAC Action – February 15, 2018

Dear Mayor and members of the City Council:

On or about February 1, 2018 the Construction Industry Force Account Council (CIFAC) filed a formal complaint against the City of Santa Fe Springs with the California Uniform Construction Cost Accounting Commission (Commission) related to the Clarke Estate Restoration Project (Project). The complaint alleged a violation of the Uniform Public Construction Cost Accounting Act (Act), which generally provides local agencies with greater flexibility in performing projects under \$175,000 and especially those projects under \$45,000.

According to the CIFAC complaint, the city exceeded the force account limits under the Act as provided in Public Contract Code (PCC) Section 22042(b). For those projects defined by PCC 22002, projects greater than \$45,000 generally cannot utilize force account labor (City employees). Exceeding the maximum project amount is permissible provided that the procedural and technical requirements of PCC 22038 are met.

A two-person working group of the Commission was assigned to review the complaint and relate their findings for the full Commission's consideration at the February 15, 2018 meeting in Sacramento, California.

The working group reviewed the information provided by CIFAC as well as from the City of Santa Fe Springs. The Commission found in favor of the complaint filed by CIFAC because Public Contract Code 22038 required the City to adopt a resolution by a 4/5ths vote including a declaration that the project "can be performed more economically by the employees of the public agency" prior to utilizing force account labor on the Project.

The Commission's review recognized that the City did advertise and receive bids on multiple occasions for the Project. The information reviewed by the Commission indicated that in October 2016 the City Council agenda included an item to consider another solicitation to bid portions of the Project. That agenda item was either pulled or not approved. Although the City Council again considered the Project in December 2017, and unanimously approved action to utilize force account labor, the December action procedurally should have been presented to the City Council with a resolution prior to

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initiating the Project work performed by City employees, which occurred between the two agenda dates.

The Commission also discussed the Project costs that the City incurred in self-performing the work as compared to the bids that had been previously received. The Commission did not make any findings or determinations whether the Project would have been more economical by proceedings with contractor bids versus self-performance.

The City is required to address our findings in accordance with Public Contract Code 22044 (b). Please confirm compliance with these requirements by forwarding a copy of the minutes of any meetings at which this matter is considered.

Please send a copy of the minutes to:

California Uniform Construction Cost Accounting Commission
Office of the State Controller
Local Government Policy Section
P. O. Box 942850
Sacramento, CA. 94250
ATTENTION: Alexandria Green

Please understand that if the Commission finds that the City is in non-compliance with the Act on three (3) separate occasions within a 10-year period, based on the Commissions limited purview under PCC 22043, the City would not be eligible to utilize the alternative bidding procedures for a five-year period. The primary benefit that the alternative bidding procedures provide is more flexibility in implementing projects under \$175,000.

Although we found in favor of CIFAC, we want to express our appreciation for the City's responsiveness to our inquiries and review. The City Attorney and Public Works Director's attendance at our meeting was very helpful, and in turn, one of the Commissioners has indicated a willingness to attend the City Council meeting to discuss.

We wish the City the best in its restoration and use of the Clarke Estate and applaud the City's effort to preserving an important historical landmark. Should you have any questions, please do not hesitate to contact me at (805) 781-5051.

Sincerely,

Will Clemens

Will Clemens
Chair

c/o: State Controller's Office
Local Government Policy Section
P.O. Box 942850, Sacramento, CA 94250
Phone: 916-327-8905 * Fax: 916-327-3162

