

CUPCCAA Oversight

How to Stay Out of the Spotlight

Kim Nguyen | Santa Monica-Malibu Unified SD

CASBO CON  24

Today's Panel



Kim Nguyen
Director of Purchasing
Santa Monica-Malibu USD



Leeann Errotabere
Commissioner -
CUCCAC



Joanne Branch,
DBIA
Director,
Procurement Services



Agenda

CA Uniform Construction Cost Accounting Commission (CUCCAC)



The Commission

Who Else is Watching Us?

Most Common Issues

Staying Informed

A large purple triangle is located in the bottom right corner of the slide, pointing towards the top left.

THE COMMISSION

The Makeup of the Commission - *(14 members as of 1/13/23)*

Contractor's State License Board - 1

- Appointed Representative

Labor - 2

- Laborers' International Union of North America
- State Building & Construction Trades Council

Contractors - 2

- Consultant
- Live Oak Infrastructure Group

Subcontractors - 2

- National Electrical Contractors Assoc. Politico Group
- Earth & Construction Mining

Cities – 2

- City of El Cajon - Public Works
- City of Lafayette – Financial Services

Counties – 2

- Sonoma – Transportation & Public Works
- Yolo – CFO

School Districts – 2

- Clovis USD – Purchasing
- Compton USD – Facilities & Bond Program

Special Districts – 1

- Oceano Community Svcs. District – General Mgr.

WHO ELSE IS WATCHING?

& WHY?

Who's Watching Other than the Commission?

Labor Groups & interested parties have been questioning contracts since before the first online meeting records of 2008. Any Agency, any issue of non-compliance.

Bidders
with Standing

Interested Parties
Associations/Unions
Representing those
with Standing

- General Public/Other**
- Board/BOC
 - Newspapers
 - Voters/Neighbors/Parents



CIFAC
Construction Industry Force Account Council

MICHELLE PICKENS
EXECUTIVE DIRECTOR

📍 2420 Martin Rd STE 250
Fairfield, CA 94534

☎ 1.800.755.3354

✉ info@cifac.org

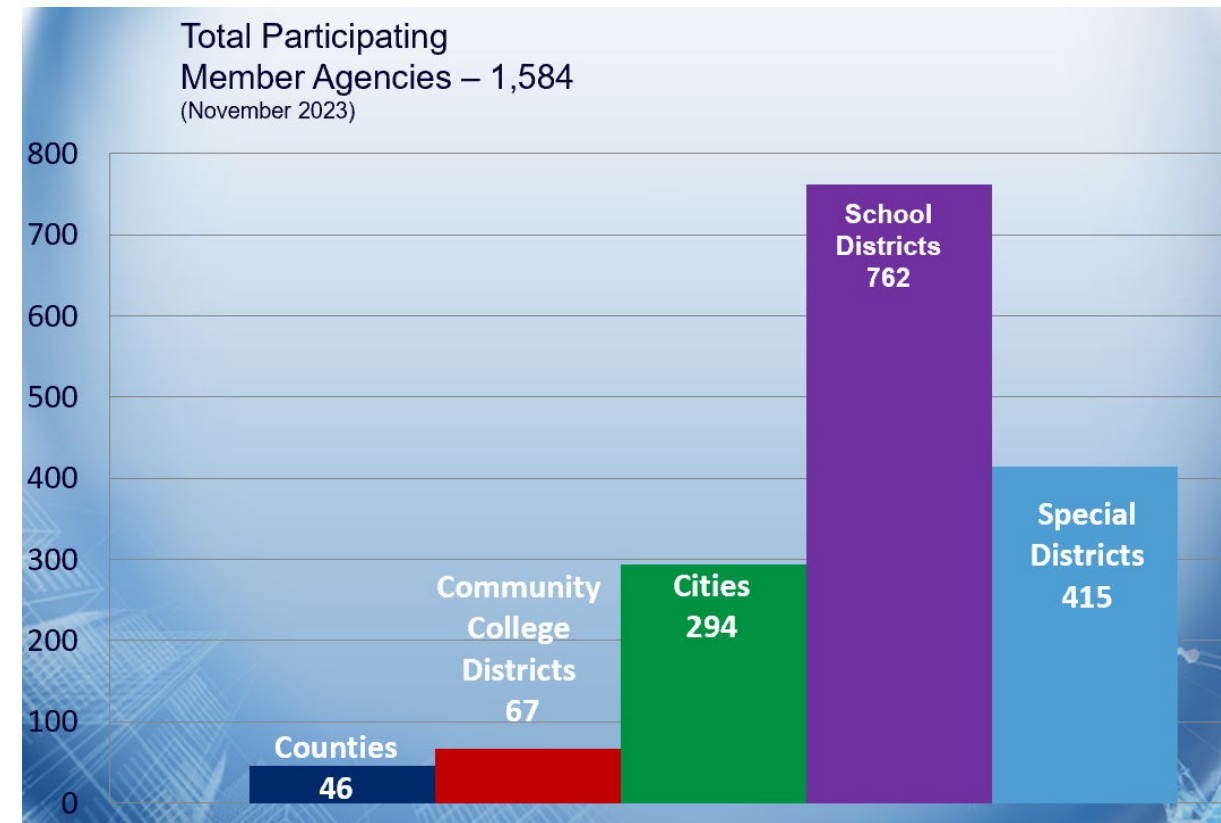
🌐 cifac.org

The Construction Industry Force Account Council (CIFAC) is a non-profit organization that represents contractors, contractor associations and the various building trades. As such, we meet the definition of an "interested party" per Public Contract Code Section 22042.

Why? More are opting into this hard bid exception = More scrutiny!

- Started in 1983 – Accounting for Force Account Labor was laborious.
- Major revamp in 2008 and more as time moved on to streamline and simplify the use of the Act
- Agency trends moved to outsourcing
- In 27 years (2010), only 736 agencies had opted in
- Since 2019 an average of 16 - K-12 School Districts & 4 - Cities join EACH commission meeting!

Since 2010
1,584 are in!
(nearly doubled
in 12 yrs.)



MOST COMMON ISSUES

Some Common Mistakes

Mostly for Agencies who do projects with internal forces.

Force Account Overages

Bid Splitting

Splitting up a “Project” into small contracts *thus avoiding a higher level of bidding.*

Say, getting quotes, each part under \$60k, but all parts adding up to over \$60k and all for the same project.

For instance, quotes were obtained when an informal bid was required.

Using the Wrong Method

Lack of Notification of Opportunity to Quote/Bid

Use your contractor list and the journals per requirements!

The Spotlight: Typical Process



**Challenger
(Labor Group or
Interested Party)
initiates contact &
asks for records**

**Challenge
letter requesting
documents to
district**

**Staff investigates
and gathers all
responsive
materials**

**Send response
to challenger
{sometimes via
your lawyer}**

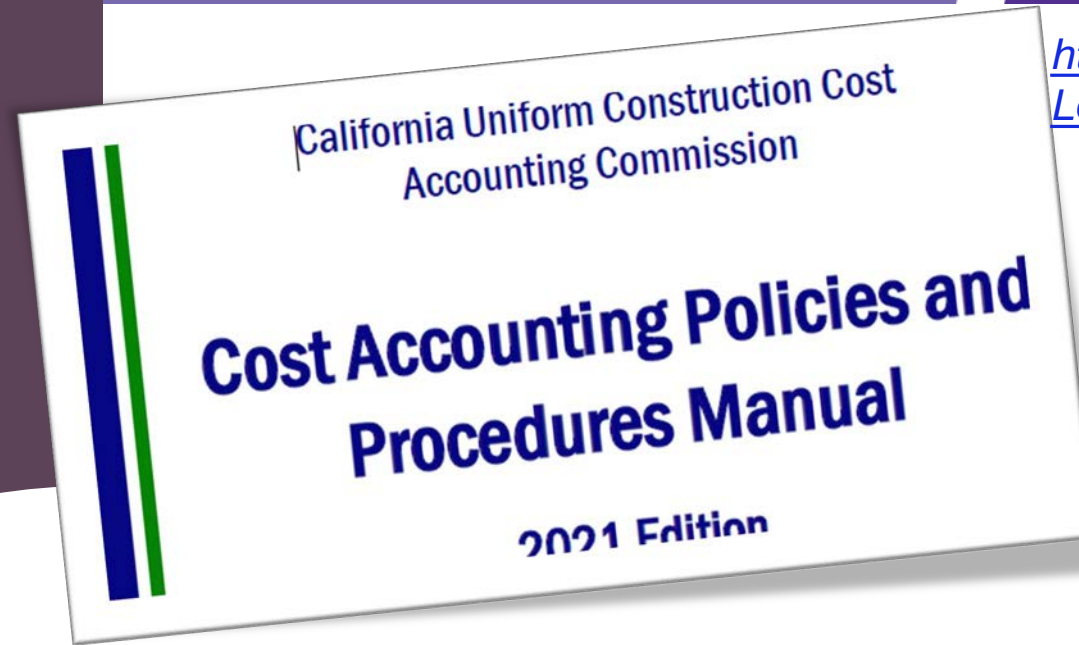
**Challenger sends
a letter with
backup to
CUCCAC asking
for a review**

**CUCCAC
public
review put on
agenda**

**Challenger, District,
perhaps District's
legal counsel,
and commissioners
review
in a public session
all claims and
make one or more
public findings**

**Process
Improvement &
Training**

What can the Commission do to us if we don't prevail?



https://www.sco.ca.gov/Files-ARD-Local/cuccac_manual_2021_edition.pdf

22044.5
Compliance;
Removal from Act

If the commission makes a finding, in accordance with section 22043, on three separate occasions within a 10-year period, that the work undertaken by a public agency falls within any of the categories described in section 22042, the commission shall notify the public agency of that finding in writing by certified mail and the public agency shall not use the bidding procedures provided by this article for five years from the date of the commission's findings.

(Amended by Stats. 2015, Ch. 269, Sec. 34. Effective January 1, 2016.)

Commission Meetings

Meeting - January 13, 2023

- [Meeting Notice and Agenda](#) 📄
- [Item 4A - Participating Agencies Update](#) 📄
- [Item 4B - Commission Funding Update](#) 📄
- [Item 4C - Inquiry Update](#) 📄
- [Item 10A - Accounting Review \(Tuolumne County\)](#) 📄
- [Item 10B - Accounting Review \(Lancaster School District\)](#) 📄
- [Item 11A - Accounting Review \(City of Claremont\)](#) 📄
- [Item 11B - 2022 CUCCAC Legislative Report \(DRAFT\)](#) 📄

**Let's Look
at a Couple
of
Interesting
Accounting
Reviews**

Case 1: Lack of Scoping & Estimating Leads to Using the Wrong Procurement Process (*Under \$60k instead of Informal*)

Contractor & Work Scope	Date Awarded	Contract Amount
K M Pate Construction		
M&O Interior Demolition	7-21-2020	\$12,000
M&O Interior Remodel Work	9-16-2020	\$57,429
Pyrotection Services		
Install Fire Alarms	9-16-2020	\$6,425
Apex Fire Protection		
Install Fire Sprinklers	9-30-2020	\$24,300
ACCO Engineered Systems		
HVAC Duct work	9-30-2020	\$11,567
Floor Connection		
Install Carpet Tile Flooring	10-14-2020	\$11,489.80
T. Figg Casework Inst.		
Build Reception Desk/Cabinets	10-28-2020	\$17,500
Prime Painting Contractors		
Interior Painting	11-18-2020	\$14,475
Project Total		\$155,585.80

Invited 3 but didn't notify their list

Community Services staff worked with Police Department staff to develop specifications for a security gate that would meet the needs of the Department. Community Services staff walked the project with three potential bidders and requested they submit bids. Commercial Door Company, Inc. submitted

Someone on the list got concerned & contacted the agency with their issue. That person also notified CIFAC.

Awarded (Over \$60k)

Commercial Door Company, various docs, invoices, and the city's payment of \$74,500

Added Scope

Baker Electric, Inc., various docs, invoices, and the city's payment of \$18,090

Added Scope

Jonescape, Inc., submitted invoice for concrete work for \$2,298

Case 2: Lack of Scoping & Estimating Leads to Using the Wrong Procurement Process (Under \$60k instead of Informal)

At the public review, the agency conceded that they had erred by not using the Informal process for the awards. The Commission made a finding against the agency. (Jan 2023)

- Remind folks that the Agency “opted in” to work within a legal exception to formal hard bidding for construction over \$15k. It’s a privilege that can be revoked.
- The rules are clear and not hard to do, & folks are watching. Compliance is far better than going back to the \$15k bid limit!
- Hold annual staff training.
All departments that hire licensed contractors, including I.T.

If you need a PowerPoint or help, just ask.

Avoiding Issues:

Per the Code:

Step 1: Scope

Step 2: Estimate – Approx.

**Step 3: Select the Correct
Procurement
Process for the
Project (all contracts)**



<https://www.colbitech.com/ppwg>



Have templates & authorities ready.

If you need some, just ask.

- Quote Package/Contract under \$60k
- Informal Bid/Contract \$60-\$200K
- Formal Bid/Contract over \$200
(typ. Hard Bid template)
- Annual Authority Resolution in place

Don't use your contractors to scope/estimate,
or they should not be allowed to provide a
quote or bid – likely conflict of interest!

If staff can't do scoping & lite estimating
sufficient for compliance, consider getting a
consultant/architect under contract who can
do so cheaply and quickly.

More ideas...

If in doubt, bid it out!

- **It's not a big deal if you
have the tools & training
in place**
- **If it is close to a limit, go
with the next higher
process**

STAYING INFORMED

Commission's Website – What to Watch



Reference Materials

Watch for Annual
Revisions to
the Manual &
the Journal List

Watch for FAQ Updates
(VERY important!!)

Relevant Legislation

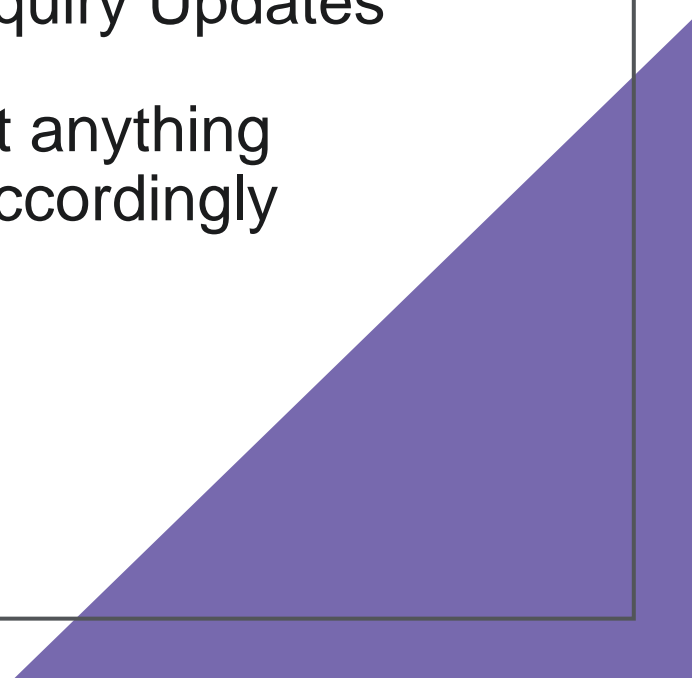


Bid Limit Increases
show up here

(1 is under discussion
right now!)

https://www.sco.ca.gov/ard_cuccac.html

Commission's Meetings *(@ quarterly-ish)*

- Take a quick glance at what folks are “catching” Agencies doing - (Accounting Reviews)
 - Take a look at any Inquiry Updates
 - Take action to correct anything within your Agency accordingly
- 

Stay Informed

– Sign up for Commission Emails

https://www.sco.ca.gov/lgpsd_cuccac_notification_email.html

Email List 

To receive notification of updates to the *Uniform Public Construction Cost Accounting Act* webpage, please visit the [Uniform Public Construction Cost Accounting Act email subscription webpage](#).



Malia M. Cohen
California State Controller

Search



California Uniform Construction Cost Accounting Email Subscription Service



Sneak Peak - Pending Changes

DRAFT Code Redline Highlights – *Pending Legislative Approval*

Proposed Changes in Levels

1. *Under \$70k by Force Account
2. Under ~~\$60k~~ **\$100k** negotiated
3. Under ~~\$200k~~ **\$220k** by informal bid
4. Bids that go over informal limit can be awarded up to a max of ~~\$220k~~ **\$235k**

*New proposed separation!

Proposed Oversight Language Additions

1. Bid Splitting – Section 22033
2. Exceeded limits or not met requirements of Section 22032 (b), (c) and (d)

A close-up, shallow depth-of-field photograph of a watch face. The watch has a dark metal case and a light-colored dial with multiple sub-dials. The main dial has a date window at the 3 o'clock position. The sub-dials are located at approximately 6, 9, and 12 o'clock. The watch hands are thin and metallic. The background is a soft, out-of-focus gradient of light blue and yellow.

Legislation still pending

Current limits remain

Watch for more in 2025

Thank you!



Handouts QR



Kim Nguyen
Director of Purchasing
Santa Monica-Malibu USD

(310) 450-8338 x70249
KNguyen@SMMUSD.org



Leeann Errotabere
Commissioner - CUCCAC

COLBI
(559) 960-1836
LErrotabere@ColbiTech.com



Joanne Branch, DBIA
Director,
Procurement Services

COLBI
(619) 929-6334
JBranch@ColbiTech.com

