

**STATE OF CALIFORNIA  
EMPLOYMENT TRAINING PANEL MEETING**

California Environmental Protection Agency

1001 "I" Street

Coastal Hearing Room, 2<sup>nd</sup> Floor

Sacramento, CA 95814

May 25, 2006

**PANEL MEMBERS**

Barry Broad  
Acting Chair

Tyrone Freeman  
Member

Bob Giroux  
Member

Scott Gordon  
Member

Edward Rendon  
Member

Janice Roberts  
Acting Vice-Chair

Johnathan St. John  
Member

**Executive Staff**

Ada Carrillo  
Acting Executive Director

Maureen Reilly  
General Counsel

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**I. PUBLIC PANEL MEETING CALL TO ORDER**

Barry Broad, Acting Chair, called the public Panel meeting to order at 9:35 a.m.

**II. ROLL CALL**

Members Present

Barry Broad, Acting Chair  
Scott Gordon  
Edward Rendon  
Janice Roberts, Acting Vice Chair  
Johnathan St. John

Members Absent

Tyrone Freeman  
Bob Giroux

Executive Staff Present

Ada Carrillo, Acting Executive Director  
Maureen Reilly, General Counsel

**III. APPROVAL OF AGENDA**

Mr. Broad modified the Agenda to remove the Agenda item scheduled at 10:05 a.m., the California's Economic Trends and Workforce Development Needs report. He said the item would be delayed until a subsequent meeting.

**ACTION:** Ms. Roberts moved and Mr. Rendon seconded the Panel approve the Agenda.

Motion carried, 5 – 0.

#### **IV. APPROVAL OF MINUTES**

**ACTION:** Ms. Roberts moved and Mr. Rendon seconded the Panel approve the Panel Minutes of April 28, 2006.

Motion carried, 5 – 0.

#### **V. REPORT OF THE CHAIRPERSON/PANEL MEMBERS**

Mr. Broad deferred his comments until after the Report of the Acting Executive Director.

#### **VI. REPORT OF THE ACTING EXECUTIVE DIRECTOR**

Ms. Carrillo referred the Panel to the Fund Status Report in the Panel Packet. She said if all projects were approved that day, all training funds would be exhausted for the year. She said there were 225 projects approved for the year totaling a \$30 million encumbered amount and \$86 million in contract value. This results in the training of approximately 80,000 trainees. She thanked the ETP staff for their hard work. She said that the Governor's Budget proposes a \$40.3 million appropriation for FY 06-07 which represents a 2.5 net increase over the current year. This amount plus the \$14 million expected in disencumbrances would bring the total budget to \$54 million based on the Governor's proposed budget.

Ms. Carrillo went on to say that our Acting Chairman, Barry Broad's leadership, expertise and convincing negotiation skills, coupled with the amazing support from our business/labor and economic development partners was effective in the Senate and Assembly budget subcommittees considering the ETP budget favorably. The budget subcommittees approved the restoration of \$32.9 million to ETP in funds proposed for transfer to Department of Social Services CalWORKS Program. While both subcommittees agreed on the restoration of funds, the Assembly budget subcommittee added budget language that sets out that "Priority for Employment Training Panel grants will be targeted towards helping workers in occupations that pay at or near the minimum wage develop skills to move into better paying jobs." The difference between the Senate and Assembly proposals will be negotiated in the Budget Conference Committee.

Ms. Carrillo said that if the Governor's proposed budget increase of \$2.5 million remains, there would be approximately \$30.9 million for new contracts, resulting in about \$92 million in contracts. She said if the Legislature proposal results in a final approved budget there will be \$63 million available for new contracts. If ETP continues encumbering up to 35 percent level, it would result in \$180 million in contract value.

Mr. Broad said the Panel is independent of the Administration, and the majority of members are appointed by the Legislature. However, he said, the Panel was working with the Administration in this case and had not fully foreseen the fortuitous events that would occur. The money that was being transferred to the Department of Social Services will be met by the general fund and other sources, he said, as a condition of restoring the full ETP budget.

Mr. Broad said that, since he was independent, he took it upon himself to join with the business and labor communities to negotiate for full funding. He said that California has very limited tools for business development needs and that ETP is the only program which supports business development needs. He stressed the need for advocacy and asked the contracting community with an interest in the ETP program to push their position with the Governor's office. He said if the two houses of the Legislature agree on an amount, then the matter is resolved, it does not go to conference, and therefore it is included in the budget. He noted that at this point it would take quite an extraordinary effort to change the ETP budget within the Legislature but it was not unheard of. He said that full funding for the ETP is something sought after for a very long time. He stated his appreciation of the work done by the business and labor community in coming together with ETP staff, and he said it was apparent that ETP is very well respected in the Legislature.

Mr. Broad said there is currently a moratorium on funding Welfare-to-Work programs springing from the diversion of ETP funds to the Department of Social Services. He said that once ETP funding is restored, he would like to consider lifting this moratorium. He explained that once funding is restored, it will be incumbent upon the Panel to report to the Legislature on ETP's progress in the Welfare-to-Work program.

Ms. Carrillo added that ETP staff plans to present a recommendation to repeal an existing regulation on Welfare-to-Work, in connection with lifting the moratorium, because it is too restrictive. By way of analogy to the CNA to LVN training program, she said ETP may develop interim guidelines for Welfare-to-Work training funds that would allow it to test various models, with flexibility as may be needed at this stage of the program. She emphasized the need for flexibility, given the nature of the Welfare-to-Work population, and said that ETP has some partners in the healthcare industry, and pre-apprenticeship, that are running positive programs and will coordinate with ETP in order to develop training focused on vocational skills.

Mr. Broad said there had to be jobs at the end of the line, and suggested mixing the training populations so that welfare recipients would be trained along-side other trainees who have had workplace experience. He said that ETP is unique because, at the end of training, individuals are guaranteed a job.

#### Request Motion to Delegate in Event of Loss of Quorum

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

**ACTION:** Ms. Roberts moved and Mr. Rendon seconded the Panel delegate to the Acting Executive Director the authority to approve projects for which a quorum does not exist in consultation with the Panel Chair or Vice Chair.

Motion carried, 5 – 0.

Consent Calendar Projects

Ms. Carrillo asked for a motion to approve the single employer contracts placed on Consent that do not appear to have any controversial issues.

ACTION: Mr. Rendon moved and Ms. Roberts seconded the Panel approve the following proposals:

Aerosol Services Company, Inc. ....	\$81,120
Genesis Microchip, Inc. ....	\$202,800
Gimbal Brothers, Inc. ....	\$98,400
John H. Harland Company.....	\$133,380
Kaiser Aluminum.....	\$130,000
Nexus IS, Inc. ....	\$252,200
Santur Corporation .....	\$146,640
Vince’s Office Supply, Inc. dba The Office City .....	\$48,760

Motion carried, 5 – 0.

**VII. REPORT OF GENERAL COUNSEL**

General Counsel Maureen Reilly informed the Panel that there was no new activity to report.

**Single Employer Contractors**

**Pactiv Corporation**

Dolores Kendrick, Manager of the North Hollywood Office, presented a One-Step Agreement for Pactiv Corporation (Pactiv), in the amount of \$176,176. Pactiv manufactures plastic food containers and packaging products used by supermarket chains, restaurants, foodservice distributors, fast food chains and grocery stores.

Ms. Kendrick introduced Bernard Alexander, Plant Manager.

Ms. Roberts asked if Mr. Alexander was familiar with existing Pactiv contracts. Mr. Alexander said he was only responsible for the Santa Fe Springs facility. Ms. Roberts asked when the facility was purchased. Mr. Alexander said it was purchased in 2003 and that he has been employed with this facility for six months. Ms. Carrillo explained that this is the first contract proposal for the Santa Fe Springs facility. Ms. Roberts asked if the company has been operating since 2003. Mr. Alexander answered in the affirmative. Ms. Roberts asked if any employees from other facilities were employed there. Mr. Alexander said the facilities were separate entities and that no employees from other facilities were employed there.

Mr. Broad said that companies are organized differently and while Pactiv may have other facilities that are separate entities, the Panel was required to look at Pactiv as one corporation. He said that when several facilities were involved it was difficult to track the progress of each proposal. He added that if Pactiv applies for future funding that the Panel would view the California facilities as a whole.

Mr. Gordon asked if training would be outsourced. Mr. Alexander said there were some elements of training that required outsourcing based on specific requirements by the vendors that the company purchased equipment from. Mr. Gordon asked if Pactiv has reviewed core competencies and curriculum for the training it wants to do in-house. Mr. Alexander answered in the affirmative, explaining that individual employees would be trained in techniques that would incorporate training from other facilities. Mr. Gordon asked how they would administer the proposed training, and asked if records were kept in-house. Mr. Alexander said records were kept in-house, and all training would be tracked and documented with oversight by the Human Resources Manager at the Santa Fe Springs facility.

**ACTION:** Mr. Gordon moved and Mr. Rendon seconded the Panel approve the One-Step Agreement for Pactiv in the amount of \$176,176.

Motion carried, 5 – 0.

### **AT&T California**

Creighton Chan, Manager of the Foster City Office, presented a One-Step Agreement for AT&T California (AT&T), in the amount of \$1,756,040. AT&T is one of the leading data, voice, networking and Internet service providers delivering a portfolio of traditional local and long distance telephone services, broadband Internet, data transport, wireless, and video services.

Mr. Chan introduced Jim Beck, Vice President of Human Resources of AT&T West; Robin Fernandez, Executive Director of Human Resources Services for SBC Services, Inc; and Libby Sayre, Area Director of Communications Workers of America.

Ms. Roberts asked how many service representatives out of the total 2,200 trainees receive the wage of \$11.83 per hour. Mr. Beck said the service representatives receive a pay increase every six months until they are at the top of the pay scale. He added that most service representatives were at the higher end wage range. He said the trainees at the bottom-end wage range were newly-hired individuals without any experience and the company has not hired anyone into this job classification for quite some time. Ms. Roberts commended AT&T on their six percent turnover rate.

Ms. Roberts asked about prior contracts and the 50 percent completion rate. She suggested reducing the amount of the contract. Ms. Carrillo said ETP staff had considered the previous contracts, and had already reduced the amount. She also said staff would only encumber 15 percent of the contract amount. Ms. Roberts asked how many

employees trained in prior contracts were included in the proposed contract. Mr. Beck said the trainees were primarily new groups that had not received training under other projects. Ms. Roberts asked about the anticipated percent of completion, and what the company has done differently this time. Mr. Beck said the project has the commitment of senior management, and training would be delivered.

**ACTION:** Mr. Rendon moved and Ms. Roberts seconded the Panel approve the One-Step Agreement for AT&T in the amount of \$1,756,040.

Motion carried, 5 – 0.

## **Accenture LLP**

Ruby Cohen, Manager of the Sacramento Office, presented a One-Step Agreement for Accenture LLP (Accenture), in the amount of \$599,325. Accenture is a management and technology consulting company providing software engineering, project development, software and application development, testing, and analysis services to clients worldwide.

Ms. Cohen introduced Deborah Harrison, Director of Special Projects for Accenture, along with Janelle Wong and Allen Smith from Grant Thornton LLP.

Ms. Roberts asked about prior contracts and completion rates. Ms. Harrison said Accenture recognizes the need for diverse training programs on new technologies and software applications to keep employees competitive in the marketplace. She added there has been an increase in hiring by approximately 10 percent in the last two to three months. Ms. Roberts commented on the 19.6 percent turnover and asked if this was the cause of the low completion rate. She said Accenture was requesting \$800,000 and she was concerned with the possibility of Accenture only completing half of the proposed training. She suggested lowering the amount to \$500,000 and reviewing performance of the project. Ms. Carrillo said the contract proposal is for the amount of \$599,325. She said that ETP staff reduced the proposed amount and, due to prior performance, would encumber minimal funds.

Ms. Roberts asked if there were any processes in place to address the high turnover. Ms. Harrison said Accenture had instituted programs such as flex-time and work sharing to encourage employees to remain at Accenture, and added it was a very difficult industry with many competitors in California. Mr. Broad asked about the curriculum, and whether training was on the same topics that trainees were expected to advise clients about. Ms. Harrison answered in the affirmative. Mr. Broad was concerned with training someone on product applications when the company would be turning around and selling the product. He asked how this could be supplemental in nature. Ms. Harrison said the applications are related to Accenture's purposes of offering client services. She said the training was also necessary for employees to remain educated about technology advances.

Mr. Broad asked ETP staff for further direction regarding supplemental training, and how prior projects have been handled. Ms. Reilly said the supplemental policy was derived from

a particular section of statute at UI Code 10200(a)(4). She said the statute restricts ETP funding for programs that receive other government funding, such as Welfare to Work. Ms. Reilly said there were other statutory directives to the effect that ETP funding should act as a catalyst to encourage the employer community to make a long-range commitment to training. She said ETP would be recommending projects to the Panel based on the commitment to training, and less on the supplemental nature of training. Under this new approach, she said, staff was informing employers that ETP would not displace their own training funds.

Mr. Gordon asked if Accenture provided basic safety and sexual harassment training along with the IT training. Ms. Harrison answered in the affirmative.

Mr. Broad said that, due to prior poor performance, he proposed that the project amount be divided into two parts. He said that once part one is complete and Accenture has proven positive performance, Accenture could return to the Panel to amend the proposal to increase it to the full amount.

**ACTION:** Ms. Roberts moved and Mr. Rendon seconded the Panel approve the One-Step Agreement for Accenture with the amendment that the cost of the contract be reduced to the amount of \$299,335.

Motion carried, 5 – 0.

### **Amcor PET Packaging USA, Inc.**

Ms. Cohen presented a One-Step Agreement for Amcor PET Packaging USA, Inc. (Amcor), in the amount of \$586,950. Amcor produces PET plastic bottles and jars.

Ms. Cohen introduced Angela Stairrett, Human Resources Coordinator and George Jamason, Plant Manager of Fairfield Amcor.

Mr. Rendon asked about subcontractors and undetermined training vendors. He noted California Manufacturers and Technology Association (CMTA) listed under Third Party Services and asked if they developed the curriculum. Mr. Jamason said they would have trainers at the plant level, and possibly at local colleges. Mr. Broad asked if CMTA had assisted Amcor in developing the proposal and Mr. Jamason answered in the affirmative. Ms. Roberts asked about the number of employees requiring literacy skills. Ms. Stairrett said approximately 100 trainees, primarily located in the Southern California plant, would be trained in literacy skills along with vocational skills.

**ACTION:** Mr. Gordon moved and Mr. Rendon seconded the Panel approve the One-Step Agreement for Amcor in the amount of \$586,950.

Motion carried, 5 – 0.



## **Bay Area Video Coalition**

Ms. Cohen presented an amendment for Bay Area Video Coalition (BAVC), in the amount of \$567,040. BAVC is a private, non-profit training center which provides high-end technology skills in video, web, and multimedia production.

Mr. Broad proposed expediting this project directly to voting since it was an amendment with no apparent issues.

**ACTION:** Mr. Rendon moved and Mr. Gordon seconded the Panel approve the Amendment for BAVC in the amount of \$567,040.

Motion carried, 5 – 0.

## **Roadway Express, Inc.**

Ms. Roberts recused herself from review, discussion, and action on the Roadway Express, Inc. proposal.

Ms. Cohen presented a One-Step Agreement for Roadway Express, Inc. (Roadway Express), in the amount of \$394,875. Roadway Express is a nationwide transportation company moving industrial, commercial, and retail goods throughout North America.

Ms. Cohen introduced Doug Secord, President of Teamsters Local 150 and Manager for Engagement through Education in the Fundamentals of Business for Roadway in West Sacramento; Brian Spencer, Chief Steward for Local 150; Monika Gablowski, a Specialist at the West Sacramento facility; and Steve Duscha, Steve Duscha Advisories.

Mr. Broad asked about training on the use of drivers' logs, log-keeping and DOT regulations. He asked if the training was for commercial drivers or dock workers. Mr. Duscha said there was no training in DOT regulations. He said there was limited driver training, conducted only in the classroom known as the Smith System. Mr. Broad said ETP could not fund training on how to fill out a DOT-required log book because this was legally mandated training. Mr. Broad commended Roadway Express on its low turnover rate in a very "high turnover" industry, and on the average cost-per-trainee of \$585.00. Mr. Gordon asked if basic safety and state-compliance training would be offered. Ms. Gablowski said there was Hazmat and safety training, covered by Roadway Express funds.

**ACTION:** Mr. Rendon moved and Mr. Gordon seconded the Panel approve the One-Step Agreement for Roadway Express in the amount of \$394,875.

Motion carried, 4 – 0 – 1 (Ms. Roberts recused).

## **Special Employment Training Contractors**

### **Sysco Food Services of Ventura, Inc.**

Ms. Roberts recused herself from review, discussion, and action on the Sysco Food Services of Ventura, Inc. proposal.

Ms. Kendrick presented a One-Step Agreement for Sysco Food Services of Ventura, Inc., (SYSCO), in the amount of \$195,975. SYSCO warehouses, distributes, and delivers a wide variety of food and related provisions to its California customers.

Ms. Kendrick introduced Tom Reim, Vice President of Human Resources and Dennis Shaw, Contract Administrator of Teamsters Union Local No. 186.

There were no questions from Panel members.

ACTION: Mr. Gordon moved and Mr. Rendon seconded the Panel approve the One-Step Agreement for SYSCO in the amount of \$195,975.

Motion carried, 4 – 0 – 1 (Ms. Roberts recused).

## **Multiple Employer Contractors**

### **Evolution Manufacturing Trade Association**

Ms. Kendrick presented a One-Step Agreement for Evolution Manufacturing Trade Association (EMTA), in the amount of \$999,684. EMTA is a trade association that represents California manufacturers and their suppliers in the electronics, software/multimedia, metals, plastics, biotechnology, food processing, aerospace, defense, and other industries facing out-of-state competition.

Ms. Kendrick introduced Lee Harris, Executive Director.

There were no questions from Panel Members.

ACTION: Ms. Roberts moved and Mr. Gordon seconded the Panel approve the One-Step Agreement for EMTA in the amount of \$999,684.

Motion carried, 5 – 0.

### **UAW Labor Employment and Training Corporation**

Ms. Kendrick presented a One-Step Agreement for UAW Labor Employment and Training Corporation (UAW LETC), in the amount of \$155,440. UAW LETC is a labor-centered workforce development corporation that operates customized training programs for businesses and unions.

Ms. Kendrick introduced Robert Nelson, President & CEO and Sandra Hamilton, President & CEO of EdNet Career Institute, Inc.

Mr. Broad asked about the wage waiver for 20 of the 120 trainees, and asked if they would be referred from the Welfare to Work population. Mr. Nelson said they had previously considered recruiting 15 trainees from that population, and Mr. Broad said that would be acceptable, and asked UAW-LETC to provide post-retention information on the employment history of these trainees, in 6 months to a year. Mr. Broad said he would like to report to the Legislature on this aspect of training for the Welfare to Work population.

Mr. St. John asked if the turnover rate included employees who had been trained for the security guard positions. Mr. Nelson said the turnover rate applied to the eight companies that had signed up to participate in the program and that the industry overall had a much higher turnover rate. He said the participating companies intended to train workers who were likely to remain employed. Mr. St. John asked about the effect of setting a \$10.00 per hour minimum wage, instead of \$8.00 per hour. Mr. Nelson said they were willing to go above the \$8.00 minimum, and wanted to offer the highest amount possible. Mr. St. John asked if the additional \$2.00 per hour was influencing retention at the eight companies. Mr. Nelson said he was confident that the eight companies would agree to pay \$10.00 per hour although \$10.75 per hour would be too much, especially for workers located in the targeted high-unemployment communities. Mr. Nelson said this was a new-hire program, not a retraining program. Ms. Carrillo explained that the Multiple Employer Contract (MEC) cap turnover at 20 percent was a condition of funding. She added that, for the working poor population, the regulations allow for a waiver to the ETP minimum wage of \$10.75 for new-hires. She said that although the wage could be reduced to as low as \$8.06 per hour, this contractor was willing to bring it up to \$10.00 for security guards, and that the wage range is consistent with what the Panel has approved in the past for these occupations.

Mr. St. John asked if the 20 percent cap was imposed by ETP and Ms. Carrillo answered in the affirmative. Mr. St. John asked about the industry-wide turnover rate, and Mr. Nelson said it was extremely high. Ms. Hamilton agreed saying the overall turnover rate was approximately 50 to 60 percent in this industry. Mr. Broad said his primary concern with security guard training went to whether there was any job advancement available.

Ms. Roberts asked if EdNet had previously trained security guards and Ms. Hamilton said they had been for five months. Ms. Roberts asked if trainees would be required to pass a background clearance before entering the program. Ms. Hamilton said all applicants would go through a background check and a Livescan prior to training.

**ACTION:** Ms. Roberts moved and Mr. St. John seconded the Panel approve the One-Step Agreement for UAW LETC for \$155,440 with the amendment that a minimum of 15 trainees out of the total 100 trainees must be Welfare to Work individuals.

Motion carried, 5 – 0.

## **San Francisco Hispanic Chamber of Commerce**

Mr. Chan presented a One-Step Agreement for San Francisco Hispanic Chamber of Commerce (SFHCC), in the amount of \$29,900. The SFHCC was originally created to represent and address the needs of the San Francisco Hispanic business community. Since then, the SFHCC has expanded its initiative to include over 300 minority owned business owners, and assist them with financing, education and housing through business, economic, and educational development.

**ACTION:** Mr. Broad moved a unanimous vote to approve the One-Step Agreement for SFHCC in the amount of \$29,900.

Motion carried, 5 – 0.

Mr. Broad excused himself from the meeting at 11:15 a.m. and passed the gavel to Ms. Roberts, Acting Vice-Chair.

Ms. Roberts acted in the capacity of Acting Chairperson for the remainder of the meeting.

### **VIII. ACTION ON REGULATIONS**

Maureen Reilly, General Counsel, directed the Panel to the Regulations tab in the Panel Packet. She said staff had proposed three repeals and three amendments to the Panel's Regulations in Title 22 of the California Code of Regulations. She said the text of the proposed actions is also part of the packet, under the yellow goldenrod sheet.

Regarding the proposed amendments with reference to the Memo to Panel dated May 25, 2006, Ms. Reilly explained that Section 4413 set forth standards for subcontracts. Based on discoveries staff made over the past years as to how the subcontracting procedures work, she said, they are proposing to remove some of the more detailed impositions placed on the subcontracting parties. She said ETP is not a signatory to the subcontract, but the parties must be aware of it in their responsibilities relative to ETP funding. As for the deleted text, Ms. Reilly explained that these reflect conditions of contract that will be negotiated between the parties. However, she said, ETP is specifically expressing what has been called the "administrative fee cap" under ETP's own contract provisions. She also said there is clarifying language as to ETP's right to request a copy of the subcontracts as originally formatted.

Ms. Reilly asked if the Panel Members had any questions regarding the proposed amendments to Section 4413. There were no questions.

Moving on to Section 4445 on Contract Performance/Amendments, Ms. Reilly said the proposed revision of subsection (a) would bring this regulation into conformity with contract law, whereby retroactivity depends on the nature of the amendment. She said that some amendments would be retroactive, within the term of contract; and some would be prospective, if the effected contractual obligation had not yet been carried out. She said

the proposed revision would also clarify that training cannot begin until the contract is in effect.

Ms. Reilly said the proposed revision of subsection (b) would clarify that there cannot be an amendment after the term of the contract has ended. She then highlighted other aspects of the Memo to Panel dated May 25, 2006, regarding the proposed revision of subsections (c) and (d).

### Section 4450 - Appeals

Moving on to Section 4450, Appeals, Ms. Reilly said the proposed amendment would substitute the term “eligible participant” for “contractor” because there may be other entities that would have reason to appeal. She pointed out that subsection (a) should substitute “the final” in place of “any” adverse staff decision. She said this would clarify a well-known aspect of formal administrative appeals, insofar as until a decision has been finalized the issue is not ripe for review by a trier-of-fact, which begins with the Executive Director level and ultimately proceeds to Superior Court. Thus, an eligible participant may appeal any final adverse decision made on behalf of the Panel.

She said subsection (b) as revised, would explain there are two levels of appeal: the Executive Director’s determination and then the Panel’s. She said both are formal appeals. She said this revision would clarify that the appellant must submit a statement setting forth the issues and facts in dispute because otherwise, it would be impossible for the Executive Director to reach a determination. Any documents supporting the appeal must be submitted at the same time. Subsection (b)(2) would require a similar statement at the second level of appeal; and would explain that the Panel has authority to swear in a witness for the purpose of accepting testimony, if it proceeds to a hearing at this level of the appeal.

Ms. Reilly explained that, as revised, subsection (b)(2)(B) clarifies that the Panel may, at its discretion, choose to follow certain provisions of the Administrative Procedures Act (APA) at Government Code 11370 et seq. (the portion of the APA that pertains to administrative hearings). She said the designated procedures may apply to the hearing, or pre-hearing proceedings.

She said subsection (b)(2)(C) would be revised to clarify that a “record of hearing” will be made in case the Panel’s ruling is appealed to Superior Court.

She noted that subsection (d) would be modified to make it clear that the Executive Director, at the first level of appeal, would have the same right to extend time periods for good cause as at the second level. She said the proposed amendment would also identify the Code of Civil Procedure section that must be followed for appeal to Superior Court, in the event of an adverse decision at the second level of appeal.

Ms. Reilly asked the Panel if there were any questions on the proposed amendments, overall. There were no questions.

Regarding the proposed repeals, with reference to the Memo to Panel dated May 25, 2006, Ms. Reilly turned to Section 4412.2 on Third Party Fees. She said this regulation was unnecessary because in-kind contributions are identified elsewhere in the funding proposal process, and that the third-party fee proviso is redundant and confusing.

Concerning the proposed repeal of section 4445.1, on Termination Procedures, Ms. Reilly said there is a body of contract law that is well-established on the concept of contract termination. She explained that the regulation restricts the Panel's ability to terminate a contract, beyond what it would otherwise have in contract negotiations. She said parties usually agree to at-will termination at any time in the contract term, upon serving advance written notice of 30 days. (She explained that "at will" means without cause.)

Likewise, she explained, termination with cause should be specified in the contract, with the distinction that this is without advance written notice. Upon enactment of this repeal, she said, staff would negotiate standard business-contract language regarding termination.

Ms. Reilly asked if Panel Members had any questions on this proposed repeal. There were no questions.

Moving on to Section 4446, Disencumbering Unearned Funds, Ms. Reilly explained this is a required function of the ETP fiscal unit. She stated the regulation is unnecessary, and for that reason, it was recommended for repeal. There were no questions from the Panel.

Ms. Reilly reminded the Panel that Section 4450 would include the word "final" before "decision" in subsection (a). She asked the Panel to approve the proposed amendments and repeals. She said they would then be noticed for a 45-day public comment period through the Office of Administrative Law. She said if comments were received, the proposed regulatory actions would be brought back to the Panel for further consideration. Otherwise, the actions would proceed directly to the Office of Administrative Law for review and approval.

Ms. Roberts thanked Ms. Reilly and ETP staff for their work on the proposed actions.

**ACTION:** Mr. Rendon moved and Mr. Gordon seconded the Panel approve the repeal of T.22, C.C.R. Sections 4412.2, 4445.1, and 4446; and, the amendment of T.22, C.C.R. Sections 4413, 4445, and 4450 as set forth herein with reference to the proposed strikeout-and-underline text with the amendment to Section 4450 to insert the word "final".

Motion carried, 4 – 0.

## **IX. GENERAL PUBLIC COMMENT**

Mr. Duscha, Steve Duscha Advisories, thanked and recognized Barry Broad, Acting Chairperson, for his extraordinary efforts on behalf of the Panel budget. He said past attempts at recovering ETP's fully appropriated funds have been unsuccessful. He said Mr.

Broad invested not only testimony and writings, but also his own considerable personal influence, and that he deserved much credit for all of his efforts.

**X. ADJOURNMENT**

ACTION: Mr. Rendon moved and Mr. St. John seconded to adjourn the meeting at 11:35 a.m.

Motion carried, 4 – 0.