

## Legislative Update

# PROPOSED AMENDMENTS TO PUBLIC CONTRACT CODE SECTIONS 22010-22045 AND

## AMEND ARTICLE 2. California Uniform Construction Cost Accounting Commission [22010 - 22020]

### 22010.

There is hereby created the California Uniform Construction Cost Accounting Commission. The commission is comprised of 14 members.

(a) Thirteen of the members shall be appointed by the Controller as follows:

(1) Two members who shall each have at least 10 years of experience with, or providing professional services to, a general contracting firm engaged, during that period, in public works construction in California.

(2) Two members who shall each have at least 10 years of experience with, or providing professional services to, a firm or firms engaged, during that period, in subcontracting for public works construction in California.

(3) Two members who shall each be a member in good standing of, or have provided professional services to, an organized labor union with at least 10 years of experience in public works construction in California.

(4) Seven members who shall each be experienced in, and knowledgeable of, public works construction under contracts let by public agencies; two each representing cities, counties, respectively, and two members representing school districts (~~one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000~~), and one member representing a special district. At least one of the two county representatives shall be a county auditor or his or her designee.

(b) The member of the Contractors' State License Board who is a general engineering contractor as that term is defined in Section 7056 of the Business and Professions Code shall serve as an ex officio voting member.

### 22014.

(a) The members of the commission shall hold office for terms of three years, and until their successors are appointed. ~~, except as otherwise provided for in this section.~~

(b) ~~In the case of members initially appointed by the Controller, two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1985; two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1986; and three representing the construction industry and three representing public agencies shall be appointed to serve until July 1, 1987. Members may be reappointed, by the State Controller, for subsequent terms of three years.~~

(c) ~~Members may be reappointed for subsequent terms of three years. The Controller may appoint a successor for any Commissioner after their three (3) year term expires.~~

(d) The Controller shall, within ~~90~~ 120 days ~~after the expiration of any term~~, appoint a replacement to fill ~~the any~~ vacancy on the commission.

### 22015.

(a) The Controller shall 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.

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(b) 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. Reimbursement rates shall conform to the State Controllers travel guideline rates.

(c) The 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.

### **22017.**

The commission shall do all of the following:

(a) After due deliberation and study, recommend for adoption by the Controller, uniform construction cost accounting procedures for implementation by public agencies in the performance of, or in contracting for, construction on public projects. The procedures shall, to the extent deemed feasible and practicable by the commission, incorporate, or be consistent with construction cost accounting procedures and reporting requirements utilized by state and federal agencies on public projects, and be uniformly applicable to all public agencies which elect to utilize the uniform procedures.

As part of its deliberations and review, the commission shall take into consideration relevant provisions of Office of Management and Budget Circular A-76, as periodically revised.

(b) After due deliberation and study, recommend for adoption by the Controller cost accounting procedures designed especially for implementation by California cities with a population of less than 75,000. The procedures shall incorporate cost accounting and reporting requirements deemed practicable and applicable to all cities under 75,000 population which elect to utilize the uniform procedures. For purposes of these cost accounting procedures, the following shall apply:

(1) Cities with a population of less than 75,000 shall assume an overhead rate equal to 20 percent of the total costs of a public project, including the costs of material, equipment, and labor.

(2) Cities with a population of more than 75,000 may either calculate an actual overhead rate or assume an overhead rate equal to 30 percent of the total costs of a public project, including the costs of material, equipment, and labor.

(c) Recommend for adoption by the Controller, procedures and standards for the periodic evaluation and adjustment, as necessary, of the monetary limits specified in Section 22032.

(d) The commission shall make an annual report to the Legislature with respect to its activities and operations, together with those recommendations as it deems necessary.

### **AMEND ARTICLE 3. Public Projects: Alternative Procedure [22030 - 22045]**

#### **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 subsection (1), subsection (2), or both.

(a) (1) The public agency shall may elect to establish and 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 e-mailed 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.

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~~(2) The public agency may elect to mail, fax or e-mail a notice inviting informal bids to all construction trade journals specified in Section 22036.~~

~~(b) All contractors on the list for the category of work being bid or all construction trade journals specified in Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals specified in Section 22036, shall be mailed a notice inviting informal bids unless the product or service is proprietary.~~

~~(c) All mailing of notices to contractors and construction trade journals pursuant to subdivision (b) shall be completed not less than 10 calendar days before bids are due.~~

~~(b)~~ (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)~~ (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)~~ (d) If all bids received are in excess of one hundred seventy-five thousand dollars (\$175,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars (\$187,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.

### **22036.**

The commission shall determine, on a county-by-county basis, the appropriate construction trade journals which shall receive mailed, faxed or e-mailed notice of all informal and formal construction contracts being bid for work within the specified county.

### **22039.**

The governing body of the ~~public participating~~ agency or its designated representative(s) shall adopt plans, specifications, and working details for all public projects exceeding the amount specified in subdivision (c) of Section 22032.

### **22042.5**

*The commission shall review the non-accounting practices of any participating public agency where an interested party presents evidence that the public agency is not in compliance with the provisions of this chapter.*

### **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) or (c) 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) or (c) 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.*

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**22044.**

The commission shall prepare written findings *and said findings shall be presented to the public agency within thirty (30) business 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) or (c) 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 ~~30~~ 60 days of receipt of the findings.

*(c) (1) On non-accounting practices pursuant to Section 22042.5 the public agency shall notify its governing body of the commission's findings within 30 calendar days of receipt of written notice of the findings.*

*(2) The public agency shall notify the commission in writing, within 60 days of receipt of written notice of the findings, of the public agencies efforts to comply.*

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**Date**

**George R. Hicks, Chair,**  
California Uniform Construction Cost Accounting Commission  
Director of Public Works, City of Fairfield  
1000 Webster Street  
Fairfield, California 94533

**RE: California Uniform Construction Cost Accounting Commission, Clean-up Legislation– Support**

Dear Chairman Hicks:

On behalf of the **Insert Your Organization’s Name Here** I am pleased to make you aware of our support for the proposed clean-up legislation relating to the California Uniform Construction Cost Accounting Commission (CUCCAC). This language will help ensure that the Commission’s operating statutes and regulations provide for the greatest amount of functionality and efficiency. It should be noted that the participation of agencies in the California Uniform Public Construction Cost Accounting Act (CUPCCAA) is voluntary.

The proposed clean-up language would do the following:

**Clarify the terms served by CUCCAC Commissioners** – *There has been uncertainty on when and if the State Controller must formally reappoint commissioners upon fulfillment of their terms.*

**Clarify the Commission’s authority on non-accounting issues** – *The statute needs clarifying authority on current commission practice of notifying participating agencies that they may be in violation of non-accounting procedures required by the Act.*

**Update the informal bidding language** – *Requested by participating agencies to reduce costs and to allow for technology improvements that are already in use by the industry.*

**Update language regarding approval of plans and specifications to allow for The Division of the State Architect’s approval for participating school districts in lieu of governing board approval** – *Requested by participating school districts to conform to their plan approval process. This will allow participating school districts to fully take advantage of the Act.*

**Allow agencies 60 days to conduct a public hearing instead of 30 days upon violation and sanction by the Commission pursuant to Public Contract Code Section 22044.** – *Requested by public agencies to help ensure their compliance with the Act. The intent is to reduce immaterial violations of the Act and eliminate conflicts that occur due to required public notice provisions.*

**Amending the requirement to present a report before the governing agency every 14 days and replacing with a requirement to present a report before the governing agency at its next regularly scheduled meeting** – *Requested by public agencies to help ensure their compliance with the Act.*

We believe these proposed changes will help the CUCCAC operate in the most efficient and effective manner possible, to the benefit of both the construction industry and the participating agencies. For these reasons we are in strong support of the proposed language.

Sincerely,

**Your Name and Title**