

FREQUENTLY ASKED QUESTIONS

(California Uniform Public Construction Accounting Act – CUPCCAA)
CY2012

Here are answers to questions frequently asked by agencies evaluating the value of options open to them through the **Uniform Public Construction Cost Accounting Act (The Act)**. Aside from the economic benefits, the program provides added conveniences, such as greater freedom in expediting public works projects yet within the spirit of open accountability.

1. What is the Uniform Public Construction Cost Accounting Act?

A program created in 1983 which allows local agencies to perform public project work up to \$30,000 (**effective January 1, 2012: \$45,000**) with its own work force if the agency elects to follow the cost accounting procedures set forth in the Cost Accounting Policies and Procedures Manual of the California Uniform Construction Cost Accounting Commission (Commission). The Act is enacted under Public Contracts Code Section 22000 through 22045 (hereafter abbreviated as PCC 22000-22045).

In addition, the Act provides for alternative bidding procedures when an agency performs public project work by contract.

- (a) Public projects of \$30,000 (effective January 1, 2012: \$45,000) or less may be performed by negotiated contract or by purchase order (PCC 22032(a)).
- (b) Public projects of \$125,000 (**effective July 1, 2011: \$175,000**) or less may be let to contract by the informal procedures set forth in the Act (PCC 22032(b)).
- (c) Public projects of more than \$175,000 shall be let to contract by formal bidding procedures (PCC 22032(c)).

Every five years, the Commission shall consider whether there have been material changes in public construction costs and make recommendations to the State Controller regarding adjustments to the bidding procedure monetary limits (PCC 22020). Adjustments should be effective for the fiscal year that commences not less than 60 days following the State Controller's notification to all participating agencies.

2. What are the benefits of the program?

The raised force account limit and informal bidding procedures are two benefits of this program.

Many participants laud the program because it gives them more leeway in the execution of public works projects; has speeded up the awards process; has improved timeliness of the project completion; has eliminated considerable red tape and cumbersome paperwork relative to advertising and filing of reports; and has simplified administration. Many agencies have encountered only minimal problems with the accounting requirements and the overhead portion. Moreover, where required, the adjustment was relatively simple; most of the required procedures were already actually in place, so there was no noticeable change in the existing operations. For example, the *California Schools Accounting Manual* meets the requirements of the Act for school districts.

3. Is the Uniform Public Construction Cost Accounting Act mandatory for local agencies?

No. The Act is a voluntary program. However, it is available to all local agencies and cities, both general law and charter.

4. How does a local agency become subject to the Act?

The governing body must elect by resolution to become subject to the Act and file a copy of the resolution with the State Controller's Office (PCC 22030)

5. Can a local agency withdraw?

An agency may withdraw by filing a resolution of this election with the State Controller's Office.

6. What is the California Uniform Construction Cost Accounting Commission?

A state commission created under the Act (PCC 22010). It consists of fourteen (14) members: thirteen (13) members are appointed by the State Controller and one is a designated member of the Contractors' State License Board. Seven members represent the public sector (counties, cities, school districts, and special districts). Seven members represent the private sector (public works contractors and unions). The Commission members receive no salary, but are eligible for reimbursement of their direct expenses related to the Commission. The Commission is responsible for administration of the Act. The State Controller provides limited staff and other support to the Commission (PCC 22015(a)).

7. What are the Uniform Public Construction Cost Accounting Procedures?

These cost accounting procedures were developed by the Commission. They are to be used to estimate costs for determining if a public project is required to be bid out and to capture and record actual costs when a public project is performed by the agency's own work force. The procedures follow normal accounting in the industry and in many cases are not much different from those already in place at the agency.

8. Are the cost accounting policies and procedures applicable for agencies whose work force only performs maintenance tasks as defined in the Act and whose public projects are all contracted out?

The cost accounting policies and procedures are only applicable for agencies that perform public project work by force account. This does not exclude from the program agencies whose public projects are all contracted out. In fact, they might want to review the benefits available and elect to participate now in the event conditions change at some time in the future.

9. Can a local agency disqualify or exclude certain contractors from the Qualified Contractors List required pursuant to PCC 22034(a)?

Agencies may disqualify contractors from the Qualified Contractors List required pursuant to PCC 22034(a).

10. Must a local agency: (1) Notify contractors pursuant to PCC 22034(b) if the contractor is believed not to have the skills, credentials, or experience to perform the work? (2) Consider bids submitted if the agency believes the contractor does not have the skills, credentials, or experience to perform the work?

(1) If a contractor is on the Qualified Contractors List (PCC 22034(b)), the contractor must be notified by the agency of public projects for which he is licensed to perform.

(2) All bids received from qualified contractors must be considered.

11. Does the Act allow flexibility in cases of great emergency and when repair or replacements are necessary to permit the continued conduct of the operations or services of a public agency?

PCC 22035 provides that in cases of great emergency the governing body may, by majority vote, proceed without adopting plans and giving notice to bids to let contracts. In addition, this section provides that the governing body may delegate to the appropriate agency manager the power to declare an emergency and/or proceed with repairs or replacements without approval by the board. PCC 22050 provides contracting procedures without giving notice for bids to let contracts for these emergencies.

12. Do the alternative bidding procedures apply only to public projects as defined in PC 22002(c) or can they be used for the following types of items:

(1) Maintenance work to be performed by contract?

(2) Purchase of heavy equipment?

(3) Purchase of materials?

(1) Pursuant to PCC 22003, a participating agency may use the alternative bidding procedures on maintenance work as defined in PC 22002(d), items 1-5. PCC 22003 is permissive and agencies can continue to exclude maintenance from the alternative bidding procedures. However, if an agency misclassifies a project (\$30,000 or more) as maintenance and therefore, does not use the applicable bidding procedures, a review by the Commission may be conducted pursuant to PCC 22042(c).

(2) No

(3) Yes if consumed on a public contract subject to and defined by the policies and procedures manual.

13. What will membership in the Act cost my agency?

At the present, no required membership fees or dues are assessed. However, the Commission has only received direct state funding for a short period of its history. The State has indicated that the participating agencies, contractors, and unions that benefit from the Commission should be responsible for its funding. Therefore, in November 2004, the Commission asked member agencies, contractor's associations, and construction related unions for voluntary donations to support the Commission. There may be additional requests for voluntary support. Any mandatory fees or dues would require legislation and would be for a nominal amount.

An agency with no or antiquated cost accounting may need to invest in a system that will satisfy the relatively simple cost accounting procedures of the program.

Considering the many benefits over the long run, the program deserves consideration.

14. What are the most common concerns?

There are three leading areas of expressed concern and mostly all are quickly alleviated when addressed properly. These are:

- (1) Cost accounting policies and procedures;
- (2) Informal bidding procedures;
- (3) Accounting review procedures.

The cost accounting requirements follow those common to the construction industry. The informal bidding up to \$175,000 is seen by the agencies as an asset enhancing project completion. Maintenance of a Qualified Contractor Bid List is routine, since interested contractors make it a point to be included on the list. While a review could potentially hold up a project for 30 days pursuant to PCC 22043, formal complaints have been rare in the Commission's history.

15. Does an agency have to calculate an overhead rate in order to apply the accounting procedures?

Cities with populations of less than 75,000 may use an overhead rate of 20% of all direct costs in lieu of the overhead rate calculation specified in Section VI of the Cost Accounting Policies and Procedures Manual. Cities with a population of more than 75,000, counties, special districts, and school districts may use an overhead rate of 30% of all direct costs, in lieu of a calculated rate.

16. When a local entity opts into the Act, does the Act supersede other contracting legal requirements, such as statutory requirements for performance bonds, prevailing wages, and certificates of insurance, etc?

The Act only supersedes the bidding procedures used once a public agency has adopted a resolution and notified the Controller. All other contracting requirements are applicable whether or not a public entity opts into the Act. The specific mention of bidding procedures emphasizes the omission of other statutory requirements (such as bond payments, prevailing wages, etc) and implies that their applicability is found in specific statutory provisions rather than the Act. Therefore, the Act does not supersede other contracting requirements for performance bonds, prevailing wages, and certificates of insurance, etc.

17. Does an agency by opting into the Act automatically bring:

(1) All departments of the agency into the Act?

(2) Districts under control of the governing board into the Act?

(1) When a local agency elects to become subject to the uniform construction cost accounting procedures, the entire entity is considered subject to the Act and no departments will be exempt.

(2) Special Districts, which are governed by a board of supervisors or city council, are only subject if a separate election is made.

Additional inquiries and questions can be directed to:

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