California Uniform Construction Cost Accounting Commission

Meeting Agenda
Wednesday, September 19, 2018
10:00AM – 2:00PM

Teleconference Number: (888) 363-4734
Participation Code: 4461005

Location
California State Controller’s Office
300 Capitol Mall
6th Floor, Terrace Room
Sacramento, CA 95814

Compton Unified School District
429 South Oleander Street
Facilities Room
Compton, CA 90220
310-639-4321 ext. 55350

Attendance

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Representing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will Clemens, Chair</td>
<td>Central Services Department, Director</td>
<td>County of San Luis Obispo – Counties</td>
</tr>
<tr>
<td>Michael R. Hester, Vice Chair</td>
<td>President</td>
<td>McGuire and Hester – Subcontractors</td>
</tr>
<tr>
<td>Nathaniel Holt, Secretary</td>
<td>Chief Facilities Officer &amp; Bond Program Manager</td>
<td>Compton Unified School District-School Districts</td>
</tr>
<tr>
<td>Linda Clifford</td>
<td>Consultant</td>
<td>Contractors State License Board</td>
</tr>
<tr>
<td>Guiselle Carreon</td>
<td>Retired</td>
<td>School Districts</td>
</tr>
<tr>
<td>Steven L. Hartwig</td>
<td>Public Works Director</td>
<td>City of American Canyon – Cities</td>
</tr>
<tr>
<td>Ken A. Kayser</td>
<td>Owner</td>
<td>Kayser Consulting – General Contractors</td>
</tr>
<tr>
<td>Parvo Ogren</td>
<td>General Manager</td>
<td>Oceano Community Services District – Special Districts</td>
</tr>
<tr>
<td>Eddie Bernacchi</td>
<td>President</td>
<td>NECA, Politico Group – Subcontractors</td>
</tr>
<tr>
<td>Robert Campbell</td>
<td>Auditor-Controller</td>
<td>County of Contra Costa - Counties</td>
</tr>
<tr>
<td>Julia Lucido</td>
<td>Public Works Director</td>
<td>City of Fairfield – Cities</td>
</tr>
</tbody>
</table>
California Uniform Construction Cost Accounting Commission
-- Meeting Agenda, Wednesday, September 19, 2018

Attendance

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Representing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jeff Armstrong</td>
<td>Apprenticeship Director</td>
<td>Northern CA Laborers’ Union-Labor</td>
</tr>
<tr>
<td>John Nunez</td>
<td>CEO</td>
<td>Unger Construction Company-General Contractors</td>
</tr>
<tr>
<td>Jeremy Smith</td>
<td>Deputy Legislative Director</td>
<td>State Building and Construction Trade Council-Labor</td>
</tr>
</tbody>
</table>

State Controller’s Office

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Representing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kimberley Chow</td>
<td>Staff Counsel</td>
<td>State Controller’s Office (SCO) Legal Office</td>
</tr>
<tr>
<td>Renee Hozeh</td>
<td>Bureau Chief</td>
<td>SCO Local Government Policy Section</td>
</tr>
<tr>
<td>Sandeep Singh</td>
<td>Manager</td>
<td>SCO Local Government Policy Section</td>
</tr>
<tr>
<td>Alexandria Green</td>
<td>Policy Analyst</td>
<td>SCO Local Government Policy Section</td>
</tr>
<tr>
<td>Debbie Torres</td>
<td>Policy Analyst</td>
<td>SCO Local Government Policy Section</td>
</tr>
</tbody>
</table>

Meeting Agenda

1. Call to Order
2. Introductions
   A. Introductions
   B. Oath of Office
      i. Swear in Julie Lucido to represent Cities for the period of July 30, 2018, to July 29, 2021, or until a successor is appointed.
      ii. Swear in Jeremy Smith to represent Labor for the period of June 25, 2018, to June 24, 2021, or until a successor is appointed.
3. Approval of the Minutes
   A. Meeting on May 17, 2018
4. Commission Update
   A. Participating Agencies
   B. Funding Update
   C. Inquiry Update
5. Public Comment
6. Staff Comments/Requests
   A. Ethics Training
   B. SCO Staff Update
   C. Commissioner’s Contact Information

7. Reports of Officers
   A. Chair
   B. Vice Chair
   C. Secretary

8. Committee Reports
   A. CUCCAC Manual
      i. Proposed Changes – Legislative Update
      ii. Proposed Changes – Non-Legislative Update

9. Commissioner Comments/Requests

10. Old Business
    A. AB 2249 Chaptered
    B. SCO Legal Response
       i. Retirement
       ii. Commission Funding

11. New Business
    A. Revision of By-Laws

12. Next Meeting

13. Adjournment

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
Report on new participating agencies

The State Controller’s Office has received 50 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 1,170.
<table>
<thead>
<tr>
<th>Agency</th>
<th>Date Opted In</th>
<th>Agency Type</th>
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</thead>
<tbody>
<tr>
<td>Las Gallinas Valley Sanitary District</td>
<td>04/26/2018</td>
<td>Special District</td>
</tr>
<tr>
<td>Manchester Union Elementary School District</td>
<td>04/17/2018</td>
<td>School District</td>
</tr>
<tr>
<td>Lake County Office of Education</td>
<td>04/18/2018</td>
<td>School District</td>
</tr>
<tr>
<td>Plaza Elementary School District</td>
<td>04/26/2018</td>
<td>School District</td>
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<tr>
<td>Warner Unified School District</td>
<td>03/14/2016</td>
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<tr>
<td>Lassen Community College District</td>
<td>05/08/2018</td>
<td>Community College District</td>
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<tr>
<td>Strathmore Union Elementary School District</td>
<td>05/14/2018</td>
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<tr>
<td>Lake Elementary School District</td>
<td>04/17/2018</td>
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<tr>
<td>Corona-Norco Unified School District</td>
<td>05/01/2018</td>
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</tr>
<tr>
<td>City of Livermore</td>
<td>04/09/2018</td>
<td>City</td>
</tr>
<tr>
<td>Lake Tahoe Community College District</td>
<td>04/10/2018</td>
<td>Community College District</td>
</tr>
<tr>
<td>North of River Sanitary District No. 1</td>
<td>06/05/2018</td>
<td>Special District</td>
</tr>
<tr>
<td>SamTrans – San Mateo County Transit District</td>
<td>06/06/2018</td>
<td>Special District</td>
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<tr>
<td>Corning Union High School District</td>
<td>05/17/2018</td>
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<td>City of Millbrae</td>
<td>05/22/2018</td>
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<td>Esparto Unified School District</td>
<td>09/23/2015</td>
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<td>St. Helena Unified School District</td>
<td>06/21/2018</td>
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<td>Lemon Grove School District</td>
<td>06/12/2018</td>
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<td>Morgan Hill Unified School District</td>
<td>06/05/2018</td>
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<td>El Monte City School District</td>
<td>10/17/2016</td>
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<tr>
<td>Wrightwood Community Services District</td>
<td>06/26/2018</td>
<td>Special District</td>
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<td>Biggs Unified School District</td>
<td>06/25/2018</td>
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<td>Grant Elementary School District</td>
<td>06/14/2018</td>
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<td>South San Francisco Unified School District</td>
<td>05/24/2018</td>
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<td>Kernville Union School District</td>
<td>07/24/2013</td>
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<td>City of Union City</td>
<td>04/12/2005</td>
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<td>Forestville Union School District</td>
<td>06/11/2018</td>
<td>School District</td>
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<td>Cinnabar Elementary School District</td>
<td>06/27/2017</td>
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<tr>
<td>Glenn County Office of Education</td>
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<td>Azusa Unified School District</td>
<td>02/20/2018</td>
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<td>Shasta Union High School District</td>
<td>05/12/2015</td>
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<td>Konoci Unified School District</td>
<td>06/20/2018</td>
<td>School District</td>
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<td>City of Diamond Bar</td>
<td>06/19/2018</td>
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<td>Reclamation District No. 1608</td>
<td>07/11/2018</td>
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<td>Tahoe Forest Hospital District</td>
<td>09/28/2017</td>
<td>Special District</td>
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<td>Torrance Unified School District</td>
<td>07/16/2018</td>
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<tr>
<td>Sunnyvale Union Elementary School</td>
<td>07/16/2018</td>
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<td>Wheatland Union High School District</td>
<td>07/12/2018</td>
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<tr>
<td>Solano Community College District</td>
<td>07/18/2018</td>
<td>Community College District</td>
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<tr>
<td>Reclamation District No. 828</td>
<td>07/19/2018</td>
<td>Special District</td>
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<td>Monterey County Board of Education</td>
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<tr>
<td>City of Carson</td>
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<td>Vallecitos School District</td>
<td>08/14/2018</td>
<td>School District</td>
</tr>
<tr>
<td>Harmony Union School District</td>
<td>04/20/2017</td>
<td>School District</td>
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Participating Agency’s Update
For the period May 8, 2018 – September 7, 2018

<table>
<thead>
<tr>
<th>Agency</th>
<th>Date Opted In</th>
<th>Agency Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oroville Union High School District</td>
<td>08/15/2018</td>
<td>School District</td>
</tr>
<tr>
<td>Monrovia Unified School District</td>
<td>08/22/2018</td>
<td>School District</td>
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<tr>
<td>Williams S. Hart Union High School District</td>
<td>08/15/2018</td>
<td>School District</td>
</tr>
<tr>
<td>* Palos Verdes Peninsula Unified School District</td>
<td>04/18/2018</td>
<td>School District</td>
</tr>
<tr>
<td>* Central Contra Costa Sanitary District</td>
<td>05/03/2018</td>
<td>Special District</td>
</tr>
<tr>
<td>Charter Oak Unified School District</td>
<td>08/09/2018</td>
<td>School District</td>
</tr>
</tbody>
</table>

The asterisk (*) represents that the entity was not recognized as a participating agency prior to May 8, 2018, although they have opted into the act prior.
Participating Agency’s Update
For the period May 8, 2018 – September 7, 2018

**Cities**
- Participating Cities: 238 (49%)
- Non-participating: 244 (51%)

**Counties**
- Participating Counties: 40 (69%)
- Non-participating: 18 (31%)
Participating Agency’s Update
For the period May 8, 2018 – September 7, 2018

**Community Colleges**
- Participating Community Colleges: 53, 46%
- Non-participating: 61, 54%

**School Districts**
- Participating School Districts: 521, 50%
- Non-participating: 528, 50%
Participating Agency’s Update
For the period May 8, 2018 – September 7, 2018

Special Districts

- Participating Special Districts: 318, 15%
- Non-participating: 1,791, 85%

Total Participating Agencies (1,170)

- Cities: 238
- Community College Districts: 53
- Counties: 40
- School Districts: 521
- Special Districts: 318
Commission Funding Update
For the period May 7, 2018 - September 7, 2018

**Funding update**

The Commission has $12,055.57 of unrestricted donations available for use and reimbursement.

<table>
<thead>
<tr>
<th>Description</th>
<th>Unconditional</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>Beginning Balance 05/07/2018</td>
<td>$ 12,778.69</td>
<td>$ 12,778.69</td>
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<tr>
<td>Expensed Transactions:</td>
<td></td>
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<tr>
<td>Chair Clemens Travel Expense</td>
<td>$ -292.65</td>
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<tr>
<td>Commissioner Campbell Travel Expense</td>
<td>$ -141.76</td>
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<tr>
<td>(12/15/2017 $70.27, 5/17/2018 $71.49)</td>
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<td>$ -723.12</td>
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<tr>
<td>Commissioner Carreon Travel Expense</td>
<td>$ -288.71</td>
<td></td>
</tr>
<tr>
<td>Ending Balance 09/07/2018</td>
<td></td>
<td>$ 12,055.57</td>
</tr>
</tbody>
</table>
SECTION 1. Section 22020 of the Public Contract Code is amended to read:

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). Any adjustment shall be effective beginning with the fiscal year which commences not less than 60 days following the Controller’s notification to all. The Controller shall notify all participating public agencies of the adjustment. Adjustment prior to the effective date. That notification shall also describe the provisions of this chapter and the benefits of using its provisions.

SEC. 2. Section 22032 of the Public Contract Code is amended to read:

22032. (a) Public projects of forty-five sixty thousand dollars ($45,000 ($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 one two hundred seventy-five thousand dollars ($175,000) ($220,000) or less may be let to contract by informal procedures as set forth in this article.

(c) Public projects of more than one two hundred seventy-five thousand dollars ($175,000) ($220,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

SEC. 3. Section 22034 of the Public Contract Code is amended to read:

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) 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 one two hundred seventy-five thousand dollars ($175,000) ($220,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at one two hundred eighty-seven twelve thousand five hundred dollars ($187,500) ($221,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.
**Commissioner Terms**

1. Is there a legal reason why a Commissioner representing public agencies who retires from their employer cannot continue to serve out the balance of their terms and vote at commission meetings?

2. If not, is there a recommendation to clarify this issue.

It is well established that a public officer or entity has only those powers as are conferred by the law creating them, as well as implied powers that are necessary to the exercise of those powers expressly granted. *(American Federation of Labor v. Unemployment Ins. Appeals Bd.* (1996) 13 Cal.4th 1017, 1042). The Commission is a creature of statute and may only act within the authority granted by the legislature. In this case, PCC, section 22014 (a) states that “members of the commission may hold their office for terms of three years, and until their successors are appointed.” A liberal interpretation of the statute would suggest that the retired Commissioners may continue to serve, and vote, as a holdover appointment until a replacement is named by the Controller.
Memorandum

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

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 reasonable 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 deminimus,
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.