STATE OF CALIFORNIA
EMPLOYMENT TRAINING PANEL MEETING
California Environmental Protection Agency
1001 “I” Street
Coastal Hearing Room, 2nd Floor
Sacramento, CA 95814
October 29, 2010

PANEL MEMBERS

Barry Broad
Acting Chair

Greg Campbell
Member

Sonia Fernandez
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

Janice Roberts, Acting Chair, called the public Panel meeting to order at 10:15 a.m.

II. REPORT OF THE EXECUTIVE DIRECTOR (Presented Out-of-Order)

Brian McMahon, Executive Director, said it is both surprising and gratifying to see so many people in attendance who is interested in the direction of the ETP program. He said everyone wishing to do so, will have an opportunity to comment on the recommendations that will be made to the Panel to allocate decreased funds that are available for the core program.

Mr. McMahon said a Legislative Update Memo was distributed to the Panel that identifies workforce legislation that related to ETP this year. He said AB 2058 was approved by Assembly Member Block and is relevant since it will facilitate the process of qualifying new-hire trainees who are currently receiving Unemployment Insurance benefits for eligibility to participate in training programs in both Workforce Investment Act funded programs as well as ETP. It is specifically designed to make that a much more automatic process.

III. REPORT OF GENERAL COUNSEL

Maureen Reilly, General Counsel, said she would like to move directly to the next item on the Agenda, the final revisions to the rulemaking package that the Panel had approved in June 2010 and that went out for a 45-day public comment period.

IV. CONSIDERATION OF PUBLIC COMMENTS AND ACTION ON REVISIONS TO PROPOSED REGULATION AMENDMENTS

Ms. Reilly said in the stage we are at now, staff has received three public comments. In response, and anticipating that the Panel would like to move these to the Office of Administrative Law as quickly as possible, staff noticed proposed revisions for the required 15-day additional notice period. Panel Members have the Memo in front of them, and there are also handouts at the back of the room that include the full text of the public comments. She said the Memo has been posted on the ETP website since October 22.

Ms. Reilly said the primary comment that staff received was on the definition of training at Section 4400, in particular, the definition of E-Learning at Section 4400(y)(4). She said the following three stakeholders submitted comments: 1) Saisoft, Inc.; 2) TechAmerica; and 3) The Santa Ana Chamber of Commerce. The specific language that the commenters asked us to rescind was a requirement that wages be paid during hours of training, where training was delivered electronically and would qualify for the class/lab rate.

For the class/lab rate, she said, the E-Learning methodology must be distinguished from CBT. It was for that reason that the original amendment proposed to make wages paid during hours of training a requirement. The objections by the commenters principally had to do with training for exempt professionals or management who wish to take voluntary non-paid training outside of their regular work schedules.

The commenters also said that much of the E-Learning, is directed toward certain industry sectors such as IT where there is a need to keep current with the newest developments that really couldn't be satisfied within normal work hours anyway, because these professionals and managers are so busy.

The comments from Saisoft were very similar to TechAmerica and Santa Ana Chamber of Commerce. Although, the Santa Ana Chamber conducted a survey showing that most of the students said they would have a much harder time attending class if it was during their regular work hours, and that they actually preferred to attend class on a Saturday or after work.

In response to those comments, and also some policy considerations, staff is recommending that we pull the "wages paid" requirement from the definition of E-Learning. The policy considerations are outlined on Page 3 of the Memo. For one thing, this would be the only place where the regulations require wages paid during hours of training, even though this has always been an underlying assumption for the Panel. Staff was concerned that this could actually create some confusion.

Ms. Reilly said that another policy issue is that we now realize there is a fairly widespread trainee population, where it is customary to not receive wages during hours of training. In other words, if training is typically voluntary as delivered electronically, we want to look into that, because the Panel has relied on "wages paid" to meet the employer in-kind contribution requirements. The Panel has established regulations to implement the statutory requirement for in-kind contributions: 100% of the value of training for single-employers and 50% of value for participating employers in a MEC. If wages are not paid during hours of training, staff must consider how to evaluate in-kind contributions in order to satisfy this requirement. For all of those reasons, staff is recommending that "wages paid" be pulled in the proposed definition of E-Learning.

Ms. Reilly said there were other minor clarifying changes in the definitions at Section 4400, and also in three other sections: 1) Section 4401.5, Eligible Employer; 2) Section 4427, Temporary Agency; and 3) Section 4429, High Unemployment Area. In each instance, the revisions were clarifying in nature and sufficiently related to the text as originally noticed so that the public could have anticipated them. Staff did not receive any public comments during the additional 15-day comment period, on any of the proposed revisions.

Ms. Reilly asked the Panel if there were any questions.

Ms. Roberts said she always believed that IT training or computer-based training included a lot of blended learning. She said, correct me if I'm wrong, but I believe there is always some sort of instructor-led portion of that E-Learning training module, so I'm a little confused. Ms. Reilly said there is typically instructor-led that of course is electronic, but what we did with this definition is, the old regulation used “video conference” as a definition to distinguish electronic delivery methodology with instructor interaction from CBT where there was no interaction. Staff somewhat broadened the definition of video conference to accept other methods of electronic delivery, with interaction; and included class/lab ratios to further justify the class/lab rate. Ms. Roberts thanked Ms. Reilly for the explanation.

Barry Broad arrived at 10:22 a.m.

Ms. Reilly said if there no other Panel questions, I would like to ask the Panel to take action as recommended in the Memo. Mr. Broad asked the Panel if everyone has had a chance to review it. Ms. Roberts pointed out that a roll call had not yet been taken in order to establish a quorum. Mr. Broad requested a roll call.

V. ROLL CALL (Presented Out-of-Order)

Present
Barry Broad
Sonia Fernandez
Janine Montoya
Edward Rendon
Janice Roberts
Traci Stevens

Absent
Greg Campbell
Bart Florence

A quorum was established as six Panel members were present.

ACTION: Mr. Rendon moved and Ms. Roberts seconded that staff recommend taking action to approve these revisions, and submit the full rulemaking package to the Office of Administrative Law for review. In so doing, the Panel accepts the public comments, and agrees to revise the proposed definition of E-Learning at Section 4400(y)(4) to delete a requirement that wages must be paid during hours of training and clarify the proposed amendments to Section 4400(y), Section 4401.5, Section 4427, and Section 4429.

Motion carried, 6 – 0.

Mr. Broad said he would now address the plan of action for funding priorities in the upcoming year. For the first time in several years, no ETF funds were appropriated to the Department of Social Services. On the other hand, ETP is suffering mightily from the effects of a long-term and severe recession. The amount of funds that ETP will receive is greatly reduced by the interplay with the unemployment system, and employers who are negative reserve employers, since there is so much unemployment and so many more employers that are in a negative reserve status. In part, it is a reflection of the fact that ETP is quite popular and well respected among policy makers and legislators. We have had tremendous support from the Schwarzenegger administration; in particular, Victoria Bradshaw of the Secretary of the Labor & Workforce Development Agency, who has continuously advocated for ETP.

Mr. McMahon thanked Panel members and stakeholders that were engaged in advocating for ETP funding; and he noted his belief that it was an important factor in retaining ETP's appropriation.

Mr. McMahon said he would now provide an overview of the Funding Priorities Memo. At the staff level, we discussed recommendations for allocating the very limited funding that we have available in the program, and a great deal of staff time went into evaluating different options to propose to the Panel. The goal was to recognize that we have a pipeline of 2009 projects that have been sitting for a year in the queue, to treat them on a priority basis, and also to fund those projects at a level that makes funding available for some degree of new contracting in the 2010-11 Fiscal Year. He thanked all of the staff who put so much time and energy into quantifying the pipeline, and looking at options for developing caps.

Mr. McMahon said he would characterize and discuss the 2009 pipeline, discuss funding caps, reservations of funding, and prioritization of projects that will be submitted in 2010-11. He said staff will also discuss additional development factors; some will apply to both the pipeline and 2010 new applications, and some will apply only to new proposals that will come to the Panel when we open the application process. He said he would then go through a set of specific recommendations for the Panel to consider, and then receive public comment on those recommendations. As there were so many individuals in attendance, he asked that everyone limit their public comments to a few minutes and make them as concise as possible. After the Panel has received public comments, the Panel will consider taking action on the final set of recommendations.

Mr. McMahon said to begin with, the funding picture is definitely one of both good and bad news. The good news is that ETP received a very strong appropriation of $52.4 million. The bad news is that the Employment Training Tax fund will not generate anything close to that appropriation level. Staff has proposed for the Panel's review a contributions chart that shows the history of the declining revenues in the program. The most dramatic decline is from the 2009-10 FY to the 2010-11 FY. It declines so much, that it essentially offsets what is saved in not transferring monies to the Department of Social Services. As Chairman Broad indicated, the sharp decline in collections is due to the number of taxable wages that are no longer subject to the Employment Training Tax. When employers move into a negative reserve status with their Unemployment Insurance account, there is a provision in the Unemployment Insurance Code that exempts them from paying the Employment Training Tax. At this point, we would estimate in the 2010-11 budget year that we are losing approximately $60 to $65 million due to that negative reserve waiver.

The Fund Status Report reflects that ETP had a starting figure of $42,381,000, based on the estimate received from EDD collections in September. We've had the opportunity now, to look at three months of collections and EDD's estimate is close to the estimation. We are $270,000 above the estimate, which is not much on an annualized basis. For the first time, there is no transfer of funds to the Department of Social Services or the Department of Industrial Relations. EDD's Tax Collections Branch receives $1.5 million for collecting our tax, which has decreased significantly from prior years. The State Controller is charging ETP $409,000 for our share of the cost of implementing a comprehensive new payroll system. The $5 million in disencumbered funds has historically been higher than that. It is lower this year because declining revenues put ETP in a position where we were pulling funds from projects and managing the disencumbrance or encumbrance levels far more closely. This results in approximately $45.5 million for program operations. Administrative costs were reduced from $9.1 million in the last few years to $8.7 million. The marketing and research cost of $125,000 has also been reduced, and at this point we will not have any external marketing support to the program in the current budget year. There is a pro-rata charge levied by the Department of Finance against special fund agencies for several administrative costs provided by the State Controller's Office, Department of Personnel Administration, and General Services. This figure tends to fluctuate greatly from year-to-year and that is the best estimate we have at this point. Also, a large charge this year is prior years' contract liability of $26 million. This amount remains high largely due to declining revenues which have pushed liability forward. That is an estimate that may swing slightly upward or downward, but we are spending a great deal of effort to make that estimate as accurate as possible. When you look at the bottom line of the Fund Status Report, there is approximately $9 million available to the program. We use our incremental encumbrance approach which allows us to approve a contract value of approximately $25 million, and this is what we will be working with in the current year. That is the level that will fund 2009 pipeline projects as well as any new proposals that come to the Panel. He said ETP has continuing authority to spend monies from the California Energy Commission under their Alternative Fuels New Vehicle Technology Program, which is separate from cap allocations and timelines. We are still open to receiving applications for the Alternative Fuels Program, although we are close to maximizing demand in that program.

Mr. McMahon said the 2009 pipeline of projects consist of close to 200 proposals that came in to ETP before we closed the application process in November 2009. Staff has spent the last year communicating and working with those applicants, assessing their continued interest in proceeding through the program, quantifying those projects, and determining whether they are priority or non-priority. Given their long reliance on the possibility of ETP funding, staff will propose to the Panel today that all of those projects, regardless of the type of proposal, be funded subject to the caps that I will discuss shortly.

Based on staff's analysis of the pipeline, there is a demand of approximately $29 million before the application of caps. We applied the cap structure and discounted slightly for projects that typically drop out during the development phase. That leaves us about $16.4 million in demand in the pipeline projects. As you can see, that does not leave much left for new proposals in the 2010-11 budget year. I'll later explain this in further detail, but the Labor & Workforce Development Agency (LWDA) has approved an allocation of Workforce Investment Act 15% Governor's Discretionary Funds that would be available to the program in the 2010-11 FY. The request has moved from LWDA to the Department of Finance and from there it will move on to the Legislature. The approved amount by LWDA was $9.5 million in additional funds. He said we already have $1.1 million that was included in our budget, so it could conceivably give us $10.6 million in 15% monies. I will condition that on the fact that it still must go through the Department of Finance review where it could be downsized or redirected, as well as Legislative review. We hope that process will conclude in late December 2010 and those funds would be available to us beginning in January 2011.

One of the associated issues with the 2009 pipeline relates to the minimum wage issue. Those are projects that we would have liked to have been able to move through the pipeline in 2010 and keep them subject to the wage calculation based on 2010 numbers. It is likely that many of those projects will be approved at the December 8 meeting, but many may extend over to January 2011.

One of the staff's recommendations is that those projects that move over into January be grandfathered into the 2010 wage table, since they really have been available for funding through the 2010 year. In doing that analysis, the issue of the ETP wage table came up, and we continued to see an increase in the state average hourly wage, despite the fact that layoffs have been occurring. Part of that is influenced by the fact that most of the unemployed are at the lower wage levels, and some of the ultra-high wage earners continue to keep the pool high. Staff will continue discussions with the Labor Market Information Division (LMID) over the next few months to consider alternative options for calculating ETP minimum wages. We will also have input from the public to give us their advice and guidance on the wage structure.

In an effort to fund the 2009 pipeline applications, staff proposes using the existing Delegation Order on a flow basis, beginning immediately. We are proposing to the Panel, that we continue to begin approving 2009 small business fast-track proposals downsized by caps immediately, so that after the conclusion of this meeting and the adoption of that recommendation, we hope to begin approving pipeline projects as early as next week.

The funding cap recommendations require distributing available funds among various categories. ETP will continue to work with the pipeline projects, and with new proposals coming to the Panel in the 2010-11 FY. He said it is important for everyone to understand that the Panel's goal with these funds is to maximize the impact of ETP dollars to the greatest extent possible and to realize that impact in the shortest term possible. I would encourage projects that come to the Panel to be right-sized, and ready to go so there are no placeholder proposals that sit for a period of time before enrollments occur.

Mr. Broad said he wanted to reiterate that point to the consultants. He said consultants must submit proposals that are ready to go because with decreased funds, we want to select the highest quality projects that come in. Staff is going to be empowered to say that if a project is not ready to go, it will not be considered. He said there may be a tendency to submit proposals quickly since there is limited funding. Consultants are going to have to show self discipline because if staff receives projects that require an enormous amount of time to get them ready, then we will instruct staff to return the project and move on to one that is ready to go. He said I realize this will put much pressure on the consultant community, and I regret that we have to do that. He said he realizes that at times consultants are waiting on information from those they are preparing the project for, but we really cannot function that way this time. ETP is in a difficult period right now, and we all must collectively pull together and make it work within the constraints we have.

Mr. McMahon said what that also means is that when you are in the preliminary application determination phase, you must respond quickly to the information requests from the Application Review Unit when your project is moved to the ETP regional offices for development. The approach we have taken with the 2010-11 projects is to create some priorities based on the greatest impact on the economy. The highest priority will go to projects that have a job creation impact or that demonstrate investment in the California economy. There is a category of projects called "Critical Proposals" that come from the State's primary economic development entity, and those projects will receive highest priority. We are also going to recognize a category of projects that are predominantly strongly related to job creation that may not come through the Governor's Office of Economic Development referral pipeline. The proposal narrative must be absolutely and clearly related to some type of business expansion or a new location. There could be a small amount of incidental retraining, but these are projects that are clearly explainable as a project linked to job creation.

Staff will prioritize small business as 96% of the State's employers have fewer than 50 employees. Most of the new job creation that is going to occur in California over the next few years will be within small businesses. Those projects will have priority, and then staff will move to Multiple-Employer Contracts (MECs) and Joint Apprenticeship Training Committees (JATCs). After that, single-employer contracts from priority industries will be considered. The next category would be non-priority single-employer contracts, but it is highly unlikely that there would be sufficient funds available to move down that low in the priority list. He said we are proposing to reserve $2 million in core program funding for critical proposals and other job expansion projects and then allocate $1.5 million for small business.

In terms of job expansion projects, those will be made at the discretion of ETP, based on the narrative that is stated in the proposal, especially relative to the job creation potential. Included in the recommendation document now, there is a block that identifies the proposed caps for 2009 pipeline projects. Critical Proposals are capped at $300,000, and currently there is only one Critical Proposal in the 2009 pipeline. Small businesses and fast track projects would be capped at $50,000 each; single-employer priority industry projects would be capped at $250,000; and non-priority single-employer agreements would be capped at $250,000. MECs would have a $400,000 cap, and first time MECs would have the standard $200,000 cap. We are proposing to fund all categories of projects in the 2009 pipeline but with the recommended caps. The funding totals provided are based on the application of those caps.

Mr. Broad said the Panel sees a number of proposals from very large companies that are capable of financing much of this training. It might behoove some of these companies to consider coming to the Panel and asking for a subsidy, in effect, of 5% or 10% of the cost of the training. He said proposals do not always have to be for the maximum allocation, especially for repeat single-employer contracts. He said some of the larger companies must show some self restraint, since there are other companies trying to receive funding that are newer, struggling, first time applicants, or trying to expand in a difficult economy. He said he will be considering the project amount requested in future proposals, and it should not be the maximum amount every time. He asked consultants to discuss with the company ahead of time, how much funding they really require, and whether they could afford to provide some of the training at their own cost, or to consider requesting a lesser amount. He said we are in a very tight period right now and are trying to allocate too little funding across too many proposals.

Ms. Roberts said for those companies that source dollars outside of California, ETP is very generous in comparison to other states. She said many other states cap funding at $50,000 regardless of the size of the company, how many people are being training, and some even cap at $25,000 for a two-year contract. She said some of the most lucrative states such as Texas, cap at $500,000, based on the number of employees you have. She said ETP funds may not look as generous as in the past, but putting it into perspective, it is still very competitive with what other states are doing. Mr. Broad said that is a good point.

Mr. McMahon said, continuing on that theme of likely demand that will far exceed the available funds that we have in the current year, staff is proposing a sequenced approach to receiving applications. He said staff plans to open the application process to MECs on December 1, and there will be a 45-day period for submission of those proposals. Staff anticipates opening the application process in mid-January for the first group of projects coming in under WIA 15% monies, should we receive a sufficient amount. We would propose that those funds be allocated for a healthcare initiative similar to last year. In this case, it would be for both non-profit and for-profit healthcare organizations. We would not limit the projects to nursing occupations only, but would consider other technical jobs that have preceptor-based learning components. There will likely be a 30-day application cycle for those projects. In terms of critical proposals, job expansion projects, and small business projects, we plan to open the application process on December 1 for those proposals as well, and have a continuous funding cycle as long as there are sufficient funds. Staff is working to construct an online application process that is completely separate for critical proposals and small businesses that would run initially through ETP's Economic Development Unit. The MECs in this first sequence would go through the standard online application process.

Next, Mr. McMahon addressed the reserves and project caps for new proposals that would come in for the 2010-11 fiscal year. We are capped at $300,000 for Critical Proposals with an allocation of $2 million. Small business would be capped at $50,000 with an allocation of $1.5 million. MECs would have the $400,000 cap. It is expected that if we are allocating $2 million for Critical Proposals including job creation, there would be approximately $6 million reserved for MECs. Single-employer priority industry would be capped at $250,000 and non-priority industry at $200,000. Staff is proposing to open applications for a first MEC cycle, and in mid-to-late February staff would re-evaluate the capacity to fund a single-employer contract cycle. This would be based on whether or not there were any funds left over in core dollars after the MEC round, the level of Workforce Investment Act 15% funds that are allocated, and whether or not fund collections suddenly spike upward. After that assessment occurs, a decision will be made as to whether there is sufficient funding to go forward with a single-employer round through the standard online process and it would initially be limited to priority industries only.

Mr. McMahon said, in the development phase of these projects, there are some factors that would be applied both to the finalization of the 2009 pipeline projects as well as new proposals coming into the 2010-11 FY. The first centers on MEC support costs; ETP has been defaulting to the highest regulatory levels possible over the last few years with 8% for training incumbent workers and 12% for training new-hires. We are not necessarily going to default to that highest level, and it will be part of the development process for the applicant to explain to us how they are incurring those types of costs. The regulatory language indicates that when you are developing a new-hire project, you should be investing time and energy in the outreach process, the assessment of potential trainees, screening of trainees, and provide some placement assistance. That is what was originally envisioned when ETP added an additional 12% for MECs. We are going to want to see justification for the level of support costs which we'll be asking for.

Mr. Broad said in terms of repeat contractors, whether they are a participating employer within a MEC or JATC for instance, or a single-employer, we will default to the highest permitted contribution percentage included in our current regulation. That would mean that for a first time applicant, a substantial contribution that goes to 30%, and for a subsequent applicant, a substantial contribution that will go to 50%. It is about the issue of trying to get these funds out as equitably as possible, to as many employers as possible, and to have the broadest impact that we can absolutely achieve. Also, there were projects that were downsized in previous funding rounds where we had indicated that if there were sufficient funds, we would amend more dollars into those projects. We will be proposing to the Panel that no amendments to previously approved projects occur. Those types of proposals or applicants would be invited to participate in a single-employer contract round should that occur, likely in the beginning of the fourth quarter of this year.

Mr. McMahon said with MECs, we are going to be firm in terms of demonstrating employer demand in those projects for a firm commitment from identified employers up to 50% of funding requested when the proposals come in. Mr. Broad said he would like to hear public comment on MEC projects as they generate some of the best and worst proposals. We have always struggled with the fact that the list of potential employers is frequently fictional or at least highly hopeful. He said what would be consistent with ETP's current regulation is that we require a letter of intent from each employer who is proposed to participate in the project. If you want to return for an amendment to add more employers, you could do that. Mr. McMahon said they could return for an amendment up to the capped amount. Mr. Broad agreed and said that MEC projects tie up a lot of money and frequently those multi-employer contracts do not pan out. So we are encumbering money that gets disencumbered later, and while we can make projections and kind of borrow from encumbered funds, it is forcing us to speculate about performance while still tying up significant amounts of money. If we speculate wrong, and there is higher performance and we have borrowed that money, then we could run out of money. So it is much easier if in MEC proposals that we get firm commitments from employers willing to write a letter stating that they intend to participate in this program, and they understand what it involves. Mr. Broad said he would like to hear public comment on this subject. He said it has always been an issue, and we determined some time ago that the list of employers is not always factual.

Mr. McMahon said staff will continue with the existing moratoriums that are currently identified in the 2009-10 Strategic Plan. He said there are additional factors that will be considered in developing 2010-11 MEC projects. He said there is approximately $6 million available for MECs and $15 million in demand for those funds. Staff is proposing, based on statutes and regulations, and input from staff and Panel members, a prioritization approach to funding those proposals. Some of the factors for consideration will include projects that primarily focus on employers in high unemployment areas, small businesses or priority industries, or projects that include a new-hire component. An area that we want to move to the lowest priority among MECs are projects coming from technical, vocational, career, for-profit, or educational institutions where trainees are required to secure a financial aid package prior to the beginning of course of instruction, and then ETP dollars come in later and offset some of the debt or other financial assistance that the trainee had to secure. Those will get a low priority in terms of MEC evaluation.

Mr. McMahon said he would review the specific funding recommendations then begin taking public comment on the specific recommendations. Ms. Roberts asked about the $26 million figure in the prior year's contract liability on the Fund Status Report and asked which years were included in this amount. Mr. McMahon said that figure includes all active projects in the training phase that we are projecting a financial obligation to. Ms. Roberts asked for further clarification. Mr. McMahon said it is because of the incremental encumbrance process. He said that while the incremental encumbrance process allows ETP the ability to leverage funds and have the broadest impact, it also creates this continuing obligation of fund commitments.

Mr. McMahon said staff recommends the following for core program funding:

1) Adopt funding caps for 2009 pipeline applicants.

2) Adopt funding caps and allocations for new applications.

3) Begin to review and approve 2009 pipeline applications immediately, under the Delegation Order process for small business and other fast-track proposals.

4) Continue to review small business and critical proposals on a flow basis.

5) Begin to review all other 2009 pipeline applications at the next Panel meeting (December 8, 2010).

6) Adopt a sequenced submission timeline for new applications beginning December 1.

7) Require justification for support costs for all MECs in the 2009 pipeline and new applications.

8) Apply the highest levels of substantial contribution to the 2009 pipeline and new applications.

9) Assign the lowest funding priority to for-profit training schools and impose a moratorium on first-time training agencies for new applications.

10) Grandfather the FY 2009 ETP minimum wage for 2009 pipeline applicants.

11) Continue existing funding restrictions (moratoriums) in the Strategic Plan.

Mr. McMahon said staff will include all funding priorities and related actions approved today in the Strategic Plan for FY 2010-11, to be presented to the Panel at its next meeting.

In addition, staff recommends the following for alternate-source funds:

12) Fund 2009 pipeline applicants in the healthcare sector with WIA 15% funds.

13) Implement a healthcare initiative for new applications with WIA 15% funds.

14) Augment core program funding with alternate-source funding (including WIA 15% and AB 118) for new applications as deemed eligible.

V. PUBLIC COMMENT

Conrad Vernon, President & CEO, Greenbridge International LLC

Mr. Vernon addressed multiple-employer contracts. He said their company's experience in this particular market, has been that the money will typically go to the educational system such as a community colleges. He said there is an intrinsic conflict of interest for the community college to keep the money within the community college to provide training that may or may not be specific enough to bring a good outcome for the manufacturer as a whole. It is diluted training in his experience. He asked the Panel to consider reducing the cap for MECs and to move that money into the small business category. He said approximately 85% of all manufacturers have between

30 and 300 employees. He said he agreed with Chairman Broad, that the large manufacturers can afford it, but the small ones are struggling and having a difficult time.

He suggested increasing the small business cap from $50,000 to $100,000; reducing the MEC cap to $300,000, and to keep at the same level of priority, single-employer contracts and multiple-employer contracts. He said his experience has been that the training for MECs does not achieve an outcome that helps the manufacturer to be more competitive in the workplace, to keep the manufacturer in California, drive more revenue, prevent worker dislocation, or provide opportunity for wage increase advancement. He said Greenbridge trains everybody within the organization, and that ISO 14001 training, under the Department of Labor, is considered hard job skill training as if it were welding. There are some intrinsic issues with MECs, and I ask you to put that money into small business.

Mr. Broad said I would like to ask you a couple of questions which I will likely pose to other public commenters. In terms of the timing of the funding, Vice Chair Roberts raised a valid point, which is, if we accept applications beginning on a certain date and then they keep coming, what we are going to have at least for the next fiscal year or two, is the situation we have now, where we have the left over 2009 proposals. It gets people in a queue, but the queue keeps growing, and I'm not sure we are doing people any service by having them prepare applications that sit in the queue. Perhaps it would be better if we simply said, and apparently other states do this, you have a 30-day window to submit all applications, and if the application is not submitted in that time window, you will not receive funding in that cycle. Mr. Vernon said he would absolutely support that suggestion. Mr. Broad said Mr. Vernon's point is well taken about perhaps changing the priorities and said he would welcome public comment from others.

Mr. Broad asked if in the MECs, if contractors would agree with funding up to the limit of the proposal as further limited by the level of firm commitments from employers. He said if you come in with $150,000 of firm commitments from employers, you will get funded to $150,000. You have the option to return for an amendment to that proposal when funding is available up to the cap, if you can get firm commitments, and prior contract performance will be considered. He said if all of the training is completed the Panel would be more inclined to approve an amendment. Mr. Vernon said in his experience with multiple or consortia training in their industry, which is a market-driven green economy, that you must consider who the manufacturer is, what they manufacture, and if they are all in the same market segment.

Ms. Roberts asked if the company does any work in California because it sounded as if he was referring to community colleges in other states that must go through a third-party before the employer gets paid. Mr. Vernon said that does not occur in California and that they operate in California. Ms. Roberts said it is much more flexible and she believed that some of the questions Mr. Vernon raised in using community colleges specifically are that they have an ulterior motive, which is the case in many states. She said some community colleges do get funded because employers don't want to do their own training and so they use the community colleges for that source. But with MECs, that is not necessarily the case. Ms. Roberts asked Mr. Vernon to clarify his concerns. Mr. Vernon said his concern is that the limited money available goes to individual manufacturers within certain market segments. If it is to go to a multiple employer contract such as consortia training, then you have to ask, what is that outcome? Mr. Vernon said that it is difficult to train using the multiple-employer method in the green economy because their aspects and impacts are so different and their activities are so different. Mr. Broad said, I believe what Mr. Vernon is saying, is that at least with regard to training that they are doing, is that they tend to do much more customized training and therefore it is not as feasible to go the multiple-employer route so they would prefer that we have more of our funds allocated or budgeted towards single-employers. He said ETP's statute clearly favors customized, specialized training, which goes beyond their market segment. He said perhaps we should consider what we are allocating and look more towards single-employer contracts versus MECs.

Mr. McMahon said staff is proposing the reservation of $1.5 in core program funds for small business, but expect that funds in the 15% alternative category would also be available to supplement the identified demand coming from small businesses that begin applying on December 1 and continue to apply on a flow basis after that. He said it is likely that, if the demand is strong from small businesses, additional funds will be allocated to the small businesses. Mr. Vernon said that would be wonderful. Mr. Broad said that he agreed with Mr. Vernon in that the Panel tends to see more generalized training from generalized training providers. He said if there was an organization in the labor management sector such as a joint apprenticeship training scenario, and we are funding pre-apprenticeship training and in tile setting, that training is by nature customized. If you are a general training organization and you are going to train everyone on how to use Excel spreadsheets, that is where it gets very general, and ETP prefers more specific and more customized training. We recognize that we are getting more bang for our back with customized training, since generic training can be provided through a community college or adult education class.

Mr. Broad said he does not want to imply any disrespect to the fact that you are a "for-profit" training entity, but he has observed that the for-profit entities tend to train in their division, or their cut, if you will. He said that the cut for for-profits is more geographic than it is industry-related. Mr. Vernon said he understands the concept of bigger bang for the buck, but the buck needs to be specialized, otherwise it is diluted. Mr. Broad said in other words what you are saying, is the same as what I'm saying, in that it is generalized versus customized. Mr. Vernon said yes, and manufacturers are under a lot of pressure internationally and domestically in the supply chain to meet market demand, which is to operate under environmental sustainability of procedures and policies.

<u>Steve Duscha, Duscha Advisories</u>

Mr. Duscha said that in regard to the queue, he believes these proposals do exactly what was suggested, which is to open a window for a brief period of time. He said we must hit that window and if we do not, we are gone for the year and there are no opportunities. He said I believe that has been done here and that it is a good thing. I do not see anything in this document that establishes a queue for next year, and who knows what will happen next year. Mr. Broad said, so your issue is taken care of.

Mr. Duscha said with the issue of large companies returning multiple times to ETP for funding, that issue is at least partially addressed by imposing the 30% and 50% substantial contribution amounts; not completely, but I believe it is partially addressed.

Mr. Duscha said part of the MEC issue is addressed by the prohibition of new schools coming to the Panel. He said schools that have come to the Panel have not had an issue demonstrating demand for their training.

With the existing process of submitting certification statements, staff can check to see if they are real and verify that there is employer demand for the projects. He said he believes that process is already in place without creating new paperwork or exercises for people to go through. Mr. Broad said, but you mentioned to me during the break though, that the practice of actually verifying what is on those forms and having a conversation with the listed employers varies from regional office to regional office. Mr. Duscha answered, I cannot say that specifically but I can say that specifically it has varied over time and I don't know what the current situation is. It could certainly be toughened up if needed.

Mr. Broad asked Mr. Duscha's position on funding firm commitments only. Mr. Duscha said he did not believe it was an issue and that good people have demand, especially with the caps in place. He said the caps accomplish much of what you want to do on your existing contractor base because they are all used to working at a much higher funding level.

<u>Bill Lehtonen, Director of Public Outreach, GreenPlumbers USA</u>

Mr. Lehtonen said he wanted to discuss two issues, the first being the second time assessment of 50%. He asked if this is an in-kind contribution and in addition to an existing rate. Mr. McMahon said it is a substantial contribution, with the second time assessed at 50%. He said the reimbursement per trainee is reduced by 50%. Mr. Lehtonen asked if it is a reduction in the $400,000 for a MEC. Mr. McMahon said yes, and what the participating employer would earn. Mr. Broad said in other words, if you return for a second proposal and you are an employer, the second time you are investing 50% of your own money. Mr. Lehtonen said I understand, and that is reasonable. He said although they are not a large company that has come to the Panel multiple times, they are neither an employer or a placement firm, but they seek to have the industry change to allow for more high wage, high skill jobs. He said they are in the plumbing industry and trying to transition an entire industry to be champions of water and energy conservation through plumbing efficiency.

Mr. Lehtonen said in the past it has been difficult for their company to obtain employer commitment letters. He said he believed what they have done in the past is to provide a list of five or ten core employers they would utilize. With the economic downturn, many dismiss scheduled training if they get a large job opportunity at the last minute. He said it is difficult; he can get commitment letters but doesn't know how forceful that would be. They always extract some form of commitment from employers but do not extract a deposit. We hope that they will show up for training, and many times they say they will send ten employees and only send three. Mr. Broad said we ought to be able to deal with unforeseen business issues that arise, especially in industries such as construction or maintenance. Mr. Broad said we should not punish companies for unforeseen events like that happening and you can still get qualified. Mr. Broad asked for the date of the proposed start time for the MECs. Mr. McMahon said it was to begin December 1 with a 45-day application period. Mr. Broad said if what we are going to require firm commitments collectively, perhaps we should start accepting applications at a later date and end at a later date. Many of the public were not in favor of that idea. Mr. Broad then suggested starting to receive applications on the same date, December 1, but extending the 45-day application period. Many of the public did not agree with this suggestion also. Mr. Broad said it appeared that most would like to leave the beginning date as is and asked the public to raise their hands if they agreed to leave it as is. Several audience members raised their hands. Mr. Broad said he was trying to accommodate the additional burden of getting firm commitments when firm commitments are not exactly required at this point.

Mr. Lehtonen said that what they do is to go out and try to solicit 35 people in class, and if 23 show up, it's great. If 35 showed up, and we consistently got more than that, and we saw we were going to go over the cap, we'd have to train for free, and there is nothing wrong with that either. He said his company would agree to offer more training especially since the same instructor is training, though we'd need to have two instructors in that case. Mr. Broad said the point is to have the trainees and the commitment to training. Mr. Lehtonen believed it is working fine as it is and that after some longevity and experience they have found they are able to fulfill the terms of the contract and reach that cap. Mr. McMahon said one approach to consider in adding more flexibility would be to have, rather than a 50% commitment as we currently do, an increase in that percent to 80% or 90%, and then there would be 10% flexibility to bring in an employer. Mr. Broad said yes, that may deal with issues of bringing someone in, substituting for someone, or somebody dropping off. Ms. Roberts asked for the current commitment percentage. Mr. McMahon said it is currently 50%. Ms. Roberts suggested it needs more of a critical mass than that, and said she sees a need for flexibility for the MECs. Mr. Lehtonen said increasingly so, because their focus will be changing from residential to commercial. He said they want to understand the business model and how many people actually take the training. He said, right now we know that we can hit that cap and we are not leaving any money on the table. Mr. Broad said perhaps we should raise the 50% commitment to 75% or 80% which would provide flexibility but it would also mean that you are putting a little more discipline into the process. Ms. Roberts added, I am not saying that you don't have discipline. I think many of the public that are present today are representing that they are doing the due diligence behind getting the right people, but in the past there have been some other MECs that have not been as consistent or reliable with performance . So I believe this will put the best people forward and that is what we are looking for.

<u>Denise Migliardi, Director of Development and Education, TechAmerica</u>

Ms. Migliardi said they would be in support of increasing the commitment percentage with some flexibility since there are companies that unfortunately cannot meet the percentage. She said that over 65% of the companies they serve are small businesses that may be starting up their business. Also, they train skilled workers that may require additional training specific to their products or technology.

Ms. Migliardi said they have had two previous contracts they fulfilled at 100% or nearly the100% level. She said they are comfortable with providing those companies that we would be presenting regardless of the factors. In consideration of the 2009 pipeline, she asked if the Panel might consider applying some conditions, rather than accepting all applications in the pipeline queue.

It is even more critical that the return on investment for the program, that we are getting a value of maintaining or bringing on workers that are highly skilled and trained so that businesses, speaking for technology, businesses will stay in California or will continue to hire people in California versus outsourcing. She said she believed it is important to ensure that ETP is training individuals that are helping the California economy and having trained technology workers. She said the idea of requiring everyone to provide lists of participating employers could be a good solution in going forward with the pipeline queue.

Ms. Migliardi said one of the previous speakers mentioned reducing the amount of funding for MECs. She said that as a returning MEC, they have earned the maximum every time and so the cap that is to be determined, we will always seek that and reach it; and to reiterate, small businesses appreciate us because of the time that it takes to be here, or prepare the application. The human resources involved to secure and find the training, put together the programs and do all of the paperwork requirements. We have been offering a very good service to our member companies because many small businesses cannot even get in the door because they don't have that time and ability for the paperwork and the process

Ms. Roberts said all of the contracts in the 2009 pipeline have been examined closely by staff. She said that last year ETP experienced the same budgetary restrictions, so the projects were placed in the pipeline queue because ARRA funds needed to be addressed prior to funding these proposals. Mr. Broad said he did not see any reason not to apply the standards of firm employer demand to that. Ms. Roberts said the 2009 caps are the same. Mr. Broad said yes, much of it is the same. Mr. McMahon said yes, the caps are the same. Ms. Roberts said some of the queue projects may not be relevant. Mr. Broad said he thinks it might be important to go back and ensure that the older MEC proposals include viable companies. Ms. Roberts asked Mr. McMahon if the projects in the pipeline have already been reviewed. Mr. McMahon said staff has reviewed them all and assessed whether or not they are ready to move forward and those that we are moving forward are ready to begin training as quickly as possible. Mr. Broad said well then if they are ready they are ready.

<u>Eldon Davidson, Director of Contract and Community Education, El Camino College</u>

Mr. Davidson said that in the short time that he has worked with the ETP companies as he is new to California, he has discovered that manufacturers are actually putting people on. He said this is very encouraging, and they are saying they are putting 10 and in some cases some are putting 40 to 50 on and are encouraged about the upcoming year. Mr. Davidson introduced Deborah Imonti, El Camino College's coordinator of ETP contracts.

<u>Deborah Imonti, ETP Training Coordinator, El Camino College</u>

Ms. Imonti asked if the Panel would consider prioritizing MECs that have demonstrated stellar performance in the past rather than considering all MECs as a group. She said there are many great MEC contractors that are doing the job, and every two years they perform, they use all the funding, and no funding is left on the table.

She said she believes that many are worried about money being left on the table and doing a good job in delivering training. She said the companies that are going to grow California in today's economic climate such, as advanced technology companies, need assistance more than ever. She said many of these companies would be hard-pressed financially to offer their employees needed training to remain competitive since they are small-to-medium companies. She said ETP funding has created jobs in the past, and is creating jobs for the future slowly. She said it is important that funding reaches the right entities to support small and large companies, especially manufacturing companies in California.

Ms. Roberts said in going back to the first public comment about “canned” training, do you actually help support them in specialized and customized training? Ms. Imonti said yes, training would not work if training was not customized. She said companies are lean right now and they don’t have time to put their workers in a four hour class. She said companies are looking for positive outcomes from training so that the investment they make in removing employees from production lines and putting them into the classroom is worth it.

A.K. Thakore, President, Saisoft
Mr. Thakore said Marty Peterson, of the Santa Ana Chamber of Commerce (Chamber) could not be present, and asked that he give public comment on his behalf. The Chamber thanks ETP for allowing them to provide input on the regulatory action during the comment period. He said there is a minor correction to Page Three of the Memo. The rating scale should be #1, least likely to attend and #5, most likely to attend. He asked if that reference could be corrected.

Mr. Thakore said the Chamber has already begun receiving serious interest and commitment from participating employers and formal certification statements. He said they are confident they will be able to provide up to 100%. He said they aim to deliver 100% contract performance, as in their last two contracts, while delivering information technology training leading to high wage jobs in California.

Ken Tiratira, Executive Vice President of Client Services & Advocacy, Employers Group
Mr. Tiratira said in terms of the specific issues they would like to see addressed, they are in the position of requesting an increase in the allocation for MECs as some of the other previous speakers have indicated.

Mr. Tiratira said he agrees with Mr. Duscha’s earlier comments, that they could provide firm commitments, and that would help them in working with different employers to determine their training commitments. He said it helps to schedule when those training opportunities may take place. A large challenge for their members and the employers they work with, is finding the right opportunities to take training. Job opportunities may arise, and it is very challenging to determine when to take employees off-line or over multiple shifts to deliver the training. For them, training must be customized, and they focus on identifying training opportunities that will deliver bottom line value back to the organization. In my written comments, I have provided a specific example of where we have taken them through some specific training and actually that has led to increases in production efficiencies, job retention, and expansion of their workforce. So I believe those are the important types of customized training that is necessary.

Mr. Tiratira said in terms of the generalized training that is offered, in many cases for employers, generalized training is actually a job retention factor for those employees. Even though this is a tight job market, sometimes having the ability to hone their skills is much better than having the ability to receive no training at all. He added that sometimes generalized job training leads to more secure jobs as opposed to those that may leave and go elsewhere. Ms. Roberts said she understood his point of view, but believes that most people that have a job right now are hanging on tightly, so whether they get the training or not, is really not a retention factor this year; maybe next year.

Gordon Kirkpatrick, Kirkpatrick Enterprises, Intl.
Mr. Kirkpatrick asked if any of the applications in the 2009 pipeline include applications from people who anticipated funding restrictions or had an existing contract. He said, I’d like to have

those looked at if that is feasible. He suggested that the Panel look at the MEC's attainment history. He also asked the Panel to consider looking at manufacturing jobs as a priority, as anything outside of manufacturing, quite honestly, does not generate jobs.

Jay Soloway, Director of Career and Business Services, JVS
Mr. Soloway said it is important when considering the 2009 pipeline projects, to consider the kind of people they serve through the training they conduct. He said their company trains individuals that have at least one, if not multiple barriers to employment. They have two programs called "Bank Works" and "Health Works". Bank Works prepares people to become qualified tellers in the financial services industry in banking and Health Works prepares individuals to become licensed as Certified Nurse Assistants. He said the advantage of both these industries is that the career growth potential is enormous. He asked the Panel that as they consider applications, to think about who is being served and what are the benefits for them to be working, as opposed to them being left to their own devices in our community.

He asked that the Panel consider who is being served and how ready the organization is to produce the kind of employment outcomes that we all want from a program like ETP.

Mr. Broad noted that the company's particular areas are in priority funding areas, so I think to the extent that is your question, where do I fall in all this? It sounds like you fall in the right spot. Mr. Soloway said I'm grateful to hear that. Mr. Broad said he appreciates what the company is doing and is glad to hear that as a first time applicant they are going to perform at 100%.

Cathy Choi, Steering Committee, California Senior Leaders Alliance

Ms. Choi said they want to help their unemployed members get the necessary training in order for their members to re-enter the job market. She said they plan to submit an application on December 1 for funding.

Mindy Aronoff & Dov Golodner, Bay Area Video Coalition

Ms. Aronoff said we like the proposal and we can get the substantiation that we need, the letters of intent and certification statements. We have people ready to retrain to take our classes. She asked if the Panel is requesting letters of intent and certification statements from priority companies only and for small businesses only. Mr. Broad said, I don't think we are saying only anything; letters of intent are needed for whatever you want to get funded. Mr. McMahon said staff has established some priority evaluation factors that we would apply to MECs if we are in a situation where we have much more demand in MECs. Part of those evaluation factors would be small business or priority industry, so a MEC proposal that focuses on those types of areas would rate well in terms of prioritization. Ms. Aronoff said thank you; that is what we needed to know. Mr. McMahon said he believes we are defaulting to the standard 100E process for identifying participating employers, but there would be a follow up to establish interest more aggressively than has occurred in the past.

Ms. Aronoff said they will likely reach the capped funding amount quickly and asked if additional funding is anticipated in the new fiscal year. Mr. Broad said July is the next fiscal year, but with the current budget deficit, it is hard to predict ETP funding in the new fiscal year.

Mr. Broad said a proposition that passed at the beginning of the Schwarzenegger administration requires the Governor to call a special session of the Legislature if the budget is misaligned, which is why they have been in constant special session. He said there will likely be another special session in January 2011 to deal with the deficit that exists from the budget recently adopted. He said they would then start the process of the next year's budget, which theoretically, if the budget is on time, would be July 1. If ETP were funded we would receive funding on July 1 but no one has the ability at this point, to predict the likelihood of that happening. He said he would not plan on ETP disbursing funds at a July 2011 meeting. Mr. Broad said the next fiscal year budget will likely be the same scenario as this year, unless there is a massive increase in tax collections in the first quarter, or unanticipated revenue. Mr. McMahon said an external intervention that could improve ETP's budget would be a fix to the Unemployment Insurance system's deficit. He said one of the solutions could be an increase in the base wage subject to Unemployment Insurance and Employment Training Taxation, but it is hard to say whether the Legislature and the Administration will do that. Ms. Roberts said if we keep workers employed and off unemployment, it gives ETP more money to work with.

Mace Gjerman, Technical Training Manager, Peterson University

We are an employer that has used the MEC format in the last two years, and have found it to be extremely successful. Basically, I wanted to thank ETP and say it has made a tremendous difference to our company and employees. The training funds they have received over the last two years have allowed them to build a training center. They now have a dedicated training center to support their 650 employees and look forward to using it in years to come. Ms. Roberts asked where the company is located. Mr. Gjerman said they are the Caterpillar dealer for most of Northern California and headquarters is in San Leandro and East Bay. Ms. Roberts asked if they have hired any former NUMMI employees. Mr. Gjerman said if we could hire some, it would be tied to the construction industry. Our 650 employees are down from 1,000 employees three years ago. To be honest, without the training we have done over the last few years, we would have less than 650 employees. It is actually that in the last couple of years that we have been able to move into some new markets with that training, such as industrial compressed air, natural gas fired turbines, which interestingly enough, are not legal to run in California. So we are sending CA employees with the turbines around the world to Australia, the Yukon and Africa, and as industrial standby chillers. Mr. Broad said it is always nice to hear that the ETP funds received have been spent so well and with such success. He said hopefully the economy turns around quickly so you can begin hiring in order to have 1,000 employees again.

Robert Sanger, Manager of Training Services, California Manufacturers & Technology Association

Mr. Sanger said CMTA has had MEC contracts now for about eight years. He said that Mr. Gjerman's company has participated in their last couple of contracts and they have had tremendous success and have been able to expand their employment by training.

Mr. Sanger said the funding priority Memo is very thorough and much has been done; CMTA is in agreement with it. He said they could provide 100% certification statements from the companies they want to fund. For example we have 200 employees to train and we will have certification statements that address 200 workers. I do think there will be some variation though, of about 20% of companies that yes, we are fully going to do this and during the process, you get a 20% drop off, and you recruit some new ones along the way. Ms. Roberts asked if he had a suggestion of what may be a good criterion since they are one of ETP's most successful MECs. Mr. Sanger said ETP doesn't currently track demand for training, but require that we have a 50% commitment for the employees we plan to train.

When you actually start doing the training, ETP doesn't say well, this company was not in the contract when you developed it, because this has not been a hard criterion. He said if this is going to be a hard criterion, it should be kept low at about 50% since things change, and you have companies that have a business plan but they may get a large job or things change and there needs to be flexibility there, especially in a down economy. I would say about 50%. Mr. Broad said 50% would not change it from the current situation. Mr. Broad said he believed it needed to be increased and asked if he would be willing to accept 80%. Mr. Sanger said yes, he could accept 80%. Mr. Broad asked for a show of hands, who could accept 80%. He also asked who could not accept 80%. One person suggested they would like to see it at 100%. An audience member asked if it would be 80% with no flexibility or 100% with 20% flexibility. Mr. Broad said it would be100% with 20% flexibility. Mr. Duscha said nobody objects to the issue of 80% or 100%, which shows the demand for training. He said the issue of being able to add other employers at a later date, is a completely separate issue that deserves more discussion if you are going to make a change from the current policy, and it would be a large issue.

Mr. Broad said I think what we would be saying, is that you cannot add additional employers beyond what we are authorizing you to spend. Mr. Duscha said you cannot add additional employers since that would cost additional money. He said current ETP practice is that you can add additional employers through the course of the contract to take into account changes in demand. He said when you ask an employer to sign on to a contract for training over the next two years, it is very speculative. He said employees and employers do not plan training two years in advance and that you cannot get a firm commitment that far in advance. The issue that has been discussed is demonstrating demand for the training, and that is what the certification statements are about. Mr. Broad said the Panel is looking for something stronger than demonstrating demand, that they want employers committed to doing it. Mr. Duscha said employers cannot predict that because they have no idea what their world is going to look like a year from now. Mr. Broad said if they have no idea what their world is going to look like, then they should not be committing to doing something. He said, so get the people who can commit and then we will have more MECs with fewer people in them; that is where I don't agree. Mr. Duscha asked, but what harm does it do to the ETP program to add additional employers as the MEC goes on, as you have for the past 30 years? Mr. Broad answered, because we are encumbering money and we don't have enough money to encumber. Consider this, look at the math, $400,000 cap. Someone comes to the Panel with two $400,000 deals okay? And we have $10 million to spend, and they are off by $500,000 collectively, then all of a sudden you are at 5% of the entire money for the year. In terms of how we operate, that is a small amount of money. But what worries me is that with numerous MECs, if you are off by $100,000 here, and $100,000 there, then all of a sudden we are encumbering a couple of million that we could be spending on people that are ready to go. Mr. McMahon said that what we are doing in using an 80% figure, is to get a group of employers demonstrating commitment to use 80% of the project amount. There is still a gap between that 80% and the full request by the applicant, so there is a degree of built-in flexibility. The issue that I believe Mr. Duscha and Mr. Sanger are raising is that what if employers that have made that initial commitment drop out, does the MEC have the opportunity backfill behind them? He said requesting and getting a firm statement of commitment from employers up to 80%, is a level of guarantee or assurance of success that we haven't requested in the past. Mr. Broad said yes, and he would like staff to make phone calls to determine whether those are really firm commitments. He said I do not have a problem with a large company who says they just received a $2 million contract and cannot do it. What I don't want, is for an employer to complete a form that it really hasn't thought about and is not serious about, and then another employer is substituted, and they were never really going to be an earnest participant; I don't want to fund that.

With the first scenario; yes, you should be able to fill it with another employer and that would be fair since there were some exigent circumstances why a company could not do the training. I believe what this would force everyone to do collectively is, you might not request $400,000 in every MEC proposal, you might request $150,000; but $150,000 with real certification statements. That is what we are trying to force you to do, and it is what we want you to do. Mr. McMahon said our experience in earnings under MEC contracts is still slightly less than 55%, so we are encumbering significantly more than what is earned. Mr. Duscha did not agree and said it was his understanding that current policy is to encumber approximately one-third of the contract amount. Mr. McMahon said, let's say earned under the awarded amount. Mr. Duscha said no argument there, but your other piece of help is the phase encumbrance. On a $400,000 contract, you are not encumbering $400,000, you are encumbering about $130,000 to $150,000. Mr. McMahon said from a cash standpoint that is correct. Mr. Duscha said and that gives you tremendous help in managing the money. By not encumbering the whole amount, you are not committing the whole amount, and you are not keeping the whole amount from being allocated to someone else. Mr. Broad said but when you are dealing with a very large amount, the chances of it being off in any which way, is greater than when you are dealing with a lesser amount; that's what the worry is.

Ms. Roberts asked Mr. Sanger if he had any further public comment. Mr. Sanger asked if the certification statement percentage would be decided later, or if a decision has been made. Mr. Broad said he would propose a percentage now. Mr. Sanger said to clarify; there has been no baseline in the past, so 50% is not a baseline, but what number? 70% or 80% is the number? Because this has never been done before; I'd like you to also consider giving time to administer this internally, to place this and find that best percentage, and I would prefer to keep it lower toward 50% or 60%, especially since we haven't done this before.

<u>Kevin Kucera, Organizer/Business Representative, Machinists Automotive Trades District Lodge No. 190</u>

Mr. Kucera encouraged the Panel to fund MEC contractors based on previous performance and said that any MEC achieving 80% of its contract, should be funded at 100%. He said their MEC contractor, SELACO, has done a great job in working with his employers in new green areas regulated by EPA. He said if they were to receive funding at the minimum funding levels, he wouldn't get through 3 or 4 months and would not be able to provide the training that we need to do in this next fiscal year. Mr. Broad said, for you in your situation, you probably do not have a problem getting a firm commitment from the employer because you've got the employer, you have a collective bargaining relationship; and the trade associations also have a similar relationship because they have members. So it is not hard to figure out who the population is that you have to get a firm commitment from, because you are not talking to strangers. So I don't believe you'll have that issue, or the other issue. How do we incorporate prior performance into this? Mr. McMahon said we could add prior performance as a factor when considering prioritization of MECs, and if we over-subscribe with what we have, we could easily do that. Mr. Broad said those are good points and thanked Mr. Kucera.

Larry Lee, Business Services Manager, Southeast Los Angeles County Workforce Investment Board

Mr. Lee said that there needs to be a mechanism in place to reward performance since all MECs are not created equally. Mr. Broad agreed and said that is a great end to this discussion.

Mr. Broad proposed that the Panel adopt the staff's recommendations with the following additions:

1) Staff will take prior performance into account.

2) Firm commitments from 80% of the funds requested will be required.

Mr. Broad said if a company is requesting $100,000, they need firm commitments for training from employers worth $80,000. He said staff is going to be required, in every regional office, to call those employers to verify a serious commitment.

Ms. Stevens asked how Mr. Broad planned to handle substitute employers. Mr. Broad said you can substitute employers for exigent circumstances or use the 20% flexibility.

3) You can substitute employers for exigent circumstances or to get to the 20%. You need to come in with firm commitments. You need to come in to us for approval with the all employers lined up.

Mr. McMahon said, and in doing that, it increases the likelihood that the project will succeed, that the training will be completed for those employers, but that we will take into the account, the factors that may cause an employer to not move forward to still allow some flexibility.

Ms. Stevens asked if it would be appropriate to have the staff approve any substitute employers. Mr. Broad said I believe they likely do that now. Mr. McMahon said yes, they go through a certification process now. Ms. Roberts said that in the past, the Panel has always considered past performance. I am always looking at past performance, and in fact we have reduced contract amounts based on past performance; with the funding amount now decreased it will be easier to earn 100% of those dollars. She said she is in agreement that past performance is very important, and she always considers it.

ACTION: Ms. Roberts moved and Ms. Stevens seconded the following recommendations for core program funding with the above three additions.

Motion carried, 6 – 0.

VI. MINUTES (Presented Out-of-Order)

ACTION: Ms. Roberts moved and Ms. Fernandez seconded the motion that the Panel approve the Minutes from the June 25, 2010 meeting.

Motion carried, 6 – 0.

VIII. PUBLIC MEETING ADJOURNS

ACTION: Ms. Stevens moved and Ms. Montoya seconded meeting adjournment at 1:06 p.m.

Motion carried, 6 – 0.