

**STATE OF CALIFORNIA
EMPLOYMENT TRAINING PANEL MEETING**

California Environmental Protection Agency
1001 I Street, Coastal Hearing Room
Sacramento, California 95814
February 25, 2005

PANEL MEMBERS

Aram Hodess
Vice Chair

Barry Broad
Member

Tyrone Freeman
Member

Paul Kiesel
Member

Robert Lennox
Member

Executive Staff

Ada Carrillo
Acting Executive Director

Susan Bobrow
Acting General Counsel

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I. PUBLIC PANEL MEETING CALL TO ORDER

Aram Hodess, Vice Chair, called the public Panel meeting to order at 9:35 a.m.

II. ROLL CALL

Members Present

Aram Hodess, Vice Chair

Barry Broad

Robert Lennox

Paul Kiesel

Members Absent

Tyrone Freeman

Executive Staff Present

Ada Carrillo, Acting Executive Director

Susan Bobrow, Acting General Counsel

III. APPROVAL OF AGENDA

ACTION: Mr. Kiesel moved and Mr. Lennox seconded the Panel approve the Agenda.

Motion carried, 4-0.

IV. APPROVAL OF MINUTES

ACTION: Mr. Keisel moved and Mr. Lennox seconded the Panel approve the Panel Meeting Minutes of December 17, 2004.

Motion carried, 4-0.

V. MOMENT OF SILENCE

Mr. Hodess announced the passing away of Employment Training Panel's Executive Secretary, Dee Dee Victorine, as a result of a traffic accident on February 16, 2005. Mr. Hodess stated he has served on the Panel since 1999 and had found Dee Dee to be a consummate professional who handled Panel needs with efficiency and skill. He added that she was a lovely person, and everyone who knew and worked with her will miss her. He extended the Panel's condolences to Dee Dee's family and requested everyone stand for a moment of silence in her memory.

All present stood and observed a moment of silence in Dee Dee's memory.

ACTION: Mr. Kiesel moved and Mr. Lennox seconded that the Panel dedicate this session to the memory of Dee Dee Victorine.

Motion carried, 4-0.

VI. REPORTS OF THE CHAIRPERSON/PANEL MEMBERS

Mr. Hodess summarized some of the Panel's major accomplishments in the past several years, including: implementing a policy requiring employer contributions in training projects; streamlining the application process for small businesses; and conducting independent studies of the program, notably research by California State University, Northridge, which has helped the Panel better target its training funds. Mr. Hodess emphasized that the Panel has had a significant impact on California, by helping attract and retain businesses in the State, and by ensuring training for high-wage jobs. He pointed out there is a huge need in California for employer-paid training and vocational education. He indicated that, despite general acknowledgement of this need, funding for vocational education is limited. Mr. Hodess saluted the current Secretary of Education for that Department's recent efforts to increase vocational education in high schools. Mr. Hodess stated the Panel also plays a role. He recommended that the Panel make it a priority to market the value of training to employers in the State, as part of its Strategic Plan, and that ETP consider using a portion of its budget to do so.

VII. REPORT OF THE ACTING EXECUTIVE DIRECTOR

Ms. Carrillo asked for a motion to delegate to the Acting Executive Director the authority to approve items for which a quorum does not exist in consultation with the Panel Chair or Vice Chair.

ACTION: Mr. Lennox moved and Mr. Broad seconded the Panel delegate to the Acting Executive Director the authority to approve items for which a quorum does not exist in consultation with the Panel Chair or Vice Chair.

Motion carried, 4-0.

Fund Status

Ms. Carrillo reported on ETP's 2004-05 fund status, explaining that ETP's current year budget was augmented in January 2005, by \$16 million, as a result of savings derived from Workers' Compensation reform. Ms. Carrillo explained that the Labor and Workforce Development Agency took the lead in performing the analysis of these savings, which were subsequently certified by Department of Finance and approved for ETP's budget by Executive Order. A follow-up analysis could identify further savings and an additional augmentation for ETP; however, this will not occur until late in the fiscal year. Ms. Carrillo indicated that the Panel has sufficient funds to approve approximately \$8 million in contracts for the remainder of the fiscal year, including projects approved at this meeting.

2005-06 Budget

Ms. Carrillo provided an update on ETP's 2005-06 budget, explaining that the Governor's Budget Proposal includes an appropriation of \$36 million for the ETP program, which is a direct appropriation from the Employment Training Fund. This will be augmented by \$14 million in disencumbrances to be reinvested in new training dollars, bringing available funds to about \$50 million. It is estimated that by continuing to encumber incrementally to cover first year contract costs, the Panel will be able to approve about \$80 million in new contracts in 2005-06.

Ms. Carrillo stated that ETP's 2005-06 budget will be heard by Senate Budget Subcommittee #5 (Public Safety, Labor and Veterans Affairs) on March 10, with a pre-hearing on March 4 and by Assembly Budget Subcommittee #4 (State Administration) on April 12, with a pre-hearing date yet to be scheduled.

Proposed Legislation

Ms. Carrillo described three proposed bills that could have an impact on the ETP program:

- AB 234 (Haynes), which proposes to eliminate ETP. Ms Carrillio stated that staff contacted the author's office and were told that AB 234 is a spot bill and there are no plans to proceed with it. She indicated that, according to the author's office, the bill has no sponsors.

- SB 102 (Ducheny), which would authorize ETP to fund up to five licensed nurse training pilot projects for individuals currently working as nurse assistants or caregivers in a health facility; and allow ETP to waive the minimum wage requirements for trainees in such projects. Ms. Carrillo stated that ETP staff believe the purpose of this bill can be achieved administratively, since the Panel already can and does fund nurse related training programs. Action on targeted funding, as proposed by this bill, should be within the purview of the Panel, instead of legislatively mandated.
- SB 314 (Romero), which would make a non-substantive technical amendment to the current legislation. Ms. Carrillo said this is only a spot bill, although the author may use it to authorize training for seasonal agricultural workers who otherwise do not qualify for ETP funded training. ETP staff is working with LWDA, the author's office, and the bill's sponsors to determine if there are non-legislative alternatives to achieving this objective.

VIII. REPORT OF THE ACTING GENERAL COUNSEL

Ms. Bobrow informed the Panel that the Appeal to the Panel by Fisher Investment, Inc., had been withdrawn and thanked Barry Broad for agreeing to serve as the Hearing Officer.

Ms. Bobrow introduced Maureen Reilly, new Staff Counsel for the Employment Training Panel.

Ms. Bobrow stated that proposed regulations agendized for this meeting would be presented after Panel consideration of the training projects.

IX. AGREEMENTS AND AMENDMENTS

Consent Calendar (per Agenda)

Ms. Carrillo asked for a motion to approve nine single employer contracts slated on the Consent Calendar. She explained that funding for each project is less than \$100,000 and there are no controversial issues.

ACTION: Mr. Broad moved and Mr. Lennox seconded for approval of the following nine proposals as a slate on the consent calendar.

AAA Plating & Inspection, Inc.....	\$33,000
Associated Calibration, Inc.....	\$20,000
Aurident, Inc.....	\$21,160

BC Tech, Inc.....	\$40,500
Carlisle Research Incorporated	\$22,260
JAI PULNiX, Inc.....	\$40,560
Roma Design Group.....	\$8,580
Silicon Space.....	\$21,600
Kombat Soccer, Inc	\$3,540

Motion carried, 4-0.

Multi-Employer Contracts

Tustin Chamber of Commerce

San Diego Field Office Manager Diana Torres presented a One-Step Agreement for the Tustin Chamber of Commerce (TCC). The potential contractor is requesting \$595,340 in ETP funds to retrain 340 currently employed workers of participating businesses in advanced technology and computer skills. Ms. Torres indicated TCC is a non-profit voluntary organization dedicated to fostering business development and job growth in the Tustin community. She stated that the TCC staff and board members will market the proposed training primarily to Tustin area manufacturers and information technology companies.

Mr. Hodess asked if there were questions from the Panel regarding this project. No questions were asked by Panel members.

ACTION: Mr. Kiesel moved and Mr. Lennox seconded Panel approval of this One-Step Agreement as presented.

Motion carried, 4-0.

Century Housing Corporation

North Hollywood Field Office Manager Dolores Kendrick presented a One-Step Agreement for Century Housing Corporation, Commerce. The potential contractor is requesting \$510,700 in Panel funding to provide pre-apprenticeship training for 100 unemployed workers in commercial skills in the housing industry. Trainees, who do not immediately go to work as apprentices, either because their chosen trade is not hiring or because they do not pass the entrance exam, will be placed with a participating employer.

ACTION: Mr. Kiesel moved and Mr. Lennox seconded Panel approval of this One-Step Agreement as presented.

Motion carried, 4-0.

Bay Area Video Coalition

San Mateo Field Office Manager Creighton Chan presented a One-Step Agreement for Bay Area Video Coalition. The potential contractor is requesting \$606,464 in ETP funds to provide retraining in advanced technology skills for 824 currently employed workers of participating businesses. Mr. Chan stated that BAVC is a private, non-profit training center that provides training in high-end technology skills in video, web, and multimedia production. Under this Agreement, which would be its fourth Panel funded project, BAVC would provide retraining for companies facing out-of-state competition and representing diverse industries including services, arts and entertainment, multi-media, software development, and manufacturing.

ACTION: Mr. Kiesel moved and Mr. Hodess seconded Panel approval of this One-Step Agreement as presented.

Motion carried, 4-0.

Evolution Manufacturing Trade Association

Mr. Chan presented a Proposed Amendment for Evolution Manufacturing Trade Association, in which the contractor is requesting an additional \$600,028 to its current Agreement under which it is providing manufacturing skills to participating businesses. Mr. Chan explained that, if approved, the Amendment would increase the total agreement amount to \$1,628,728.

Mr. Chan explained that Evolution is a trade association that represents small to medium sized manufacturers in California, along with their suppliers. The Panel approved an Agreement with Evolution in June 2004 to support the retraining of 1,100 workers in such businesses. The contractor initially requested \$1,661,650 for this project. However, due to ETP's budget constraints, the Agreement was originally approved at a lower level. This Amendment would increase the Agreement amount to the initially requested level.

Mr. Hodess asked if there were questions from the Panel regarding this project. No questions were asked by Panel members.

ACTION: Mr. Kiesel moved and Mr. Hodess seconded Panel approval of this One-Step Agreement as presented.

Motion carried, 4-0.

Community Business College, Inc.

Sacramento Field Office Manager Ruby Cohen presented a One-Step Agreement for Community Business College, Inc. (CBC). The potential

contractor is requesting \$631,950 in total funding to train 110 unemployed individuals in Business Skills, Computer Skills, Continuous Improvement and Literacy Skills. This is the fifth ETP agreement with CBC, which is eligible for ETP funding as a training agency that has been in business for two years or more and provides New Hire training to unemployed individuals.

CBC is requesting funds under two categories: 1) 80 individuals who are receiving or recently exhausted Unemployment Insurance benefits; and, 2) 30 individuals who have multiple barriers that prevent them from fully participating in the labor force as a result of physical disability, lack of communication skills, illiteracy or similar factors.

CBC is located in Modesto and serves trainees from Stanislaus, Merced, San Joaquin, Tuolumne and Calaveras Counties. Three of those counties are in high unemployment areas with unemployment rates at 25 percent higher than the statewide average. Since this is a New Hire program, training is 100 percent center-based.

In its written proposal, CBC justified the high cost of training, which is \$5745 per trainee, based on two factors: 1) the potential salary increase associated with the applicable businesses and industries; and, 2) the high degree of long-term upward career mobility available to successful employees in those businesses and industries. CBC said, based graduates of similar training programs it had provided, trainees can expect to receive wage increases of 10 to 30 percent in the first year after placement.

Staff recommended that the Panel approve the cost per-trainee even though it exceeds the usual Multi-Employer Contract benchmark. That benchmark is \$3078, calculated as double the average cost per-trainee. Staff recommended approval if funding is available and the project meets Panel priorities.

Dan Guerra, Director of Community Business College, was available to answer questions from the Panel.

Mr. Broad expressed concerns about the high cost per-trainee when it was based only on high wages expected for the trainees. He asked if CBC would agree to raise the retention wage to \$11 per hour.

Mr. Guerra responded that the trainees are in high unemployment areas so the cost of living is a lot lower. Therefore, he said, wages are a lot lower across-the-board and \$11 per hour is more than most people would earn at the entry level.

The trainees are undereducated and tend to be older, he said. The previous training they may have received would not have included the advanced technology skills that are required by today's employers, he said, and these trainees are having problems adapting.

Mr. Broad asked why ETP should be paying more than the usual cost per-trainee, if it's a low-wage, low-cost area?

Mr. Guerra replied that the Modesto region is still converting from an agricultural-based economy and does not yet have access to high-skilled workers. Many times, he said, employers do not hire because they can't find people with the necessary skills. He said it takes extra time and extra expense to bring the trainees up to the skill level employers want. He said the 10 to 30 percent wage increase comes about after the trainee has moved beyond CBC's tracking range.

Mr. Hodess asked Mr. Guerra to identify what was included in the \$413,315 identified by CBC as their "other contributions" to training.

Mr. Guerra said that figure represents additional training provided by CBC when trainees need to "bring up" their skill levels prior to participating in the ETP-funded training program.

Mr. Hodess asked what type of skills would be addressed in that training.

Mr. Guerra answered these would be the technology skills needed to enter the workforce. Each trainee is assessed and given whatever he or she needs to reach the required level of readiness for ETP-funded training.

Mr. Guerra explained that CBC has a screening mechanism to ensure they have the best training candidates who, if they don't currently have these skills, are likely to retain them once they have been taught.

Mr. Hodess asked: What additional training not covered by the ETP contract is CBC going to take credit for as an in-kind contribution?

Mr. Guerra said the pertinent training would include math, basic English language, and some computer skills; but not English as a second language.

Mr. Hodess asked if these additional skills, that CBC is going to take credit for as an in-kind contribution, are available from junior colleges in the area at no cost or a lower cost.

Mr. Guerra said CBC has contacted Modesto Junior College in the past, only to find that the pertinent classes are not available to new-hire trainees. Also, he said, when CBC asks incoming new-hire trainees why they are not using the junior college system, the answer is "time and cost." In the junior college system, he said, trainees must pay for their own text books and those expenses are covered by ETP-funded training. Students at junior colleges may also face other charges such as parking.

Mr. Guerra said part of the in-kind contribution represents follow-up training provided by CBC after the trainee has been placed, customized for each employer.

Mr. Broad noted that he was still concerned about the high cost of training, and posed an alternate suggestion that the Panel approve this proposal on condition that, if the trainees don't get a wage increase of at least 10-20 percent in the first year after placement, then CBC would be ineligible for further funding or would only be eligible for funding if the cost per-trainee is set at the usual Multi-Employer Contract benchmark.

Mr. Guerra said CBC would be willing to agree to that contingency.

Mr. Broad asked staff if data is available to track and verify this type of long-range goal for increased wages. Ms. Carrillo said the data is available, and it could be obtained by ETP staff.

Ms. Bobrow asked Mr. Broad if he wanted the contract to state that CBC would be ineligible for further funding, or would only be eligible at the benchmark cost per-trainee if the proposed conditions were not met.

Ms. Carrillo recommended that the condition should be to either stay within the benchmark cost-per-trainee, or demonstrate a minimum 10 percent increase in wages for each trainee as verified by ETP staff.

Mr. Lennox noted that CBC's current contract for does not appear to show successful performance.

Mr. Guerra explained that the active contract was not yet completed and final invoicing had not yet occurred. He said there are more trainees "in process" and CBC is expecting an 81 percent completion and retention rate on this contract.

Mr. Guerra recommended a contract condition whereby CBC would work with ETP staff as they collect information to verify the expected wage increase. He said, if the condition is that trainees must earn at least 10 to 20 percent more in the first year after training, CBC could track this information by requiring trainees to document their earnings for that time period. That is, he said, as trainees come into the ETP-funded training program, CBC would inform them that they must maintain contact and provide documentation of earnings for up to a year.

Mr. Hodess asked Mr. Guerra to describe how CBC would provide the additional, in-kind contribution training. Mr. Guerra said trainees attend classes in the late afternoons, evenings or on Saturdays by arrangement. They are not included with other classes because it is specialized training to fit the trainee's particular circumstances.

Ms. Carrillo clarified that what ETP has been using is double the average cost per trainee both for new hires and retrainees. If the Panel would look at the average cost for new hires alone, that average cost is \$5000.

Mr. Guerra noted that CBC received a letter of support from the Stanislaus County Director of Employment and Training. He said, the Director had sent a staff member out to review the CBC program as the college went through its accreditation process; and, as a result, endorsed the training program.

Mr. Broad voiced his concerns about Multi-Employer Contracts in general, saying they were very hard to judge as compared to single employer projects where the cost per-trainee is much lower.

Ms. Carrillo noted that staff expects to come back to the Panel with a recommendation on New Hire contracts. There have been many evaluations of training programs one or two years after placement, she said, where staff has been able to verify substantial wage increases and job security -- especially for new hires. She agreed with Mr. Broad's concerns, but she stated that the CBC proposal is consistent with what has been funded by the Panel in the past.

ACTION: Mr. Hodess moved and Mr. Broad seconded approval of this proposal, contingent on several factors: 1) the contractor must provide the Panel with information to show that community colleges in and around the Modesto area are impacted for enrollment and can't provide the instruction that CBC is taking in-kind credit for; 2) there must be a wage increase of no less than 10 percent in the first year after placement; and, 3) the contractor must be obligated to provide the Panel with wage information as needed to verify the 10 percent increase. Per this motion, if CBC does not satisfy any of these conditions it will not be eligible for ETP-funding in excess of the usual Multi-Employer benchmark cost per-trainee based on double the average cost per trainee. In addition, CBC must explain what was included in the in-kind contribution portion of the "other contributions" identified in its proposal.

Motion carried, 4-0.

Service Corporation International

This proposal was withdrawn prior to the Panel meeting.

Asymptotic Technologies, Inc. (D.B.A. ASYMTEK)

Ms. Torres presented a One-Step Agreement for Asymptotic Technologies. The potential contractor is requesting \$135,564 to train 158 of the incumbent workers at its Carlsbad facility. The proposal states that this training plan is designed to

meet the company's current business needs by training workers in the skills necessary to move to a high-performance workplace. Staff recommended Panel approval if funding is available.

Ray McHenry, human resources manager for the company and Annette Fago with Deloitte CTS, were available for questioning. There were no questions.

ACTION: Mr. Broad moved and Mr. Lennox seconded Panel approval of this One-Step Agreement.

Motion carried, 4-0.

Consent Calendar (per motion)

Mr. Broad recommended that, since the Panel had reviewed the training proposals shown at Tabs 17 through 22 in their Agenda packets, they should be slated as a Consent Calendar and approved by one motion to the extent the Panel had no questions.

ACTION: Mr. Kiesel moved and Mr. Lennox seconded approval of the following five proposals as a slate:

Bordiers Nursery, Inc.....	\$232,128
Finance America, LLC.....	\$509,600
Quebecor World, Inc.....	\$360,360
Wimberly Allison Tong & Goo.....	\$131,040
Spirent Communications, Incorporated	\$499,642

Motion carried, 4-0.

Leiner Health Products, L.L.C.

This project was withdrawn prior to the Panel meeting.

Safeway Merced Grocery Plant

Ms. Cohen presented a One-Step Agreement for Safeway Merced Grocery Plant (Safeway). The potential contractor is requesting \$63,440 to retrain 80 current employees in skills that will achieve the company's goal in moving towards a high performance workplace. She noted that this project was on the Consent Calendar for the December meeting, but the Panel members had some questions concerning the 20 percent turnover rate, so action on the project had been postponed.

She introduced Amalee Jayasing, Safeway's plant superintendent and Mike Peterson, plant manager, who were present to explain their efforts to retain employees at the Merced plant. They said the retention rate has been improving every year, and Safeway has increased its plant capacity. They said 25 percent of the employees who left did so to take jobs with long-term career growth.

Messrs. Jayasing and Peterson explained that, in the last two years, Safeway has tried to raise the ceiling up in terms of opportunities for growth within the plant. For example, instead of hiring Quality Assurance technicians from outside, employees are now allowed to move into that position from within the plant. They said Safeway started an apprenticeship program in the last year that allows plant operators to train for a position in maintenance, which start at \$19 per hour. They also said the plant now uses blow-mold operators to do stretch blow-molding for bottles, which is a higher level of pay. In general, they said, they are trying to give employees the opportunity for advancement within the plant in order to improve their retention rate.

Mr. Hodess stated that it appeared Safeway was taking steps to encourage their employees to stay longer, especially if the company is not capping wages. He asked the Safeway representatives if they would extend the retention period to six months.

The company representatives stated they had no problem with that revision to their training proposal.

ACTION: Mr. Kiesel moved and Mr. Lennox seconded Panel approval with a six-month extension of the retention period.

Motion carried, 4-0.

Thomas Home Center

Ms. Cohen presented a Small Business Agreement proposed by Thomas Home Center to retrain 52 current employees in Business, Continuous Improvement and Manufacturing Skills for a total ETP funding of amount \$45,760. The potential contractor is a small business with 52 employees, located in McKinleyville in rural Humboldt County. This proposal would normally be on the Consent Calendar but for a request to waive the turnover requirement.

In its written proposal, the company explained that the turnover rate for 2004 was 41 percent due to a declining number of job applicants over the previous two years. Ms. Cohen observed that the turnover rates for 2002 and 2003 were 25 and 29 percent, respectively.

Thomas Home Center said it would be employing three key strategies in an effort to lower the turnover rate. These include changes in the recruiting and hiring

process; increased training to provide current employees with a higher skill level; and, guaranteed wage increases upon completion of training from a minimum of \$8 per hour to \$11.34 per hour. According to Thomas Home Center, ETP funding would allow them to develop and establish the training program and still increase wages.

Thomas Home Center agreed that it will not receive the final 25 percent progress payment unless the turnover rate is reduced to 25 percent or less for the last 12 months of the training agreement.

Staff recommended approval if the Panel waives the turnover rate requirement, and if funding is available.

Two company representatives were available to answer questions from the Panel: Tom Rector, president, and Connie Lorenzo, corporate project manager.

Mr. Hodess asked if there were questions from the Panel. There were none.

ACTION: Mr. Broad moved and Mr. Kiesel seconded Panel approval of approve this One-Step Agreement, as presented.

Motion carried, 4-0.

X. REPORT OF THE ACTING GENERAL COUNSEL

Ms. Bobrow asked the Panel to consider proposed regulatory actions on the Agenda, beginning with new Section 4403.1 pertaining to Apprenticeship Training.

She informed the Panel that this regulation reflects existing policy on funding pre-apprenticeship and post-apprenticeship training. The first section of the proposed regulation simply restates the statutory prohibition against funding projects that replace parallel, supplant or compete with existing apprenticeship programs.

The pre-apprenticeship language in the proposed regulation requires a contractor to prepare trainees for further training in trades that have an apprenticeship program approved by the Division of Apprenticeship Standards (DAS). The pre-apprentice must enroll in such a program for the relevant trade upon completion of the ETP-funded training. That requirement, however, may be waived by the Panel at its discretion and for good cause.

The post-apprenticeship funding would upgrade the skills of a journey-level worker. In order to qualify for that training, the trainee must either have

completed a DAS-approved apprenticeship program or must have worked in the relevant trade for a period of time equivalent to such a program.

Ms. Bobrow concluded by stating that staff is proposing Section 4403.1 for adoption, and recommended approval by the Panel. Mr. Hodess asked for comments or questions by the Panel on this proposal.

Mr. Hodess raised an issue regarding a phrase in Section 4403.1(b): “The requirement for enrollment in a DAS-approved apprenticeship program may be waived by the Panel at its discretion on a case-by-case basis. Mr. Hodess offered amending language to clarify the meaning of “case-by-case basis” to state that the Panel would waive the requirement for enrollment in a DAS-approved apprenticeship program only “where enrollment in an apprenticeship program is prevented by a lack of openings in the trade, or where an applicant is unable to pass the program entry test.”

ACTION: Mr. Kiesel moved and Mr. Broad seconded approval of Section 4403.1 as amended per Mr. Hodess’ recommendation.

Motion carried, 4-0.

Ms. Bobrow presented a second proposal for new Section 4446.5 regarding Contractor Relocation. Currently, there is a contractor relocation clause in the ETP training agreements but not in regulation. The new Section 4446.5 would require a contractor to return payment earned if the facility at which training occurred, or the jobs for which training was funded, were to relocate out-of-state within three years from termination of the training agreement.

Ms. Bobrow stated this requirement is consistent with the statutory mandate to foster retention of high-wage, high-skilled jobs in industries that are threatened by out-of-state and global competition; this proposed regulatory language would concern only relocations out-of-state.

Ms. Bobrow also discussed a provision in proposed Section 4446.5 that would clarify the existing position of the Panel by describing mitigating factors that may be considered by the Panel for a waiver of the reimbursement requirement. The factors include a contractor’s efforts to offer job transfers to former trainees at another facility in California; or provide job search and placement assistance, transitional health benefits, severance pay or incentives for early retirement. The list of factors is not exclusive, but provides strong indicators of an employer’s willingness to mitigate the economic burden on trainees. She pointed out that these factors may also result in keeping jobs in California.

Mr. Hodess asked if there were any comments or questions on proposed Section 4446.5. There were none.

ACTION: Mr. Broad moved and Mr. Kiesel seconded approval of Section 4446.5 as presented.

Motion carried, 4-0.

Ms. Bobrow explained that the next regulatory proposal regarding the amendment to Section 4418, Wage Criteria, was presented for discussion only. The initial section of the regulation describes the ETP minimum wage and the means by which it is determined. The ETP minimum is determined by using wage data provided by the Labor Market Information Division of EDD. The wage is set annually on a county-by-county basis. Those elements of the determination would not be subject to revision in the proposed amendment.

The proposed amendment would permit inclusion of commission earnings as a component of the ETP minimum wage, because commissions are included in the Unemployment Insurance Code's definition of wages.

Ms. Bobrow explained that, as amended, Section 4418 would also authorize the use of bonuses in certain circumstances. Bonuses would be permitted where there was a reliable history of bonus payments by the employer, and where the actual payments could be verified.

The proposed amendment also addresses mandatory service charges. This issue had been considered by the Panel when it adopted a Policy stating that mandatory service charges would be included in the ETP minimum wage when the charges were imposed on a patron of the business; were taxable to the employer; and were payable to the trainee in their entirety or as a fixed percentage, all subject to prior approval by the Panel. The proposed amendment to Section 4418 would implement that Policy.

Amended Section 4418 would also address inclusion of health benefits in the ETP minimum wage. The existing regulation on health benefits would be repealed because its text would be moved into the proposed amendment to Section 4418. She asked the Panel if they had any comments.

Mr. Lennox asked about health savings accounts under a law passed by Congress about two years ago. Ms. Bobrow responded that the Panel would still consider the actual employer contribution. Of course, she noted, it is speculative at the time a training proposal is approved because there is no certainty as to what the employer will actually contribute. She said staff would look into Mr. Lennox' question.

Acting Executive Director Ada Carrillo stated that employers must give verification as to the specific amount of the health benefit being offered as part of the ETP minimum wage before staff will actually include that benefit in calculating the wage.

Mr. Broad noted the Panel must anticipate that an employer may indicate a generous health benefit without disclosing a high employee deductible. He said, staff must be aware of all the circumstances surrounding the health benefit. For example, no matter how great the health coverage, if employees must first pay a high threshold amount some workers won't be able to afford that.

Mr. Hodess addressed inclusion of commissions in the ETP minimum wage. He suggested adding a phrase to proposed Section 4418, to state that: "The Panel may use commission earnings to determine a trainee's hourly wage, if there is a reliable history of commission payment by the employer, and if actual payment can be verified. "

Ms. Bobrow indicated that such a revision could be included before the amendment to Section 4418 is noticed for public comment.

Mr. Broad was concerned about the different types of commission and sales plans, and asked how they would be evaluated. Ms. Carrillo explained that staff can utilize the EDD wage data base to see, by trainee, how much was earned in a specific time period.

Mr. Hodess asked if the Panel was ready to consider a motion on proposed Section 4418. Ms. Bobrow said there cannot be a motion for action because the regulatory change was not in the agenda as an action item. However, she said, staff would bring this item back with the appropriate revisions for the Panel's consideration at its next meeting.

Mr. Hodess said he would appreciate it if the commission language could be revised to include the reliable payment and history proviso that now appears in the proposed language on bonuses. Ms. Bobrow noted his request.

XI. PUBLIC COMMENT

Having concluded its regular business, the Panel opened the meeting to public comment.

Steve Duscha, Alliance for ETP, commented on the finding by the Department of Finance that Workers' Compensation reform had saved the State of California \$16 million. He observed, someone should find out why ETP is not receiving the full \$40 million in savings that should have come from these reforms.

Mr. Duscha said he agreed with the statements made by Mr. Hodess at the beginning of the meeting.

Ms. Sallyanne Monte, Evolution Manufacturing Trade Association, thanked the ETP staff for helping her company with its contract Amendment which will enable them to outreach more small businesses. Ms. Monte said she has been working with ETP for over eight years, and she has seen the Panel and its program grow to meet the demands of employers in California. She said, "It's an amazing thing to see a government agency pay attention and have the courage to change to meet the demands of the employer." She also commended ETP on balancing program needs with politics "behind the scenes" as needed.

Mr. Hodess asked if there were other public comments. There were none.

XII. EXECUTIVE SESSION

There was no Executive Session at this month's Panel meeting.

XIII. ADJOURN

ACTION: Mr. Kiesel moved and Mr. Lennox seconded to adjourn the meeting at 11:35 a.m.

Motion carried, 4-0.