



**STATE OF CALIFORNIA
EMPLOYMENT TRAINING PANEL MEETING**

California Environmental Protection Agency

1001 "I" Street

Sierra Hearing Room, 2nd Floor

Sacramento, CA 95814

June 25, 2010

PANEL MEMBERS

Barry Broad
Acting Chair

Greg Campbell
Member

Barton Florence
Member

Janine Montoya
Member

Edward Rendon
Member

Janice Roberts
Acting Vice-Chair

Traci Stevens
Member

Executive Staff

Brian McMahon
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 9:45 a.m.

Members Present

Barry Broad
Janine Montoya
Traci Stevens
Edward Rendon
Janice Roberts
Rodney Wilson

Members Absent

Barton Florence

Executive Staff Present

Brian McMahon, Executive Director
Maureen Reilly, General Counsel

II. AGENDA

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

Motion carried, 6 - 0.

III. MINUTES

ACTION: Ms. Montoya moved and Ms. Roberts seconded the motion that the Panel approve the Minutes from the April 23, 2010 meeting.

Motion carried, 6 - 0.

Mr. Broad announced that Scott Gordon has resigned from the Panel. He expressed his thanks for Mr. Gordon's service on the Panel and said ETP is awaiting a replacement appointment. He welcomed Traci Stevens, Assistant Secretary of Legislation, the Ex Officio Voting Member Designee representing Business, Transportation & Housing.

IV. REPORT OF THE EXECUTIVE DIRECTOR

Brian McMahon, Executive Director, said the Panel will consider projects funded by sources other than ETP's core program dollars, and he is very thankful for the partners that ETP has worked with, in order for these funds to be available to ETP this year. He said there are eight projects for consideration that will be funded under the High-Wage High-Skill (HWST) Initiative; 15% WIA discretionary dollars allocated to ETP by the Labor & Workforce Development Agency. He said there are also five projects under consideration that will be funded through ETP's Interagency Agreement with the California Energy Commission (CEC) under the AB 118 Program. He said AB 118 is directed specifically to projects that target alternative fuel and new vehicle development. Mr. McMahon thanked the contractors and staff for the unusual circumstance in requiring that contracts be executed today, in order to meet the encumbrance deadlines for the special funding sources. He thanked everyone for doing such a great job in getting those contracts completed.

Mr. McMahon said in ETP's current year's budget, revenues have increased slightly from the estimates received from the Employment Development Department (EDD) in February 2010. At this point, it appears we will finish the year with collections of approximately \$63 million, up from the earlier \$59 million projection. He referred to the Fund Status Report in the Panel Packet and said that ETP began the 2009-10 FY with \$67 million, and \$62.2 million is the amount expected that will be available when the June revenues are calculated. He said that prior year contract liabilities continue to increase, which has an offsetting effect on those increased revenues and continue to shift contract encumbrance liability into the next FY.

In February 2010, ETP received an estimate from EDD that reflected approximately \$53 million in collections, continuing the declining trend into the 2010-11 FY. He said we are hopeful that when we receive the annual September formal fund projection from EDD, that there will be a decline in Unemployment Insurance (UI) claim filings, which could slightly increase the amount in collections. He said as we continue to move through the Legislature's review of the ETP budget, there is no room for the transfer that has occurred in most of the last 10 years to support the CalWORKS program. The Governor's budget as introduced, had no transfers to the Department of Social Services and, for the first time, no transfer to the Department of Industrial Relations. ETP's budget progressed through the Subcommittee process with no changes to the Governor's Budget, and through Conference Committee as a non-specific item, but ETP funds are still threatened based on the review of the CalWORKS Budget. Last year, the department was in a similar position where ETP was not listed as a specific Conference Committee item. When the CalWORKS Budget item was settled, it was at that point that a transfer of ETP funds to support the CalWORKS program occurred. He said he believes that what this means for stakeholders, Panel members, and staff is that an accurate projection of where ETP is going to be in the 2010-11 FY, remains unsettled, and most likely will not become clear until there is a final budget package that will specifically identify the appropriation for ETP. He thanked the stakeholders that have worked with ETP this year for their support, and who have informed members of the Budget Subcommittees and Conference Committee, of the impacts of ETP, both in their districts and statewide. He also thanked members of the Panel who have been very active in supporting the ETP budget.

Mr. McMahon said that despite the unsettled budget situation, he wished to provide the Panel and potential applicants an idea, conditioned on ultimate funding approval, as to how ETP will proceed over the next few months relative to its pipeline of new projects. He said staff has established

some basic considerations to use in order to guide everyone through the process. He said that staff is to give priority to applications that are already in ETP's pipeline and are unfunded; some of those applications have now been in the pipeline for close to a year. Staff would like to give some priority, as projects are developed, to Multiple-Employer Contracts that leverage ETP staff and other resources, and disproportionately touch small businesses. He said consideration will be given, to the greatest extent possible, to the date of pre-application submission. If the company is not ready, the pre-application submission date may not be as critical as it would be in some other proposals; however, it is important to recognize that many applicants have been waiting for months for the chance to receive ETP funds.

Mr. McMahon said it is important to not consider 120 projects at a single Panel meeting, and stress staff beyond its ability to do an adequate job. He said such a number would make it difficult for the Panel to give clear consideration of projects; so staff is proposing a segmented approach in handling the pipeline projects. Staff will determine a reasonable number of projects to present to the Panel, likely over a two-to-three month period. He said staff is also proposing that the caps that were in place, when projects of \$500,000 for single-employer and \$750,000 for Multiple-Employer Contractors were last funded, remain in place.

Mr. McMahon said at this point, staff is not recommending any additional restrictions on projects; however, if ETP experiences a large budget transfer, it is likely that additional recommendations to the Panel will be made as to how to proceed both through the pipeline and in new projects. He said ETP is in a unique situation this year as we anticipate funding, since there is a pipeline of over 200 projects that we are committed to work through before opening the application process and beginning development of new applications. He said staff has already begun the development work on Multiple-Employer Contracts in the current pipeline; staff will begin working on applications that have been in the field office; and then will consider single-employer contracts in the pipeline and begin development work. The idea is that as soon as a budget is approved, ETP will have the ability to begin presenting projects. It is anticipated that the next Panel meeting will be held in September, which would be the first meeting where pipeline projects would be considered, and will likely include 40 to 60 projects for consideration. He said as soon as a budget is finalized, ETP's appropriation will be determined. If there are funds that allow moving beyond the pipeline, staff will open up the process for the receipt of new applications. Ideally, the pipeline will be worked through over a two-to-three month period. While those projects in the pipeline are nearing the final development phase, new applications will be moved through the eligibility review process, and we expect a seamless transition between pipeline projects and new projects. November or December will likely be the first meeting where the Panel will begin reviewing new applications, if funding is available.

V. REQUEST MOTION TO DELEGATE IN EVENT OF LOSS OF QUORUM/ACTION

ACTION: Ms. Roberts moved and Ms. Montoya seconded the Delegation of Authority to the Executive Director in consultation with the Chair or Vice Chair, for all matters under consideration.

Motion carried, 6 – 0.

VI. REQUEST MOTION TO DELEGATE IN EVENT FUNDS MUST BE RE-ALLOCATED

Mr. McMahon said this action item is unique to today's meeting and is reflective of the need to have projects fully encumbered within the next few days. He said if one of the projects approved

today declines to move forward into the contract phase, we are asking for delegated authority between the Executive Director and the Chair or Vice Chair, to re-allocate those funds into projects that have been approved today and continue to go through the process.

ACTION: Ms. Roberts moved and Ms. Montoya seconded the Delegation of Authority to the Executive Director in consultation with the Chair or Vice Chair, in the event funds must be re-allocated.

Motion carried, 6 – 0.

VII. REPORT OF GENERAL COUNSEL

Maureen Reilly, General Counsel, said that audience members may access the referenced handouts on the ETP website. The Legislative Update Memo, Fund Status Report, and the document listing the ETP Contracts Funded under Alternative Funding in 2009-10, will be posted on the ETP website under the Panel Packet tab under today's meeting date, and will be posted by Monday.

Ms. Reilly referred to the Delegation Tab in the Panel Packet. She said there were three projects funded at less than \$75,000 by Delegation Order. 1) Atlas Waste Management, Inc. dba API Waste Services; 2) Scaled Composites, L.L.C.; and 3) The Parents of Watts Working with Youths and Adults Inc. She said the three projects were all funded under the High-Wage High-Skill Training (HWST) program.

VIII. REVIEW AND ACTION ON HWST AND AB 118 PROPOSALS

David Guzman, Chief of ETP's Audits & Program Operations Division, provided an overview of the High-Wage High-Skill Training (HWST) program. He said the eight proposals for consideration today are the final proposals to be funded under the HWST program in the 2009-10 FY. The HWST program is administered by ETP in partnership with the Employment Development Department (EDD). He said the first HWST projects were approved for funding in March and April 2010. Those projects, combined with the projects for consideration today, along with the three Delegation Order proposals approved earlier this month, total \$3,588,303. He said the Memo included in the Panel Packet reflects a slightly lower number, due to a last minute adjustment to one of the proposals.

Mr. Guzman said that since the allocation of HWST funds is \$3 million for 2009-10, and because the proposals are almost \$600,000 higher than that amount, this will require approximately an 18% reduction across-the-board equally, for all HWST projects in order to expend no more than the \$3 million in HWST funds. He said the reduction will not apply to the small business Delegation Order proposals at \$75,000 and less. He said this program is funded with Governor's 15% Discretionary Funds under the federal Workforce Investment Act (WIA) as may be augmented by the federal American Recovery and Reinvestment Act (ARRA). The base funds total \$1.6 million of that \$3 million and the ARRA funds cover \$1.4 million of that total. Mr. Guzman said that each of the HWST proposals for consideration today, include at least two jobs. One group of trainees will be funded under the HWST base funds and the other group will be funded under the HWST ARRA funds. The HWST projects are focused on job skills that reach WIA sector initiatives such as

clean/green technology. Their funding categories under WIA may be expanded as long as they are consistent with the WIA goals.

Mr. Guzman said the program profile is much the same as ETP's core program, except for the focus of the curriculum. The curriculums are focused on clean/green job skills and the projects are capped at 300 hours per trainee. Computer-Based Training (CBT) is allowed under this program but the hours are capped at 50% of the total training hours per trainee. Contractor eligibility is based on those WIA Initiative guidelines. The eligibility standards apply to all the participating employers. There is no requirement for out-of-state competition, and private schools and training agencies must satisfy core program standards in terms of eligibility. For trainee eligibility there is no Unemployment Insurance eligibility, as there is with the core program; however, all wages must be reported in California for all trainees. We have added some flexibility under HWST retention. The 70% portfolio model will be available for new-hire retention on a case-by-case basis. The standard retention of 90 consecutive days also applies where appropriate. In non-traditional occupations such as the building trades, the retention period may be modified to 200 hours within 365 days with more than one employer. Post-Retention Wages are the standard ETP minimum wage for retraining and new-hire training and may be modified for high-unemployment areas. The turnover rate will be reported, and there will be information about high-turnover rate within the Memo; however, given the recession and volatility in the economy, there will be no penalty assessed for exceeding the turnover rate. This approach is consistent with turnover rate modifications for critical proposals under the core program. The HWST program features productive lab and reimbursement for productive lab will match current class/lab levels. Employer contribution is the same as in the core program, and generally speaking, the balance of the core program requirements will be applied to the HWST employers and the training.

High-Wage High-Skill Training (HWST) Proposals

Adept Technology, Inc.

Creighton Chan, Manager of the Foster City Regional Office, presented a High-Wage High-Skill Training (HWST) proposal for Adept Technology, Inc. (Adept), in the amount of \$173,550. Adept designs, manufactures, and services intelligent robotics systems. Product lines include industrial robots, configurable linear modules, machine controllers for robot mechanisms and other flexible automation equipment; machine vision systems; and systems and applications software. The amount of this proposal will be reduced by 18% to \$142,532.

Mr. Chan introduced Jeff Baird, Director of Engineering and Rryan Ruiz, Manager of Staffing & Development.

Ms. Roberts asked if the company produces any other products than solar cells through the robotics. Mr. Baird said they are an enabler of automation technology and are involved in medical applications, food packaging and handling, and solar cell energy. Ms. Roberts asked what percentage of your business is solar cell energy. Mr. Baird said it is approximately 30%; that is 30% of our investment and about 16% of our business to date. They are seeing it expand, as the energy market is expanding. Ms. Montoya said it was encouraging to hear that the company may be hiring.

ACTION: Ms. Roberts moved and Ms. Montoya seconded approval of the HWST proposal for Adept in the amount of \$142,532, an 18% reduction in the originally requested amount.

Motion carried, 6 – 0.

Applied Materials, Inc.

Mr. Chan presented a High-Wage High-Skill Training (HWST) proposal for Applied Materials, Inc. (Applied), in the amount of \$498,960. Applied builds nanomanufacturing equipment; machines and tools for the global semiconductor; flat panel display; and solar photovoltaic cell manufacturing industries. “Nanomanufacturing” is the production of ultra-small structures, including the engineering of thin films on substrates. The amount of this proposal will be reduced by 18% to \$411,642.

Mr. Chan introduced Patrick Lamey, Strategic Marketing Business Development and Phil Herrera, representing Herrera & Company.

Ms. Stevens asked, what is unique about the Texas training facility, where you cannot train in California. Mr. Lamey said the way the company evolved and in decisions made by former management, a fairly large part of their manufacturing capability is located in Austin, Texas. He said in order to train people on how to work the machines when they are delivered back to the customers, the person being trained needs hands-on experience with the machines. The machines cost a great deal, so it is better to expose them to the machines while they are being built, than to have to dedicate machines to train in California, as it is very expensive to do it that way. He said it is easier and less expensive to place people in Texas to work with the machines as part of their training. He said there is classroom, online, and hands-on training and it is easier to do it while the machines are being manufactured the first time, than to set up the machines in California and invest millions of dollars for not even our entire workforce that will be working on those machines. So it is due to economics and logistics; these machines are also very large. Ms. Stevens asked if the machines would eventually be placed in California. Mr. Lamey said the employees will, and many of the machines come to California, but 70% of their revenue comes from Asia, and 30% comes from the U.S. and Europe. Mr. Broad asked why that is the case with solar technology. Mr. Lamey referred to the document handed out to the Panel entitled Fab-to-Farm. He said in Germany and China, the governments are being very active in sponsoring solar programs, and Germany was the world leader in both production and consumption of solar panels up until recently; now China is taking the lead. He said solar equipment is now being shipped into China more than anywhere else because they are purchasing it. Mr. Broad asked if the SunFab solar panels are manufactured in California. Mr. Lamey said they manufacture a line of production equipment that produces SunFab solar panels; their customers buy that line, and place it in a specific location. He said there are no lines located in the U.S., which is one of the reasons they started the Fab-to-Farm program, because they learned that selling a solar production line is difficult; the government regulatory systems must agree to it as well as the public utilities. Mr. Broad asked if the utilities are resistant to solar production in California. Mr. Lamey said U.S. utilities do not favor having alternate energy that they do not control, and with 3,000 utility companies in the U.S., it is very tough to make that sale one-by-one. Mr. Lamey said China has only eight utilities and the U.S. has 3,000 and that in China, even if one utility company is resistant, the other seven are in favor.

Ms. Stevens asked why the company is sending California employees to Texas for training, on equipment that is not going to be located in California. Mr. McMahon said the purpose of ETP funding is to build skills of California residents who work in California, and after the training is completed, they will return to work in California and will be retained in the job by a California employer. Mr. Lamey said and the way they are structured they have customer facing engineers; at the customer site the engineers are called customer engineers. Engineers that have higher skills are called either global product engineers or technical product engineers. They tend to be based at headquarters because they also work with the development engineers, the people that design these products. They are the resource that is called upon by the regions that say, I've got this problem, the standard techniques don't work, and can I get somebody with higher skilled, better trained, to help me solve this problem? Sometimes these people are accessible online, telephone, video, and sometimes you put them on airplanes to China; depends on the situation and complexity of difficulty.

Mr. Broad said, so the individuals being trained are not a sales force, but are engineering the application of the technology where it is purchased; in other words, they are traveling to other countries to set up the industrial equipment. Mr. Lamey said yes, that is one of the roles. He said they also have equipment in Santa Clara, California that is used by the research and development engineers. He said the people they are training, keep the equipment running so that development can continue to move forward. He said the machines located in California are not used for training, but used to continue to move the technology forward. He said if you sit still in technology, you are out of business. He said the research people do not repair the machines and keep them running, they have teams of people that keep the equipment running while they are doing the development work.

Ms. Roberts said she did not have a problem with the company training outside of California since companies frequently do. She asked if the company is funded by any workforce entities in Texas, if the instructors are under contract in Texas, and wanted to be sure the company was not receiving double funding. Phil Herrera said they considered applying for funding in Texas, but discovered it was very difficult and therefore are not receiving any funds from workforce entities in Texas, and instructors are not under contract in Texas. Mr. Broad asked if Ms. Roberts would like the motion to include that before the proposal is approved, to verify that the company is not receiving any other funds from any Texas resources. Ms. Roberts said no, but it is something that the Panel needs to consider as ETP funds are limited and Texas has a large amount of funding available.

Ms. Stevens agreed with Mr. Broad's suggestion to verify that the company is not receiving additional funds from Texas before approval of this proposal. Mr. Broad said the amendment would be a motion to approve the proposal, conditioned upon staff determining that the company is not receiving funds from Texas resources.

Ms. Roberts said you have actually checked with them right? And you know that Applied Materials is not under contract with TWC? Mr. Herrera said yes, he is the company's guide for the Texas development; they tried, but he program was very difficult to develop. It is a great program, but nothing like ETP. Ms. Roberts said the Texas funding goes through a community college. Mr. Herrera agreed. Ms. Roberts said you can do a bypass and get monies directly to your company also. Mr. Herrera said correct, but at this stage they do not have anything developed.

ACTION: Mr. Wilson moved and Ms. Roberts seconded approval of the HWST proposal for Applied in the amount of \$411,642, an 18% reduction from the originally requested amount, with the condition that staff verify that Applied is not receiving additional training funds from Texas.

Motion carried, 6 – 0.

Green Structures Association of California, L.L.C.

Mr. Chan presented a High-Wage High-Skill Training (HWST) proposal for Green Structures Association of California, L.L.C. (Green Structures), in the amount of \$152,420. Green Structures is a membership-based organization generally comprised of building professionals. It provides members with education, outreach, and networking in the emerging green/clean industry sector. The amount of this proposal will be reduced by 18% to \$123,425.

Mr. Chan introduced Kellie McMahon, Senior Partner and Carla Tillman, Manager.

Ms. Roberts said this is a great proposal, and asked if the training vendor is Green Science Academy. Ms. McMahon said that is correct. Ms. Roberts asked if the vendor is an internal or external training entity. Ms. McMahon said Green Science Academy is an internal training group.

ACTION: Mr. Rendon moved and Ms. Roberts seconded approval of the HWST proposal for Green Structures in the amount of \$123,425, an 18% reduction from the originally requested amount.

Motion carried, 6 – 0.

West Valley-Mission Community College District

Mr. Chan presented a High-Wage High-Skill Training (HWST) proposal for West Valley-Mission Community College District (West Valley-Mission), in the amount of \$234,000. West Valley-Mission has a special program administered by the District – West Valley College Advanced Transportation Technology and Energy (ATTE) which recruits trainees, conducts the training, and offers placement services. The amount of this proposal will be reduced by 18% to \$191,880.

Mr. Chan introduced Fred Prochaska, Dean of Career Education & Workforce Development and Patricia Call, Project Senior Advisor.

Ms. Roberts said she was very excited to hear that the company was considering hiring former NUMMI employees. She said Enterprise Zone incentives may be available, as they are working closely with former NUMMI employees for displaced workers. She said if the former NUMMI employee falls under an Enterprise Zone in that area, they could possibly qualify for a hiring tax credit.

ACTION: Mr. Rendon moved and Ms. Montoya seconded approval of the HWST proposal for West Valley-Mission in the amount of \$191,880, an 18% reduction from the originally requested amount.

Motion carried, 6 – 0.

EI Camino Community College District, Center for Applied Competitive Technologies (CACT)

Wally Aguilar, Manager of the North Hollywood Regional Office, presented a High-Wage High-Skill Training (HWST) proposal for EI Camino Community College District, Center for Applied Competitive Technologies (EI Camino CACT), in the amount of \$498,140. EI Camino CACT is a two-year community college offering academic and vocational education programs. It provides customized training, workshops, and technical assistance to companies with 500 or fewer employees. The amount of this proposal will be reduced by 18% to \$411,514.

Mr. Aguilar introduced Jose Anaya, Dean of Community Advancement & Business Training Center and Deborah Imonti, ETP Training Coordinator.

There were no questions from the Panel.

ACTION: Mr. Rendon moved and Ms. Roberts seconded approval of the HWST proposal for EI Camino CACT, in the amount of \$411,514, an 18% reduction from the originally requested amount.

Motion carried, 6 – 0.

KS Industries, L.P.

Mr. Aguilar presented a High-Wage High-Skill Training (HWST) proposal for KS Industries, L.P. (KSI), in the amount of \$498,960. KSI provides engineering, fabrication, integrated maintenance, and construction services to a number of industries including upstream oil and gas production, natural gas treating and transportation, refining, cogeneration, heavy industrial, and all types of pipelines. The amount of this proposal will be reduced by 18% to \$410,400.

Mr. Aguilar introduced David Bernal, Training Coordinator and James Bowers, Corporate Director of Safety, Risk Management & Human Resources.

Ms. Roberts asked when the company's last ETP contract was completed. Mr. Bernal said they are finishing the prior ETP contract now, plan to receive all funds, and have trained all of their employees. He said they have seen significant progress from their employees as morale and productivity have increased, and turnover has decreased. Ms. Roberts asked for the dollar amount of their previous proposal. Mr. Bernal answered \$504,000. Ms. Roberts asked, so you are familiar with administering the project? Mr. Bernal said yes. Ms. Roberts asked about the training vendors. Mr. Bernal said they plan to train in-house.

ACTION: Ms. Montoya moved and Ms. Roberts seconded approval of the HWST proposal for KSI in the amount of \$410,400, an 18% reduction from the originally requested amount.

Motion carried, 6 – 0.

Southern California Painting and Drywall Apprenticeship Training Trust

Mr. Aguilar presented a High-Wage High-Skill Training (HWST) proposal for Southern California Painting and Drywall Apprenticeship Training Trust (SCP&D), in the amount of \$234,350. SCP&D

provides training for workers represented by local unions that make up the Painters and Allied Trades District Council 36. It provides training for apprentices, journey level painters, and drywall finishers. The amount of this proposal will be reduced by 18% to \$193,178.

Mr. Aguilar introduced Jesus Fernandez, Training Director and Steve Duscha, representing Duscha Advisories.

Ms. Roberts asked how painting is considered a green business. Mr. Fernandez said painting green is determined by the material used and ensuring it is Volatile Organic Compound (VOC) compliant. He said there is a slight difference between previous materials and new materials as it is a different application process. VOCs are what evaporate and typically coatings or materials add about 25 to 40 percent of what evaporates. Now, with the re-formulation of materials, there is only approximately 5 to 10 percent of VOCs. He said it depends on the material purchased, if you are actually green compliant or not. Ms. Roberts asked if all paint companies could qualify for ETP funds and how this company differs from most paint companies. Mr. Fernandez said the difference is in the formulation of the materials, especially in the industrial field. He said there are macro epoxies or water-born epoxies that are being re-formulated, where the VOCs are so diminished that a different type of spray pump must be used to apply these materials. He said the reduction of the VOCs on the thinners causes the material to dry much faster, and it is a matter of re-training the applicators on how to apply the materials for successful projects. Ms. Roberts asked if painters must still wear dust masks. Mr. Fernandez said yes, they must wear full respirators when applying paint to industrial and for commercial use they continue to use respirators. Ms. Roberts asked if there are still vapors emitted into the air. Mr. Fernandez said yes, but there are not as many.

ACTION: Ms. Montoya moved and Mr. Wilson seconded approval of the HWST proposal for SCP&D in the reduced amount of \$193,178, an 18% reduction from the originally requested amount.

Motion carried, 6 – 0.

America At Work, Inc.

Rosa Hernandez, Manager of the Sacramento Regional Office, presented a High-Wage High-Skill Training (HWST) proposal for America At Work, Inc. (AAW), in the amount of \$200,160. AAW's focus is employment development, counseling, training, and job placement. The company provides employment assessments, evaluations, and job readiness and job coaching, as well as overseeing job placement up to a year after training and initial job placement. The amount of this proposal will be reduced by 18% to \$162,630.

Ms. Hernandez introduced Susan Main, Executive Director and Edward Cornejo, representing PTL Exam Prep.

Mr. Broad asked for a brief overview of the company. Ms. Main said the company was founded in 2004 and is a non-profit organization that serves the regional Sacramento area and employment development. They have a proprietary program called PEP, Personal Employment Plan, which assists in evaluating individuals to determine the needs for continuing education and counseling. They have Memorandum of Understandings' with independent service providers that allow them to offer a great service to the individuals that come in seeking successful job placement. Included in

this program is critical job training and upgrading of skills. She said they work with Veterans; the transitioning of a displaced workforce; emancipated youth; and ex-offenders who are seeking gainful employment. She said they have an ARRA contract with the Department of Rehabilitation for \$500,000 and a Board of Directors that oversees the company that includes respected members of the community. For the past five years, their focus has been in helping individuals transition, re-gain, or retain employment and assisting with removing workforce barriers in reaching those goals.

Ms. Stevens asked about the company's success rate in placement. Ms. Main said they have approximately a 70 to 75 percent success rate in placement. She said they do have some temporary placement, but they have looked at temporary-to-regular hire, which allows the employer to work with the employee in an on-the-job training situation. She said they are quite proud of their success rate, especially in today's economy.

ACTION: Ms. Roberts moved and Ms. Stevens seconded approval of the HWST proposal for AAW in the reduced amount of \$162,630, an 18% reduction from the originally requested amount.

Motion carried, 6 – 0.

Alternative and Renewable Fuel and Vehicle Technology Program (AB 118) Proposals

Mr. Guzman said these five proposals for consideration will be the first to be funded under the Alternative and Renewable Fuel and Vehicle Technology Program (AB 118). The Program was created in 2007 based on the Assembly Bill 118 Legislation. The AB 118 Program will be administered by ETP in partnership with the California Energy Commission (CEC). The overall goal of AB 118 is to transform California's fuel and vehicle types to meet the state's climate change policies. The transition from California's complex petroleum-based transportation market, to one based on a diversity of low-carbon alternative and renewable fuels and clean vehicle technologies, represents an economic development opportunity with the potential for creating new industries and "green collar" jobs. This transition will require a well-trained workforce to produce and distribute new alternative fuels and design, construct, install, operate, service, and maintain new fueling infrastructure and vehicles.

Mr. Guzman said the training program will involve no expenditure of Employment Training Tax funds. This is a state-funded special-tax program independent of CEWTP, which was also in partnership with the CEC with federal funding under the American Recovery and Reinvestment Act (ARRA). The AB 118 appropriation was made to ETP under a multi-year Interagency Agreement effective this FY 2009-10. He said it amounts to \$6 million, of which \$5.4 million is dedicated to training costs with \$600,000 payable for administrative services. All of the proposals will be capped at \$500,000 for single employers and \$750,000 for Multiple-Employer Contracts. Other than those caps, there are no other planned reductions to these proposals.

Under the current AB 118 Guidelines, training is focused on job skills for the design, production, distribution, operation, and maintenance of goods and services that promote the use of alternative or renewable fuel for all forms of vehicle transportation. The CEC defines alternative fuel as any fuel other than gasoline and diesel. Examples of alternative fuels are: bio-diesel, ethanol, methanol, electricity, propane, compressed or liquid natural gas, and hydrogen.

Each of these proposals, in cooperation with the assistance of the CEC, has been reviewed by subject matter experts at the CEC to ensure that ETP meets the goals of AB 118. The curriculum is technical in nature and may include ancillary training in continuous improvement or computer skills, but those skills must be directly related to the AB 118 job skills and the funds will not be used for literacy or safety training. There is a 300-hour cap on a per-trainee basis for this program, and Computer Based Training (CBT) is not allowed under AB 118. Contractor eligibility is based on the requirements of the Legislation and requirements of the AB 118 program. Employers may be private schools and training agencies; however, they must satisfy certification standards under the core program. There is availability for AB 118 training at public agencies, cities, and municipalities, which is very different from the core program. He said there is no requirement for Unemployment Insurance eligibility; however, all payroll must be reported in California. The retention under this program is 90-days of full-time employment, similar to the standard program. However, for non-traditional occupations such as building trades, there may be retention period modifications to 200 hours within 365 days. The wage requirements are the same as in the core program. Turnover rate, as in the High-Wage High-Skills Program, is reported and discussed within the program application process; however, no turnover penalty will be assessed. Employers will be required to justify the need for productive lab training in this program, and reimbursement will be at current class/lab levels. Employer contribution is consistent with the core program, and in all other areas, the core program requirements apply.

Mr. McMahon added that the guidelines provided have been vetted thoroughly by CEC staff, and every project before the Panel today under AB 118 has been reviewed carefully by CEC staff. Mr. Broad asked the Panel to take a few minutes to review the five proposals, and to inform him if they wish to hear individual presentations for each proposal; otherwise, he would entertain a motion to approve all five proposals. There were no requests by the Panel to hear the proposals individually.

ACTION: Ms. Roberts moved and Ms. Montoya seconded the approval of the following five AB 118 proposals: 1) ISE Corporation in the amount of \$453,600; 2) California Manufacturers & Technology Association in the amount of \$559,060; 3) Electric Vehicles International, L.L.C. in the amount of \$494,000; 4) Fillner Construction, Inc. in the amount of \$149,240; and 5) Terex Utilities, Inc. in the amount of \$158,400.

Motion carried, 6 – 0.

IX. ECONOMIC STIMULUS INITIATIVE PHASE 2: PROPOSED RULEMAKING ACTION

Maureen Reilly, General Counsel, referred the Panel to a Memo included in their binders outlining the regulatory actions that staff is proposing today. This is a follow through from the Economic Stimulus Initiative Phase 2, which was presented in concept at the last meeting. These are the rulemaking actions that staff believe are necessary to achieve the goals of the Economic Stimulus Initiative Phase 2, which in general is to encourage the use of our training funds to foster economic development, and in particular, during recessionary times, to recognize economic factors and to encourage successful outcomes for new-hire training placement.

Ms. Reilly said that in general, these regulations just needed some clean-up, and there will be more regulatory actions in the coming fiscal year, if only for that purpose. The definitions at Section 4400 have needed clean-up for quite some time.

Ms. Reilly said that the Panel members received a preview of the ~~strikeout-and-underline~~ text, as it was sent out electronically on Wednesday. For the audience, there are packets in the back of the room if you care to follow along with the ~~strikeout-and-underline~~ text.

Ms. Reilly said there is a proposed adoption, and seven proposed amendments. The adoption is Section 4451. Ms. Reilly said there is a mistake in the Memo; it is not Section 4450, but rather Section 4451. It is an “umbrella” regulation that would establish, as part of our existing regulatory framework, that ETP will fund training projects with alternative source funds. The purpose of this umbrella regulation is also to inform the public that we will be referring to our framework for the core program where those laws further the intent of the alternative source, and that the Panel will issue guidelines. If there are no questions, I’ll proceed forward to the amendments.

Ms. Reilly said, moving on to the seven amendments, two are very minor and technical. One is inserting the word “not” in a listing at Section 4405, a regulation on funding limitations. The other is a technical clarification to a regulation on reimbursing progress payments with final payments with interest at Section 4447.

Moving on, Ms. Reilly said I’d like to skip past Section 4400, which is the definition section, because it is the most complex. Right now, I suggest you turn to Section 4401.5, Employer Eligibility, in your ~~strikeout-and-underline~~ packet. This proposed amendment is designed to improve the outcome of new-hire placements consistent with the statutory definition of eligible employer. The existing regulation sets a 20% cap on incidental placements. Incidental placements are with non-eligible employers coming out of a new-hire training program. The statute says it must be incidental to the overall training project. So we are retaining the cap, but we are trying to build in some case-by-case flexibility. We have been doing this rather consistently, letting the public know that there may be an opportunity for a modification based on the facts and circumstances of a particular training proposal. Ms. Reilly said the amendment would also inform the public that if the Panel were to modify the 20% cap, it could impose stricter or different performance standards as a condition of funding.

Ms. Reilly said, so if there are no questions, I’ll move forward to the next proposed amendment which is Section 4417. The Administrative Procedure Act created Office of Administrative Law (OAL), the oversight agency over rulemaking. OAL prefers this type of approach, a performance-standard approach, rather than a prescriptive standard approach. Mr. McMahon added, and the practical effect of that change around the 20% is to give multiple employer contractors that are working with new-hire populations a little more flexibility in making a job placement. Ms. Reilly said regarding Section 4417, Secure Job, what we are trying to do is clarify that there are three turnover rates. The existing regulation specifies a 20% threshold rate. If the employer crosses that threshold, it goes into turnover rate territory. The Panel may still consider the proposal but, it must impose a penalty and establish a trigger rate. What we are trying to clarify here, is that once you cross over the threshold, the Panel may consider the proposal and may choose not to impose a penalty.

Mr. Broad asked, and why do we need to change that? I’m a little concerned about that one. Ms. Reilly answered, because the Panel actually has gone back-and-forth on this, years ago. Mr. Broad said, but we did go through quite an extensive discussion to get to that regulation. Didn’t we adopt that about four years ago or am I confusing it with something else? Ms. Reilly said it was adopted in 1995 and she wasn’t with the Panel then.

At this point, Steve Duscha, representing Duscha Advisories, asked to speak before the Panel. He said the issue centers around the second paragraph where there is a singular reduction in force or other anomaly; something strange in the previous year's turnover and just because something strange has happened, it doesn't mean you have to put a penalty on the ETP contract. Maybe there was a layoff, maybe there was a terrible economic problem that caused an increase in turnover, but their baseline turnover rate is not excessive, or they may have a very small number of people; 30 people in the company and seven of them quit. Mr. Broad said, so in other words, the argument in favor of doing this would be, they may have had a turnover rate that was significant, and they may have laid off a whole bunch of people due to economic conditions, and then they may be re-hiring a whole bunch of people who need training and so their turnover is really high, but they are in a recovery mode. Mr. Duscha said yes, and in those situations, we provide data to show the last year's turnover was an exception compared to previous years and that's fair. Mr. Broad said okay, thank you.

Ms. Reilly said the other changes recommended for Section 4417 are the types of separations from service counted as turnover. For example, under the existing regulation, you don't count retirement as turnover. Interestingly enough, you count a discharge "for cause", but there is no mention of a discharge "without cause". Discharges for cause may be legitimate, but discharges without cause may, in fact, be an indicator of workplace issues, so you would definitely want to include that in turnover. We are trying to clarify, that discharge without cause counts as turnover. And we are proposing a carve-out for "voluntary quits" that are determined ineligible for UI benefits. There is a process that happens when there is a separation from service where the employer must report to EDD the reason for the separation. If the quit is truly voluntary, the employee is not eligible for UI and that is the kind of circumstance where the employer has no control.

Ms. Reilly said, so now we are moving into Temporary Agency, Section 4427. Here, we started out on somewhat of an ambitious premise: of a third category of trainees, where our training funds might be able to encourage economic development, possibly job creation, based on some anecdotal information we received at one of our "Moving Forward Forums". The anecdotal information was that a lot of employers hire through long-term temporary help that remain on payroll with a temporary agency. The information was that this pattern is typical in the IT field, and sometimes in the Medical Technician field.

So that would be the third category that we envisioned, with a training agency as the eligible employer, for the purpose of retraining long-term assignment professional employees who are on contract with another California employer. It is a fairly complex process. Mr. Broad said yes, the use of long-term temporary help is also an area of significant abuse. Ms. Reilly said staff couldn't establish, even after running some surveys with active and long-term repeat contractors, whether or not there was a demand in the workforce. We are still getting some anecdotal information and we'd like to suggest not moving forward with this amendment, but perhaps allow staff to pilot this concept and see whether or not it has any merit.

Ms. Roberts asked, does it matter what level they are, is it just a temporary agency such as Bolt or Manpower, or is it major companies like contract employees that come and work on a project like Accenture? Ms. Reilly said it would typically be salaried professionals who remain on payroll as permanent, full-time staff. Right now, the regulation allows us to do a retraining single-employer agreement with a temporary agency, but only for their administrative staff. There is no mention of

non-administrative staff, so the original concept was to bring in these salaried professionals. Mr. Broad said I am not sure I'm prepared to even pilot the concept, because this is such a murky area. Some companies are not hiring high-income people to work for them because there is some economic advantage they see for themselves, not for the workers involved. Ms. Roberts said, such as paying benefits. Mr. Broad said yes, such as paying benefits when they can well afford them. So, maybe we can talk about people that earn in the \$250,000 to \$1 million salary range or something like that. In terms of ordinary salary workers, I am not seeing it.

Mr. McMahon said our original concept behind this was to view it as an economic development action that the Panel would take and assume that as companies start to move up out of recession that they begin a hiring process. But this has been difficult to pin down in terms of how it would be structured. Mr. Broad said yes, but it does come down to the policy question of whether that is how we want to spend our money. My own personal feeling is that I'd rather hand it to the employer that is going to have enough faith in the employees to hire them directly, because otherwise what they are saying is, well, we are not quite so sure of ourselves, so maybe we will layoff these people after six months. Mr. Broad said, I'm just not very comfortable with the whole concept, is how I would put it. Ms. Roberts said, and it is going to get worse because more companies are not going to start hiring people full-time with benefits; they are going to use outside agencies and contract employment, at least that is what I've seen. Mr. Broad said correct, and I'm saying that maybe what they decide to do; we don't need to help them along.

Ms. Reilly said we still propose some clarifying revisions to Section 4427 at Subsection (b), and there are two other proposed amendments. We are proposing to increase the cap on placing new-hire trainees as temporary workers from 10% to 20%. Ms. Reilly said from the total trainee population for a new-hire project, we would cap it at 20% like we currently cap incidental placements. This would keep those two caps consistent. For one thing, it is incredibly confusing to keep switching back-and-forth between percentages. It would also clarify that in this area it is not an incidental placement, it is just a limit on temporary agency placement. Mr. Broad said okay, I just have a question, and then we will move on because obviously we will see all this again.

Mr. Broad said, when you talk about a temporary agency, when they are retained, do they have retention at full time? Ms. Reilly said yes, one other change we are recommending is to make it the standard 90-day retention period; or, if the occupation is appropriate, use hours instead of days—basically, follow our standard retention. Mr. Broad said, but I mean in a temporary agency they can maintain temporary employment without pay; in other words you are employed, but if they don't dispatch you, you don't get paid. Ms. Reilly said we have always had the retention requirement regardless whether the cap is 10% or 20%. Mr. Broad asked if this was paid retention, not an employment relationship without pay. Mr. McMahon said, we would be looking at the base wage file to substantiate enough earnings to support the 90-day retention period. Mr. Broad said okay. Mr. McMahon said if there is a small benefit that flows from this amendment it would be to the multiple-employer contractor in giving them somewhat greater flexibility in placement and earnings. Ms. Broad said okay, I'm just being careful.

Ms. Reilly said moving on to Section 4429, which is also an amendment; this is the section on how to designate a county or region as a High-Unemployment Area (HUA). A HUA, (whether it is funded under SET or with standard Employment Training Tax), can have the benefit of the reduced wage requirement of retention. So we are trying to clarify that the state average unemployment rate established by LMID, the Labor Market Information Division of the Employment Development

Department, is the benchmark rate; as compared to the county or region where the employer is located, which is the regional rate. Currently if there is a difference of 25% or more between the state average and the regional average, we'll designate the region as a HUA. However, over the past year we have seen State average unemployment rising above 10%, and that trend is continuing.

We are proposing to recognize that when the State average goes 10% and higher, we should be reducing the differential to 15%. The Planning & Research Unit reviewed LMID data for a period of many years. Looking at the past few years during which the unemployment trend has gone up sharply, they found that changing to a 15% differential was a "sweet spot", making a difference in counties being picked up as HUA. Mr. Broad asked, are you saying 10% unemployment versus 15% unemployment? Or 15% higher than 10% unemployment? Mr. McMahon said, 15% higher than whatever the actual State average of unemployment is. Mr. Broad asked, when it's above 10%? Mr. McMahon said the basic theory behind the calculation is that at a 5% unemployment rate, the percentage change could be 1% increase in an unemployment rate to reach the 25% threshold; at a 12.4% rate, you need a movement of 2-3 percentage points to achieve the 25% greater than the state average number. So that by moving it down to the 15% threshold, we are recognizing the incremental change that occurs when the unemployment rate starts to exceed 10%. Mr. Broad said I understand it, thank you.

Ms. Reilly said there is a chart that Planning & Research prepared and that is going into the rulemaking file. She said the amendment would also build in the case-by-case approach. It would also clarify that when LMID adjusts its monthly figures, either the State average which is the benchmark rate, or the regional average, that we follow those adjusted figures if it favors designation as a HUA, and that has been our long-standing practice.

Ms. Reilly said if there are no questions on those amendments, I would like to go to the definition of Section 4400. What we are proposing to do is basic clean-up of some of these Subsections. At Subsection (b), we are recommending to get rid of a definition for costs of program administration, because it is inaccurate and unnecessary. We then use that Subsection (b) to put in a definition of an alternative funding source, which would be useful now that we are moving into alternative funding source programs. At new Subsection (c), we add a definition of "core program", which is distinct from an alternative funding source. There is a minor clarifying change to Subsection (d), definition of days. We eliminate existing Subsection (d) which is about shortage of workers, because we don't use that concept and haven't for years. We eliminate the definition of the Director at Subsection (e), because that is in statute and we don't need it in the regulations.

Moving forward to Subsection (y), Definition of Training: early on in this Subsection we are amending the minimum number of hours from 40 to eight. I am talking about the minimum and maximum number of hours required for a standard training agreement. We are also clarifying that eight hours is for a small business and 24 hours is for all other employers, consistent with current practice. Also, we are building in the case-by-case ability for the Panel to change the minimum number of hours in a given proposal.

Some of the changes throughout this regulation are designed for clarity. For example, reorganizing some of the Subsections; bringing classroom training into its own Subsection and making minor changes to that definition; bringing laboratory training into its own Subsection; carving out simulated lab from productive lab, and specifically allowing productive lab.

Right now, the regulation only addresses simulated lab. In defining productive lab, we would like to build in parameters to justify payment at the class/lab rate. Those parameters are designed to be as similar to a classroom method of delivery as possible, and to ensure that we are not straying into the obsolete Structured On-Site Training (SOST). SOST didn't work because we could not properly monitor attendance, and were not really sure when instruction was being delivered. Productive laboratory training would be reimbursable at the class/lab rate but only as approved by the Panel on a case-by-case basis, for good cause shown. The regulation then goes on to give some factors to establish good cause, such as the trainer must be present at the site during all hours of training and the trainer's time must be dedicated exclusively to instruction during all hours of training. A third factor, trainee attendance, must be documented as to date, time, and total hours in a form and manner acceptable to ETP. A fourth factor, the training sessions, must be conducted at a site that is open and accessible to ETP monitors consistent with Section 4443.

Moving on to something that was not mentioned in the Memo, we are recommending deletion of existing Subsection (3), which establishes the 80% reimbursement rule for standard reimbursement. About a decade ago, when ETP developed training projects using a line-item budget, there was a standard reimbursement methodology to establish the number of "trainee slots" and the number of hours in a given job number. In reality, a trainee might be sick on a given day and fail to attend class. For a while, this was a bit of problem; the trainee didn't receive 100% of the hours of training that were made available. So we adopted an 80% rule; if the trainee was present for 80% of the hours and if the training was made available for 100% of the hours, the contractor could be reimbursed at the full rate. We have a handful of multiple-employer contractors that still like to use the 80% rule for standard reimbursement. But, it means that we have two separate reimbursement methodologies with separate fiscal systems, separate systems for developing Chart 1, and separate systems for monitoring. For standard reimbursement, we cannot use our online data entry. It has to be monitored with paper attendance rosters, and we must have a separate system for invoicing and progress payments.

Ms. Reilly said ETP is about to move into a major overhaul of our IT platform consistent with the Employment Development Department. In developing our deliverables, we determined it was cost prohibitive to continue having two separate systems. When NINJA goes online, which should happen within two fiscal years, there will be no mechanism for standard reimbursement. It is cost prohibitive to build it into the new system, so we are going to have to phase out the standard reimbursement contracts. Mr. McMahon said it is probably safe to say, that in any given year fewer than 5% of the contractors utilize standard rate structures. Ms. Reilly said, I think there are three-to-five contractors that still want standard reimbursement. System wide, she said, ETP has converted to variable reimbursement. It allows more flexibility; it means contractors paid on a per-trainee basis for actual hours of training.

Ms. Reilly said the new Subsection (3) would be a definition of Advanced Technology. We have been paying at an advanced technology rate for many years, and this just picks up the definition that we have been using from staff guidelines and puts it into regulation. Mr. Broad said, I'm all for that.

Ms. Reilly said we are proposing to clean-up the current definitions for electronic delivery of training. We have videoconference payable at the class/lab rate and we have Computer-Based Training (CBT) which has a separate rate. The CBT rate is restricted to \$8.00 per hour. So again,

the Planning & Research Unit did a lot of online research and some surveys. We are proposing new Subsection (4) for electronic delivery training, or E-Learning. This is instruction delivered by a live trainer through a web-based system, in other words through the Internet. Per our definition, in order to be reimbursed at the class/lab rate, you have to have certain features of classroom delivery, as approved by the Panel on a case-by-case basis. The E-learning must follow a specific and standardized curriculum for each course. That curriculum should designate the amount of time the instructors interact with the trainees.

There are a fixed number of enrolled trainees, just as you would have in a classroom, with established ratios. The designated hours of training with a live instructor will be in "real time" or "close in time". Ms. Roberts said at least in the business side, E-learning and CBT are almost synonymous. When we deliver training, we say it is E-learning but it is computer-based. It is going to be tricky because people think E-learning is CBT. Ms. Reilly said yes, and we are trying to use the new term, E-learning, to distinguish it from CBT and then put in the factors that would justify payment at the class/lab rate. Mr. Broad asked, and the distinction is the interaction with a live instructor versus just responding to a computer program? Ms. Reilly said it is interaction with a live instructor, with specific enrollment for the class, with a specific trainer-to-trainee ratio and designated time periods for interaction. It would have to be real time or close in time, and that would be established in the curriculum.

She said there is one more feature, to further distinguish E-learning class/lab from CBT, which is wages paid during hours of training. In labor law this is called mandatory training, compared to voluntary training. However, it is not specific in ETP statute or regulation; it is a Panel policy. Ms. Reilly clarified that in statute, there is a requirement for in-kind contributions to evidence the employer's commitment to the training project. Typically that comes to us in the form of the commitment to pay wages during training, but that is not always the case. It could be the commitment to buy textbooks or to provide some other type of income.

Ms. Reilly said the proposed new definition in Section 4400 (y), at Subsection (4), would limit E-learning training during work hours with wages paid by the employer on a per-trainee basis. Mr. McMahon said we fully recognize that when we go out for public comment there will be variations on this model that we haven't anticipated, that we will evaluate at that point and bring any refinements to the amendment back to the Panel.

Moving along, still in Section 4400 (y), Ms. Reilly said we are eliminating the old definition of Computer-Based Training (CBT); as cleaned-up, it appears in new Subsection (5). This is training delivered through a computer program to the trainee. There is no requirement for delivery by a live trainer; it doesn't have to be interactive, but it has a reduced reimbursement rate of \$8.00 per hour. We have always required CBT hours to be an established standard number that a trainee would need to complete the course; we don't pay actual hours. So if the trainee takes 10 hours to complete a three-hour course, we are paying for three hours, as recommended by the vendor. We have seen situations with bigger companies where they develop their own CBT training course. So we are requiring that there be a benchmark rate established at the time the course is created.

Mr. Broad asked, when they apply for money from ETP, do they already have this proprietary training program in hand, typically? Ms. Reilly said I don't know that there is necessarily a link between the development of a program and our acknowledging the hours of training delivery using that program. Ms. Roberts said it doesn't mean that because we develop a program that we are

going to use it. There are many times that we develop programs that just sit on the shelf because we don't have the instructor, or we do not have the time or money to do it. So sometimes we develop programs and pay hundreds of thousands of dollars to develop them, and we never use them. I know it is unfortunate, but that is the case with many companies. Mr. Broad said okay, but if they are developing a product like a CBT product where there is no instructor, there is just something about that, that seems like a profit center that someone has developed for themselves. They could keep coming back and training new groups of people with the same thing, getting paid over-and-over again. Ms. Reilly said that is true; regardless of who developed it, it can be used over-and-over again, which is why we are paying for the standard number of hours of training at a reduced rate. Mr. Broad asked, so you believe that we have in our current program all we need to do to make sure nobody is scheming the system? Do you think that there is some computer-based program that doesn't cost very much to produce but that we pay whatever many dollars per hour over-and-over again? Mr. McMahon said, I think Steve Duscha has the definitive response for us here.

Mr. Duscha said CBT is a lousy deal from this side of the podium. It is \$8.00 per hour and nobody does many hours; nobody uses it much. You are not giving away anything. It is \$8.00 per hour versus \$20.00. Ms. Roberts said, I can tell you how we use it if you are interested; if someone is on modified duty and we need to give them something to do, we put in a program and they sit in front of a computer and learn something new, but we do not use it in blanket training. Mr. Broad asked, because it is not that useful? Ms. Roberts said that is correct. Ms. Roberts said, so we have the existing protections, and as Mr. McMahon just said, we state in the contract the limit on the percentage of CBT along with other methods of delivery during development. What exists now is that we don't make the employer set a benchmarked number of hours when it does develop its own program. So we'd like to patch that hole in this proposed regulation.

Ms. Reilly said, moving on to Subsection (y) (7), we are setting forth the trainer-to-trainee ratios. So, this is to clarify that class/lab retraining is a ratio of one trainer to 20 trainees; the class/lab new-hire ratio is one trainer to 15 trainees. In productive lab, we are recommending, and have been using in recent proposals under alternative funding sources, a one-to-ten ratio for Advanced Training (AT), for both retraining and new-hires.

Finally, at 4400 Subsection (y) (7) and (8), we are getting rid of SOST as a definition because this program is obsolete. We are also eliminating Section 4400 (ff) and (gg) because those terms are now defined in Subsection (y).

Mr. Broad asked if the Panel had any questions. There were no questions by the Panel. Mr. McMahon said, Ms. Reilly I think we need to make it clear that the productive lab portion of the package would not go into immediate effect. Ms. Reilly said yes. She said there is one more minor thing: we'd like to pull down from productive lab the same specific requirement on trainee attendance for the new definition of E-Learning at Section 4400 (y) (4). So what I'm going to suggest is, although you all have the ~~strikeout-and-underline~~ text in front of you, when it comes to Section 4400 at 4400 (y) (4), that we add a phrase to the language that will go out for public comment, and the phrase reads: "trainee attendance must be documented as to date, time, and total hours in a form and manner acceptable to ETP."

With that modification, we are recommending that the Panel approve these proposed rulemaking actions. The one adoption, Section 4451, and the seven proposed amendments are for staff to put

out for notice-and-comment and proceed through the rulemaking process. Mr. Broad said, but with the exception of the pilot program regarding temporary, which is removed correct? Ms. Reilly said correct, and that wasn't a rulemaking action.

Mr. Broad asked, do we have a motion for the one adoption and the other seven amendments to go out for comment? Ms. Stevens asked are we separating out item #5, Section 4427? Is that included in this motion? Ms. Reilly said what we are proposing is to move forward with the amendments that you see in the strikeout-and-underline text. We did not include the salaried professional worker retraining at a temporary agency as a single employer; we didn't even include that in the strikeout-and-underline text. It was just in concept form, on the Panel Memo.

Mr. Broad asked the Panel, do I hear a motion to approve?

ACTION: Ms. Roberts moved and Ms. Stevens seconded the motion to approve the following proposed rulemaking actions: adopt Section 4451 and amend Sections 4400, 4401.5, 4417, 4427, 4429, 4405 and 4447.

Motion carried, 6 – 0.

X. PUBLIC COMMENTS

Steve Duscha, representing Duscha Advisories, said staff did a great job on the regulations and incorporated some public comment from the past, by contractors.

XI. PUBLIC MEETING ADJOURNS

Mr. Broad adjourned the meeting at 12:47 p.m.