STATE OF CALIFORNIA
EMPLOYMENT TRAINING PANEL
California Environmental Protection Agency
1001 I Street
Byron Sher Auditorium, 2nd Floor
Sacramento, CA 95814
June 24, 2016

PANEL MEMBERS

Barry Broad
Chair

Janice Roberts
Vice-Chair

Gloria Bell
Member

Sonia Fernandez
Member

Leslie McBride
Ex-Officio Member

Gretchen Newsom
Member

Edward Rendon
Member

Sam Rodriguez
Member

Executive Staff

Stewart Knox
Executive Director

Maureen Reilly
General Counsel

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I. PUBLIC PANEL MEETING CALL TO ORDER

Chairman Broad called the meeting to order at 9:36 a.m.

II. ROLL CALL

Present
Gloria Bell
Barry Broad
Sonia Fernandez
Leslie McBride
Gretchen Newsom
Sam Rodriguez (departed at 11:21 a.m.)

Absent
Edward Rendon
Janice Roberts

Executive Staff Present
Stewart Knox, Executive Director
Maureen Reilly, General Counsel

III. AGENDA

Chairman Broad asked for a motion to approve the Agenda.

ACTION: Mr. Rodriguez moved and Ms. Bell seconded the motion that the Panel approve the Agenda.

Motion carried, 6 - 0.

IV. MINUTES

ACTION: Ms. Newsom moved and Mr. Rodriguez seconded the motion that the Panel approve the Minutes from the May 25, 2016 meeting.

Motion carried, 6 - 0.

V. REPORT OF THE EXECUTIVE DIRECTOR

Stewart Knox, Executive Director, said, welcome and good morning Panel members, applicants, and stakeholders. Following the Panel meeting in May, we have a smaller Panel meeting today with approximately $8.4M in projects with another $436,000 in Delegation Orders, for a total of just under $8.9M.

Mr. Knox said, we are now at the end of this Fiscal Year (FY) 2015/16. Today's funding is primarily coming out of the FY 2016/17 fund with a July 1st start date. We are working with the Administration to look at a higher appropriation for the Budget Year 2017/18 which will enable us to push more projects forward. This is being looked at favorably based on the level of demand and current performance levels. At this time, we have approximately $90.4M available.

Diana Torres, San Diego Regional Office Manager, Gregg Griffin, North Hollywood Regional Office Manager, Creighton San Francisco Regional Office Manager, and Willie Atkinson, Sacramento Regional Office Manager, are here today to present the Single Employer and Multiple Employer Projects.

Regarding the Alternative Fuels and Vehicle Technology Program, we mentioned at the last Panel meeting that we signed another $2M Interagency Agreement in partnership with the California Energy Commission going into the new FY 2016/17. Also, the one-time $2M appropriation for drought funding has been completely expended.

In regards to Core Funding for FY 2016/17, today the Panel will consider $8.4M in projects with an additional $436,000 approved by Delegation Order. Should the Panel approve all the projects today, ETP will have approximately $82M for the remainder of the FY 2016/17.

Under Delegation Order, all project proposals are capped at $100,000 to be approved by the Executive Director on a continuous flow basis, and as of today, 8 projects were approved totaling over $436,000.

For FY 2016/17 funding to date, we have approximately 380 projects submitted, with a value of just over $55M; this amount is down compared to last year. If all the projects are approved today, the Panel will have approved close to $8.4M in proposals. Financially we are in great shape as we move into the next FY.

Turning to the FY 2016/17 Fund Status Report, there are a few items that will take place this FY which is the implementation of the online system, Employment Training Management System (ETMS), and the relocation of our two offices this year; Sacramento and San Diego Regional Office.

Regarding applications for contracts that are remaining in the Regional Offices: Single Employer Contract requests are at $35M; $38M in allocation. Multiple Employer Contract (MECs) requests are at $7.6M; $18M in allocations. Small Business has $4.8M in demand; $5.8M in allocations. Critical Proposals are at $632,000 in demand; $6.9M in allocations. Apprenticeships are at $5.4M in demand; $11.5M in allocations. Overall demand is approximately $55M.

Regarding the number of projects remaining in the Regional Offices: Single Employers 121, MECs 12, Small Business 103, Critical Proposals 3, and Apprenticeships 13 for a total of 252. AAU by category: Single Employers 69, MECs 16, Small Business 46, Critical Proposals 0, and Apprenticeships 15 for a total of 146. Our staff has done a great job of getting the funds approved; 75% of the projects have been assigned to the Regional Office thus far.

Mr. Knox said, at the last Panel meeting, some policy issues came up. One of them is the Out-of-State Competition (OSC), which Ms. Reilly will address later on today. The other issue is health benefits as a share of employer costs, and twice a year funding for Apprenticeship Program. Currently, we can do twice a year funding for Apprenticeship Program; ETP funding allocations can be done on a flow basis by school semester. The Panel can review apprentice funding along with the Multiple Employer Contracts twice a year; likely, we could do that in October and March. The Joint Apprenticeship Training Committee (JATC) could submit an application twice a year, or on a flow basis application, for both eligibility and development. Regardless, they can control by contract term date; start date could be done prospective, meaning that they can start the contract at any time as long as they are in the same FY. I would like to form a small working group to further this discussion twice a year in the same FY. If any of the Panel members are interested in joining the conversation with the JATCs, please let me know and we will put some dates together.

Regarding low priority sectors, the issue that comes up is, what does low priority mean? Currently, we hold the low priority proposals for almost three quarters, and if there's funding left over at the end of the year, we bring them before the Panel. This year, I would like to suggest that we hold them for two quarters, and bring them to the Panel twice a year by sector, and depending on where we're at on our funding, we can determine the likelihood of being funded or not for the year. I feel that this is a fair way to determine eligibility, and more clear to the businesses in that application pool.

Regarding health benefits, Ms. Newsom has made some really good points on the health care premiums as we move forward. We are looking at assigning a value of employer-paid share of cost for health premiums. There are several studies that we're looking at; we are looking at a value cap of $2.50 per hour. This will be the value cap across-the-board for all occupations, and we can discuss this further at the next Panel meeting. If any of the employers need to meet the post-retention wage, the maximum would be $2.50 per hour. A lot of things have changed, since the Panel took that direction years ago. One is the Affordable Care Act; this is mandated by the Federal Government to have as part of the package for employers of 50 or more. The evaluation is based on staff knowledge and experience at this point. We are also looking at Covered California Care, and we're still gathering information to bring to the Panel for some recommendations and policies around that.

In regards to legislation, Mr. Knox said, I don't have anything new to report to the Panel at this time.

VI. MOTION TO ADOPT CONSENT CALENDAR PROJECTS

Mr. Knox asked for a motion to adopt Consent Calendar Items #1 through #8.

B&B Manufacturing Co.	$109,980
Giligia College	$117,545
Grifols Biologicals Inc.	$216,000
Morgan Advanced Ceramics, Inc.	$115,200
Multi Cable Link	$111,820
TubeMogul, Inc.	$172,800
Vavrinek, Trine, Day & Co., Certified Public Accountants, LLP	$123,000
Workforce Connections, Inc.	$199,590

ACTION: Ms. Bell moved and Mr. Rodriguez seconded approval of Consent Calendar Items #1 through #8.

Motion carried, 6 – 0.

VII. REQUEST MOTION TO DELEGATE IN EVENT OF LOSS OF QUORUM

Mr. Knox asked for a motion for the Panel to delegate authority to the Executive Director to approve Proposals and other action items on the Agenda in consultation with the Panel Chair or Vice Chair.

ACTION: Ms. Bell moved and Ms. Fernandez seconded the approval to delegate authority to the Executive Director in event of loss of quorum.

Motion carried, 6 – 0.

Mr. Broad said, I just want to make a comment about removing items from the Consent Calendar for the benefit of the people in the audience and our Panel. Any member of the Panel can remove any item from the Consent Calendar. If that party happens to be present, we can hear them on the same day. But ordinarily, with the Consent Calendar, the folks whose projects are on it are not present at the Panel meeting. We would then roll over to the next Panel meeting, and be taken up for consideration at that point so that the proponents of the project would be here. It's a privilege to have a project on the Consent Calendar, not a right. So, at any point, any Panel member should feel no constraint about removing items from the Consent Calendar if they so desire.

VIII. REPORT OF THE GENERAL COUNSEL

Maureen Reilly, General Counsel, said, she would present some recommendations in the form of options to the Panel regarding an emerging issue: the determination of employer eligibility in regard to whether or not the employer faces Out-of-State Competition (OSC).

Ms. Reilly began referring to a series of PowerPoint slides as shown below by title. (See *Panel Packet June 2016* for the full slides.)

What is OSC?

Staff is going to propose an expanded approach to determining OSC. This is a very important aspect of eligibility for all employers. That includes single employer contracts, small business, and participating employers in the MEC. The purpose of having this requirement in our enabling legislation was that ETP funding must foster retention of jobs threatened by OSC. By the way, this is why OSC only applies to retraining proposals, not new-hire training proposals. Without showing OSC, the only way you can get core program funding is through the Special Employment Training (SET) which is a corollary to OSC. Basically, the OSC requirement drives the post-retention wage, which will be presented later on the next slides.

Internet & OSC

The issue: should ETP accept web-based delivery of goods or services as a form of competition for the purpose of determining OSC? This may seem silly because we live in an Internet world today. However, it is an issue that has been emerging in recent years. We have to remember, ETP was created in statute in 1984, and the OSC requirement was added in 1994. So, it was about two decades ago that the Panel adopted its enabling regulation, and started formulating policy around this aspect of eligibility. Both the statute and the regulation are silent on the issue of web-based delivery. It was not a consideration at the time, and there's no formal policy. In other words, we're dealing with no direction in the governing rules, and we do not have a formal policy.

Adapting to Change

Over the past several years, web-based delivery has been accepted by staff in determining OSC when it's integrated in the business model. Sometimes in professional services, there really is no other interface between the service provider and the client. Tax advice is often of nature; also investment advice, finance and insurance. Very few people even see a banker anymore if they're dealing with a large portfolio or investment; certainly the same is true for insurance, it's all done over the Internet now. We have funded Internet publishing with respect to OSC. Obviously, this is recognizing web-based delivery. The issue has been "sneaking up" on us. But now we are struggling with it, and we need a policy direction. What we do today, is a case-by-case analysis under regulation Section 4416. This is very fact-specific; that's what case-by-case means. It depends on facts and circumstances of the particular issue before you and it's very time-consuming. The outcomes are varied and even inconsistent from one proposal to another.

Section 4416 Overview

The governing regulation starts off by defining "employer" as each location, even down to the functioning unit in that location. There are four basic factors that we follow for case-by-case analysis. Again, this is very fact specific, it has to do with "stream of revenue", and whether or not competition from another state is routine.

However, some industries are "deemed to meet" OSC in our regulation, and that includes all manufacturing. Some industries are carved out from the in-depth threshold analysis, and there are different standards for those industries. All OSC analysis follows the National American Industry Classification System (NAICS) codes as set forth in Section 4416.

What is NAICS?
The National American Industry Classification System (NAICS) was developed by panel of experts in 1997. It has been updated several times since. It is used by government to track business trends and data. In fact, in the US, it's published by the Federal Office of Management Budget. There are 20 industry sectors that are further broken down into over 1000 industry codes.

NAICS Sectors
The sectors are two-digit; such as Manufacturing Sector 31 to 33. The codes themselves get very granular up to 5-digit, broken down into subsector, industry group, industries, and other details unique to the US business environment.

Magic Bullet NAICS
When the NAICS code is deemed to meet OSC, we call it the "magic bullet". This is because the employer goes directly through: "Yes, you face OSS for all locations." That's what happens with Manufacturing and with 14 ancillary industries. Agriculture is one of those industry sectors, along with Mining, most Publishing, (except internet publishing) and some Professional Services. Three industries are carved out from the full analysis, as I mentioned earlier. They are: mortgage banking, destinations resorts, and call centers. This "carve out" was created by regulation amendment in 2006.

Why Employers Want OSC
Employers want OSC. As I mentioned earlier, without OSC, your only core program funding is SET. And here's the issue: OSC wages are lower. The standard wage requirement is based on the Regional Average for the preceding Calendar Year (CY). The highest regional wage is $17.02 per hour in CY 2016. SET wages are considerably higher, because they are based on a Statewide Average. In CY 2016, it was $28.37 per hour. SET wages can be modified under the governing regulation. They can go down to $21.28 per hour for priority industries; that's healthcare, and building trades. As I mentioned earlier, healthcare and building trades hardly ever face OSC, because there are so geographic specific. In other words you don't go to another state, normally, if you need emergency care, or for your treating physician. And with building trades, the jobs are where the building is located.

Wage vs. Priority Rate
Again, on the wage issue: SET is a higher wage; OSC is lower. The other wage variation that's typical is High Unemployment Area (HUA). With SET funding the wage requirement go down below the Statewide Average for training an HUA.

A separate issue is "priority industry" which drives the reimbursement rate. Both OSC and priority industry are governed by the NAICS codes. An employer can qualify for the priority industry rate, and still be held to the SET wage, and that does happen with healthcare and building trades.

Note on Apprenticeship
Relating back to what I said earlier, that most building trades do not face OSC, there is an exception for apprentice training. The Panel made a policy decision to pull the Apprenticeship Program from SET funding based on the nature of collective bargaining. This is because so many large employers are included in the trade associations that negotiate to

form the Joint Apprenticeship Training Committees (JATC), and large employers often face OSC in bidding on public works projects and other large commercial projects. However, as part of that same policy decision, the Panel said Apprenticeship would be held to the SET wage.

Key Sectors

Getting back to regulation Section 4416, as I mentioned, some industry sectors are "deemed to meet" OSC, and some are "carved out" more from the more rigorous analysis. Healthcare and building trades are a separate breed of cat also. That brings us to some key sectors the Panel might want to consider, if it determines to accept web-based delivery of goods or services. Such a decision would open the possibility of more proposals from industries that otherwise would not qualify for ETP by reason of the wages: Wholesale Trade, Retail Trade, Transportation & Warehouse. Also, some Information, Finance & Insurance, and some Accommodation/Food Services.

Funding Priorities

With funding priorities, let me emphasize, all of Retail Trade could be opened up. That would include auto and other dealerships such as that, and I only mentioned that because of the remarks made at the last Panel meeting. All of finance and insurance would open up, and that includes mortgage banking. We do bring mortgage banking forward now as OSC, not as SET, because of the carve out in the regulation. These issues get mingled.

Sector Breakdown

We chose some comparisons for display on two pie charts. They show the number of contracts and the money approved. As you can see, the Finance & Insurance and Retail Trade sectors are relatively small in comparison to overall funding.

Retail Trade Demand

For Retail Trade, the current demand for proposals waiting to be approved is: two Applications in Development; and one Pending Pre-application. Again, this has not been a large volume of our business.

OSC and Funding Priorities

Summary OSC and Funding Priorities are twin issues. Accepting web-based delivery opens up funding for Retail Trade Sector 44 to 45, I'm focusing on this because Retail Trade has historically been a low priority for the Panel. If the Panel does not want to open up to Retail Trade, or any other sectors, then the funding priorities must be made clear. And this relates back to what Mr. Knox just explained about allocations and adjustments of allocations.

Recommendation

Staff recommends, at this point in time, that the Panel formally accept web-based delivery of goods or services as a form of competition in determining OSC. Then the Panel would need to address the funding priorities in the Strategic Plan each FY. Note that the Strategic Plan can be reviewed mid-FY, or more often. Priorities can shift and what gets designated as a low priority will depend on the allocation of remaining funds as we move through the FY, which Mr. Knox also talked about.

Two Options
Partly to just narrow the focus of an incredibly complex issue, staff is presenting two options for discussion by the Panel. Both of these options, I should note, do conform to the existing statutory and regulatory framework. As I mentioned, the statute and regulation are now silent on this issue. Eventually, the regulation could be clarified. In the meantime, staff would still conduct its usual Section 4416 analysis, but would include web-based competition along with the other factors.

Option 1
Option 1: Accept web-based delivery; all industry sectors and all industries.

Option 2
Option 2: Accept web-based delivery, but not for Retail Trade Sector 44 to 45. If the Panel accepts web-based delivery for Retail Trade now, it will be hard not to next FY. This is not the same as funding priorities, which are more intrinsically susceptible to modification as supply versus demand changes throughout the FY. Again I'm noting that mortgage banking, which is in the Finance & Insurance Sector, is already a "carve out". That will always be a matter of priority industry designation, and will not change just because we accept web-based delivery.

Epilogue
The OSC determination can be automated eventually, and we're trying to move in that direction. You've heard about the new data management system. This is the wave of the future, including data analytics and everything else. NAICS of course is a numerical indicator. This would be easy to program. So moving toward the future, other than saying we accept web-based delivery as more NAICS codes are recognized as ancillary and deemed to meet OSC, we could eliminate the need for that case-by-case analysis. This would further streamline the process.

Ms. Reilly said, please let me know if you have any questions.

Mr. Broad asked, are there questions or comments from the Panel members?

Mr. Rodriguez said, I just want to add that I read the memo, and with the presentation, I understand the statutory requirements, and this Panel member is actually comfortable with the case-by-case analysis, because it's interpreted, not restricted. I'm very comfortable, given that web-based delivery and projects of services are continuously evolving.

Mr. Broad said, it seems to make sense, as a general proposition, to accept web-based delivery as a more or less industry sectors. Conflating that with what is a high priority and low priority for us is a separate question. Historically, we've been uncomfortable in retail sales or the financial industry where there is a history or a danger that our money would go towards training people in high pressure sales technique that frequently become the subject of concern, whether that would be in the press or regulators. Of course, the most recent issue that came to mind was the series of proposals we got in the years leading up to the financial meltdown of 2008 from mortgage companies that swore up and down that our money was not being used to train people in high pressure sales techniques, or in a conduct that would otherwise be questionable and certainly are low priority. Whether they were telling the truth or not, some of them wound up on the list of companies that went bankrupt, because of high pressure sales techniques and business practices. Confirming our gut sense, this should be a low priority area.

To further illustrate, I would distinguish between training commissioned car salespeople on sales techniques on how to get a buyer to part with greater amount of money than they have to, versus training a department store clerk on new software that would make them more competitive. Although they are both in the retail business, they seem to be worlds apart. The issue comes down to whether we fund certain sales techniques. The shorthand should create a rebuttable presumption that when people are paid on commission that that might be the way to draw us into an analysis of whether that is the sort of project we would fund.

Maybe we don't have a problem funding clerical workers or mechanics in an auto dealership, but maybe we're not going to fund the sales training for car dealers and mortgage companies that engage in high-pressure sales techniques. The issues of web-based delivery versus high and low priorities are distinct and separate issues; and it should be dealt with separately. I can support moving to web-based delivery in all industry sectors, but I don't think that that should allow us to shoehorn in what would otherwise be a low priority industry for other reasons that has anything to do with whether or not it's web-based competition or web-based delivery. I would look to staff for suggestions on how to parse those things out from a voting point of view.

Ms. Fernandez said, I completely agree with you, because the purpose of this Panel is to create opportunities. I don't necessarily feel that that takes place when someone is basing their ability to live off of a commission. If they are not making that sale, what is the base rate? I feel more comfortable creating opportunities and funding projects where we know that people are going to possibly have an opportunity to move up and make more money; and I think that's why we serve here on this Panel.

Ms. McBride said, I think Ms. Fernandez makes a very good point. The companies benefit from the program, because they're getting the training. ETP was established for the worker to be able to come in, get greater skills set, work their way up through the company, and we need to keep that underlying thought process on a case-by-case basis. I'm not sure who made the comment in regard to time-consuming; it maybe more time-consuming for us to have more conversations, but I think it's worth it, because that means that we are following the intent of the program.

Mr. Rodriguez said, I concur with my colleague. I've been on the Panel now for 4 or 5 years. I have read the statute, and an editorial on the New York Times in 1976 praised Governor Brown. The whole scene behind it was human capital. We've been addressing a lot of different issues concerning delivery, meaning methodology and technology. I think sometimes we get distracted in missing that this is all about human capital instead of California.

Ms. Newsom said, I just want to note that I share the same sentiment of three Panel members, and I also have concerns with the recommendation to accept web-based delivery for all industries. That could potentially open a floodgate from the retail industry, and further push the wages down by taking them out of the SET and putting them down to OSC. Is that how I heard it correctly, Ms. Reilly? Because that's how I interpret it.

Ms. Reilly said, that is a possibility, which is why I pointed it out. I agree with the Panel Chair that these are two separate issues. One is OSC determination, and the other one is priority funding. The nexus is across the wages, because the wages are so different between OSC and SET, but they can be handled differently. I just wanted to mention it in this presentation to make the Panel aware of the nexus.

Mr. Broad said, these things are very subtle. If people are paid by piece rate, that creates a challenge for us. In some circumstances it may be problematic, and in some circumstances it may not. For example, we were faced with an issue involving agriculture and piece rate workers. Our money was going to train people on how to perform a job really fast, but what if you are not physically able to do the job fast enough, do you lose your job? Then it was an issue of what is our money actually going for? How is that beneficial to the workers? How does that make them more employable to give them extra skills? We are just subsidizing the employer's way of determining whether one person is physically capable of picking crops, or packing food faster than another person. The only way to deal with the issues is on a case-by-case basis.

Mr. Broad said, you could also have someone who is paid piece rate, and the training doesn't have anything to do with the issues mentioned. The training could be entering information on a new tracking system that the employer just invested in, and that could have everything to do with OSC, but has nothing to do with priority issue, because they are paid piece rate or commission sales. I think we have to look at the issue, and identify areas that are heightened scrutiny, or make a decision that it's a low priority. If it's a low priority, the employer should have the opportunity to make the argument and show that there's something different about their training program, and fund it nonetheless.

There were no further questions or comments from the Panel.

<u>Steve Duscha, Consultant</u>

Mr. Duscha said, I agree with Mr. Broad. There are a lot of babies in the bath water that would be disadvantaged by simply placing all the retail and finance in the low priority industry. I certainly don't want to argue for mortgage bankers or car dealers today. You have funded training for grocery store clerks and department store managers who make pretty good money through SET in the retail industry. You have also funded distribution centers and new hires in retail. If you put retail down in the lowest priority, that's kind of a dungeon to were only adult entertainment sits now. Based on that principle, you could never reach any of these other things in retail. I agree that there should be some flexibility in whatever you do.

The other issue is wage; it's about who qualifies for ETP funding at what wage. I really think that the whole wage issue needs to be looked at in depth by the Panel with the Affordable Care Act. With the rise in the state minimum wage, the ETP wages are strange; they're extremely complicated. There is a continuous effort to qualify for lower wages in the ETP system, and I can't keep track of it. The whole issue should be reviewed by the Panel. I think you should take an overall look of how you control the wages, and what you want and don't want to fund.

The other tool you have to regulate is the type of business and occupation that Mr. Broad mentioned. You have a responsibility to fund trainings that result in long-term job security. That means you shouldn't be funding high turnover jobs, which is another characteristic of many of these retail and high pressure sales job. I would step back and take six months to try to figure this out, rather than trying to figure it out today, because there are important issues here. Thank you. Mr. Broad said, thank you.

Larry Mandell, Training Refund Group

Mr. Mandell said, this is not the part of the presentation that I thought I would be speaking at; that will be a little bit later in the day. Since there's been a nexus now between auto dealerships, high pressure sales, and SET, I thought it might be important at this point to bring up something about the wages.

I have handed a printout that shows projects and wages that are coming before the Panel. Those are six different auto dealerships and wages. The wages are principally commissioned, both on sales and service. Almost all auto services are done on a piece work. What used to be called flag time is now called commission. All of them receive the minimum wages required by law.

One of the reasons why you see commission in the auto industry, and many other retail sales, is college degree. It's virtually impossible to get a job in any other type of industry at this point in sales. It's pretty much required. I have been a hiring authority for over 30 years in various industries, and I would not consider anybody that did not have a degree, but the auto industry does. As you can see, from the information that I've handed out, sales run from $40 to $60 more per hour. In any sense, I consider that a good paying job.

When it comes to technicians, most of what they do is associated with computers. They have to use analytical tools to determine what is wrong with the car. The days of the parts changes are gone. So, the commission is a key point that leads to profitability, not only for the worker, but also for the company, because a significant portion of that revenue comes from the service. That's how the dealerships make their money, because they make very little on the new car side.

There will be a representative from the California New Car Dealers Association to address the priority issues, which is where I expected to be speaking, and not at this point. As you can see from the wages, I'm perfectly happy with the SET, as long as it doesn't get buried with the lowest priority, as Mr. Duscha said. These are good paying jobs, and to throw them out because 15 years ago the industry had a reputation of high-pressure techniques is not the case anymore, and there'll be testimony to that later. Dealerships have lost their license, because of high-pressure techniques. Customers come into the dealership on their own; nobody forced them to walk in, and nobody forces them to walk out.

The point I would like to make at this point of the presentation, these are good paying jobs. They give people opportunities to create a sales career, when no one else will hire them.

And is the turnover rate a little higher? Yes, it is, because some people aren't cut out to be salespeople. But ETP is not going to be funding those people because they'll burn out fairly quickly. These are good jobs. They pay high revenue; they generate significant revenue for the state in taxes. I hope the Panel will consider that. This is one of the few areas where, from a sales position, all companies have commission salespeople. Everybody does it. It's just not this industry. That's how salespeople are incentivized. I asked the Panel to consider that when they make the recommendations and approve items on the agenda today. Thank you.

There were no further testimonies or comments from the public.

Mr. Broad said, the issue comes back to the Panel. Do we want to take action on this now, or do we want to think about it some more? I'm personally persuaded that you ought to be able to count when evaluating whether there's OSC; and look at whether the form of that competition is internet sales. That seems consistent with the nature of reality. Then there's a secondary question about whether that's applicable across the board, and whether we have various options here.

Ms. Reilly suggested Option 3, with Option 1 and Option 2; just make everything reimbursable as a SET wage, not as OSC. My response is, in reality, in that industry, people do face OSC depending on where they are; so then it's denying reality in another way. I think the issue with retail is determining what is probably not necessarily in this decision, but in the decision about what is high and low priority industry, or some other condition that we might set.

Mr. Broad said, I don't want to make value judgements because there are constitutional problems with making value judgements about industries. The casing point is the perennial; you'll never get off the low priority list as the adult entertainment industry, which is a value judgment about the service that is delivered, because there's probably OSC there too. We don't want to make a content-based judgment, which goes to the First Amendment issue, as opposed to the value of that training to the participants over a lifetime career. No one has argued vigorously, from the adult entertainment industry, that it should leave that list. So, the question is, how do we proceed? We proceed on the basis of motion, and I'm prepared to entertain a motion. If there's no motion, then were not deciding anything today. That's up to the Panel members.

Mr. Knox said, you don't have to make a motion. Mr. Duscha makes a good point in terms of tying it to wages. We can continue to do case-by-case analysis, since the regulation is lose enough. Mr. Rodriguez and I had a conversation about this; we can make interpretations. We can look at the wage issues, and outside of that; we could still look at it as SET. If they're looked at as SET, that's more of a combination of Option 2. Then what we can do is look at it, and bring it back to the Panel, based on percentage of the commission, or some relevant information on wages.

Mr. Broad said, I think Mr. Duscha has a good point. We need to get back to the reason as to why we are here. Why are we here? We're here to fund job trainings that help workers achieve higher income and skill level. We are not here to be winners and losers by industry sector. We're constantly challenged by the fact that there's a wage depression or compression in society over the years that I've been on this Panel. We have funded numerous projects that are low-wage jobs. The turnover is high and the career paths aren't great. And that's why we get excited about healthcare, because there tends to be career paths in healthcare from lower wage, lower skill to higher wage, higher skill. In the manufacturing industry, it seems to always sort of work out in that way.

I guess that might leave us with case-by-case scenario, but I don't think that we should say that for right now. If someone says "I'm facing a challenge from my competitors who are selling on the internet", or "I have a brick-and-mortar establishment", or they have both, we are not saying that doesn't count, we're just saying we can consider it.

Mr. Knox said, the sales have to be 25% or more outside of California, if they can prove it. The tipping point of the issue is the way that it's currently written, 25% of the sales. I would argue that, although not car dealership, but unless they're on the border. The sales have to be 25% or more outside the state.

Ms. Reilly said, I just want to make a comment. The reason why I bring this to the Panel is it's honest. Every day we have to make decisions about whether or not to accept internet competition, and we have done it one way or another; it also depends on the fact and circumstances. To have a clear policy direction is important one way, or the other; either we do, or we don't. We are looking to the Panel for that policy direction. The whole issue about funding priorities and wages can be addressed separately; we are just pointing that out to you in making this presentation.

Mr. Broad said, the problem here is looking at whether they have 25% of their sales on the internet. That isn't really the issue, because you could have a brick-and-mortar establishment in which you have no presence on the internet, and get killed by OSC and foreign competition by competitors who have nothing but that, right?

Ms. Reilly said, that would be part of the analysis; there are two prongs to the analysis. Regardless of whether you accept web-based delivery, there is still the analysis. It just would make things more consistent across the board as we do these eligibility determinations. But yes, the analysis would remain, and that's what I meant about the statutory and regulatory framework remaining intact.

Mr. Rodriguez said, I remain on the case-by-case basis.

Mr. Broad said, we have one solid vote for a case-by-case basis. Do we have a solid view of this from anybody else?

(Ms. McBride asked a question, but it was inaudible)

Ms. Reilly said, we have it, except we don't always accept the web-based delivery. So it's a case-by-case analysis; it would remain case by case analysis. The question is, do we accept the Internet?

Mr. Broad said, I think the issue from the policy perspective is that selling over the Internet becomes a greater percentage. Having a case-by-case basis starts to be out of sync with reality, which is not a case-by-case basis. Then you start raising the question of whether our staff is acting arbitrarily, because every office and staff can look at it in different ways. That's where it becomes problematic, and that's why they're asking for a policy direction from us, because they don't want to be acting arbitrarily. That's the issue.

Mr. Knox said, you saw the charts; the numbers are fairly small at this point. We do recognize that that can grow over time, that's part of the issue. We can bring that back and tie it closer to the wages side and have different recommendations that may tie to that. That probably seems clearer to me, and give us some time to actually look at the analysis.

Ms. Newsom said, that's my preference.

Ms. Reilly said, we can bring that back as a review of the Strategic Plan, or as a separate issue and ancillary codes. The issue still remains; do we accept web-based delivery at this point? Sometimes we're doing it, but not at other times. We would like some policy direction from the Panel.

Mr. Broad said, it looks like you are not going to get that today from my vantage point. We need to keep thinking about this, and maybe bring it back with a more refined recommendation about how you think it can work. I think that we should separate the question about high and low priority projects, and industry sectors. Those issues should be dealt with separately. The issue of whether we accept web-based delivery for the determination of OSC doesn't have anything to do with the high and low priority sector, but it's an analysis across the board. That makes the most sense to me.

Mr. Rodriguez said, where it says "continue by case-by-case analysis under the existing statutory regulatory framework, but accept web-based delivery as a form of competition in determining OSC for industry sector", we need more clarification on the second part of Option 1. Mr. Broad said, okay. Staff, is that sufficiently confusing? Let's move on.

IX. REVIEW AND ACTION ON PROPOSALS

Ms. Torres said, before we present the projects, I would like to acknowledge the retirement of Suzanne Godin. She is the project analyst from our San Diego Regional Office and has served the state for 26 years. She began her career in state service working for the Department of Fair Employment and Housing, and served the remaining 24 years of her state service with ETP. Prior to state service, she worked for the Building Trades Entry Level Training Program helping women and American Indians enter the trades. She also worked for the Urban League overseeing Equal Employment Opportunity Compliance and Construction Industry, and worked for Community Connection Resource Center assisting ex-offenders to enter the workforce. For many years, she served as a board member and delegate, including Chairman of the Board of Directors for the San Diego Indian Human Resource Center. We want to thank Ms. Godin for her years of service to ETP, and a lifetime of dedication to California workers. Mr. Broad said, thank you for bringing that to our attention. Thank you, Suzanne, for everything. Have a fabulous retirement.

Single Employer Proposals

C.W. Driver, Incorporated

Diana Torres, Manager of the San Diego Regional Office, presented a Proposal for C.W. Driver, Incorporated (CWD) in the amount of $199,840. Founded in 1919 and headquartered in Pasadena, CWD provides custom design, engineering, general contracting and construction management services across a broad spectrum of industries including education, healthcare, biomedical, entertainment, retail, industrial and government.

At the request of a Panel member, this proposal was removed from the Consent Calendar as noticed for last month's meeting, and held over to this month. This will be CWD's fourth ETP Agreement and the third project within the past five years. There is no Substantial Contribution being applied because no single CWD facility has earned $250,000 or more within the past five years.

Ms. Torres said, I'd like to point out on Page 2 of 6 that they will need health benefits for the incumbent workers for both Job Number 1 and Job Number 2, and administrative and support staff for Job Number 1 and Job Number 2.

Ms. Torres introduced Lynda Hauke, Manager of Professional Development.

Ms. Newsom said, from the previous month's application, you had a rate of $5.02 to meet the post-retention wage using the healthcare premium, and it's been reduced to $2.52. Thank you for the clarification. Can you describe the healthcare package and out-of-pocket cost for your employees? Ms. Hauke said, our healthcare package is 100% employer-sponsored, and the employees have the option to choose from PPO to HMO plans, including dental, vision, and ancillary benefits. Ms. Newsom said, thank you. Ms. Hauke said, in my experience, I've only had two employees in the past three contracts that needed to take healthcare benefits into consideration to be qualified. Our employees are highly compensated.

Ms. Bell asked, what is the waiting period before an employee can receive healthcare benefits? Ms. Hauke said, they are qualified after 30 days.

Mr. Broad said, Panel members, let's not back slide; we have to do this through the Chairperson. I'm just going to remind you gently, we've got the new more authoritarian regime at play.

There were no further questions from the Panel.

ACTION: Ms. Fernandez moved and Ms. Roberts seconded approval of the proposal for C.W. Driver, Incorporated in the amount of $199,840.

Motion carried, 6 – 0.

North American Health Care, Inc.

Ms. Torres presented a Proposal for North American Health Care, Inc. (NAHCI) in the amount of $741,132. Founded in 1976, NAHCI owns and manages skilled nursing communities and a rehabilitation company for senior care. NAHCI offers skilled nursing, memory care, hospice care, and respite care services; adult day programs; and rehabilitation services such as physical, occupational, and speech therapies.

Ms. Torres introduced James Ellis, Vice President.

There were no questions from the Panel.

ACTION: Ms. McBride moved and Ms. Bell seconded approval of the proposal for North American Health Care, Inc. in the amount of $741,132.

Motion carried, 6 – 0.

PaeDae, Inc. dba Mobile Majority

Ms. Torres presented a Proposal for PaeDae, Inc. dba Mobile Majority (Mobile Majority) in the amount of $358,002. Mobile Majority is a rapidly growing technology company specializing in vertically-integrated mobile digital advertising.

Ms. Torres introduced Art Alizarov, Chief People and Privacy Officer.

Mr. Broad asked, are you a publicly traded company? Mr. Alizarov said, not yet. But that is our aspiration. Mr. Broad said, okay. When you become publicly traded, that’s the last we’ll ever see from you, because you’ll own half of San Francisco.

ACTION: Ms. Newsom moved and Ms. Fernandez seconded approval of the proposal for PaeDae, Inc. dba Mobile Majority in the amount of $358,002.

Motion carried, 6 – 0.

Performance Food Service – Southern California, a Division of Performance Food Group, Inc.

Ms. Torres presented a Proposal for Performance Food Service – Southern California, a Division of Performance Food Group, Inc. (PF – So. CA) in the amount of $182,000. Founded in 1987, PF – So. CA is an assembly food service distribution operation specializing in Italian and Italian-American food products, equipment, food related products, and non-food items used within the food service industry.

At the request of a Panel member, this proposal was removed from the Consent Calendar as noticed for last month’s meeting, and held over to this month.

Ms. Torres introduced Shelly Stratton, Vice President Human Resources, and Judith Kreigsman, Judith Kriegsman Services.

Ms. Newsom asked, could you describe your healthcare package and out-of-pocket expense for your workers? Ms. Stratton said, yes. There is an out-of-pocket cost. We offer full benefits for medical, dental, vision, and 401(k) plan. Ms. Newsom asked, in addition to what you are contributing, how much, roughly an hour, is the out-of-pocket cost? Ms. Stratton said, it's a minor amount. Ms. Newsom asked, how much would that be? For some people, they feel that a minor amount might be $2.50, and others feel it's exceeding $5.00. So, roughly, per hour, how much would the cost be? Ms. Stratton said, roughly per hour, I would say $1 to $2. Ms. Newsom said, okay.

Ms. Bell asked, I understand you are new to the organization; about four months or so. I would suggest that you continue to utilize your resources to the maximum, so that you can be successful. Have you had any contact with your facility in Livermore to find out why they weren't successful with their project? How is your program going to look differently than your Livermore facility? Ms. Stratton said, that's a great question. First off, I would say that I have had contact with them. We put a conference call together to find out what caused their low performance. I come from a company where we had this contract, and I was able to be instrumentally involved in that. I am familiar with the process and administrative portion of it; we're already up and ready to go. I have the support of the president of my operation. This goes all the way up to corporate to make sure that I have 100% approval in place. We're relying on our location to be successful. Ms. Bell said, thank you.

Mr. Broad asked, would you comment on your prior performance? Ms. Stratton said, yes. The Livermore facility was at a $60,000 contract, and I know that they only got 20% of that. Mr. Broad said, this is a question to staff. With the prior performance issue, how was this current proposal analyzed and approved? Was it right-sized? This time they are coming back for ten times the amount of what they earned. Ms. Stratton said, let me elaborate on the structure of the company. We're a stand-alone; my operation is not necessarily affiliated with the other facility, but obviously, we're under the same company. They are less than one-third the size of our operation, so we're much significantly higher than that. I have a team underneath me that would be helping, and we have an infrastructure in place here. The other facility didn't have the infrastructure and the training culture, which I was deliberately hired and brought on to the company to do. My position was created to grow the talent and develop the team. Mr. Broad said, okay.

There were no further questions from the Panel.

ACTION: Ms. Bell moved and Ms. Fernandez seconded approval of the proposal for Performance Food Service – Southern California, a Division of Performance Food Group, Inc. in the amount of $182,000

Motion carried, 6 – 0.

PRL Glass Systems, INC.

Gregg Griffin, Manager of the North Hollywood Regional Office, presented a Proposal for PRL Glass Systems, INC. (PRL Glass) in the amount of $401,200. Founded in 1989, PRL Glass seeks training for its employees and those of its affiliate, PRL Aluminum, Inc. This will be PRL Glass' second ETP agreement.

Mr. Griffin introduced Imelda Pinole.

There were no questions from the Panel.

ACTION: Ms. McBride moved and Ms. Fernandez seconded approval of the proposal for PRL Glass Systems, INC. in the amount of $401,200.

Motion carried, 6 – 0.

Snap-On Logistics Company

Mr. Griffin presented a Proposal for Snap-On Logistics Company (Snap-On) in the amount of $149,760. Snap-On manufactures quality hard tools, power tools, tool boxes, diagnostic software, calibration equipment and other tool accessories. This will be the second ETP Agreement for the Company.

Mr. Griffin introduced Kanchan Bhaskaar, Human Resources Manager.

Ms. Newsom said, your application states that you're using $3.48 to meet the post-retention wage using the healthcare premium. I would like you to expand on the health care package for the employees. Ms. Bhaskaar said, we offer a full health care package and it's market competitive. Dental, visual, and medical benefits are available through Kaiser; HMO and PPO. As far as the gap is concerned on the benefit, there is a 2% gap. We are going to look at that, and try to close the gap. Ms. Newsom asked, did you state that it's 100% employer-sponsored, or is there an out-of-pocket cost? Ms. Bhaskaar said, there is a little bit of out-of-pocket cost; it's about a few cents per hour.

Ms. Newsom asked, do you have any feedback on your last agreement, which had an 87% achievement rate, to ensure that you have a similar or higher performance rate? Ms. Bhaskaar said, yes; that was our first agreement, we were at 87%, which I felt was good. We are continuously improving in everything.

There were no further questions from the Panel.

ACTION: Mr. Rodriguez moved and Ms. Newsom seconded approval of the proposal for Snap-On Logistics Company in the amount of $149,760.

Motion carried, 6 – 0.

Teledyne Controls, LLC

Mr. Griffin presented a Proposal for Teledyne Controls, LLC (Teledyne) in the amount of $339,560. Founded in 1966, and headquartered in El Segundo, Teledyne is a learning provider of sophisticated onboard avionic and ground based electronic systems.

Mr. Griffin introduced Lorena Villa, Human Resources Manager.

Ms. Bell said, this is your first contract. Have you managed other contracts with ETP in the past? Ms. Villa said, no. I have not. Ms. Bell asked, will you be utilizing your training consultant? Ms. Villa said, that is correct. We have a training department to make sure that we have enough resources to manage the program. Ms. Bell said, we want you to be successful. Be sure to reach out to your representative, because we want you to come back, and ask for more funding. Ms. Villa said, we would like to come back.

Ms. Fernandez asked, since this is your first agreement, what is the level of commitment of support from your organizational leadership? Ms. Villa said, I would not take less than 100%. Ms. Fernandez said, okay. Thank you.

There were no further questions from the Panel.

ACTION: Ms. Bell moved and Ms. Fernandez seconded approval of the proposal for Teledyne Controls, LLC in the amount of $339,560.

Motion carried, 5 – 0.

(Mr. Rodriguez departed at 11:21 a.m.)

Wonderful Pistachios & Almonds LLC

Mr. Griffin presented a Proposal for Wonderful Pistachios & Almonds LLC (Wonderful) in the amount of $749,070. Founded in 1989, Wonderful, previously known as Paramount Farms International LLC, requests funding for its employees and two closely affiliated entities, Wonderful Growers Cooperative, and Cal Pure Produce Inc. All three entities are wholly-owned subsidiaries of the Wonderful Company LLC in Los Angeles. This will be the second ETP Agreement with Wonderful.

Mr. Griffin said, I would like to make a note that they have an active contract with ETP under the Rapid Employment Strategies Pilot on Natural Disasters (RESPOND) pilot program that will end later this year, therefore Substantial Contribution does not apply.

Mr. Griffin introduced Loren Meigide, Senior Director of Human Resources.

Ms. Newsom asked, are any of the employees listed on your application compensated on a piecework system? Mr. Meigide said, no. We do not have piecework for the employees.

There were no further questions from the Panel.

ACTION: Ms. Fernandez moved and Ms. Bell seconded approval of the proposal for Wonderful Pistachios & Almonds LLC in the amount of $749,070.

Motion carried, 5 – 0.

Cox Communications California, LLC dba Cox Communications California

Ms. Torres presented a Proposal for Cox Communications California, LLC dba Cox Communications California (Cox California) in the amount of $457,179. Cox California is a multi-service/cable service provider in Southern California. This is the sixth proposal between Cox California and ETP within the last five years.

Cox California hires veterans on a regular basis, and is committed to hiring and training at least 15 veterans under this proposed agreement (Job Number 4). Cox California is a repeat contractor with payment earned in excess of $250,000 and a former Substantial Contribution at the 15% level at various facility locations in San Diego County.

Ms. Torres said, on Page 2 of 7, there is a typo under the post-retention wage for health benefits. $3.71 will be used to meet the ETP minimum wage, not $5.44. That is a mathematical error on staff's part. The health benefits for Job Number 1 and Job Number 2 will be for the incumbent workers; Field Service Technician 1 and Sales Staff 1. For Job Number 3 and Job Number 4, which is under Job Creation, will not need health care benefits to meet the ETP minimum wage.

Ms. Torres introduced Linda Kavanaugh, Acting Vice President of Human Resources, Kimber Hanrahan, Director of Training Delivery, Jim Barrier, Manager of Training Delivery, and Ann Ervin, Director, Tax Credit Company.

Ms. Fernandez said, first of all, I'm happy to see the veterans hiring component in this proposal. Hopefully, that will expand, and you will continue to hire more veterans. My question is in regards to the employees. What happened to the employees in San Diego and Orange County when the department moved out of state? Ms. Kavanaugh said, there were other opportunities within the organization. A lot of the employees moved where the jobs went. One of our call centers is located in Arizona, which is pretty close, and the employees were offered $15,000 to move. Most people have not seen $15,000, and they were happy to move were the jobs were. We also had positions locally, as well as other locations. Ms. Fernandez said, I'm happy to know that the workers were not completely displaced, and that opportunities were created for them to be able to continue with their careers. Thank you.

There were no further questions from the Panel.

ACTION: Ms. McBride moved and Ms. Bell seconded approval of the proposal for Cox Communications California, LLC dba Cox Communications California in the amount of $457,179.

Motion carried, 5 – 0.

Stearns Lending, LLC

Ms. Torres presented a Proposal for Stearns Lending, LLC (Stearns) in the amount of $202,080. Founded in 1989, Stearns is a privately owned mortgage bank headquartered in Santa Ana.

Ms. Torres said, there is a typo on Page 3 of 5. They will be training three individuals, not five, under the Job Creation. This is consistent with the information on Page 2 of 5. I'm going to try my best to explain the wage range by occupation. The incumbent workers for Job Number 1, which is the bulk of the training proposal, all of the occupations, except for the managers, will need to include health benefits for at least a portion of those proposed for the workers. Those health benefits are $1.75. In addition to the Sales Staff in the same job number, which we broke down into four different groups, the first group will be exempt. They will need commissions in order to meet the ETP minimum wage.

Ms. Torres introduced Delane Olin, Senior Vice President, Training and Developments, and Farrah Talei, Training Coordinator.

Mr. Broad asked, Ms. Torres, on Page 2 of 5, it says, "according to Stearns, Sales Staff in Groups 1 and 2 are exempt"; exempt from what? Ms. Torres said, exempt from the state of California minimum wage compensation.

Mr. Broad asked, are they outside sales people; they don't work inside their offices? Ms. Olin said, they're outside sales staff. Mr. Broad asked, do they spend more than half of their time calling on customers? Ms. Olin said, that is correct. Most of our loans are purchase loans and referral-based business, and generally, the real estate agents are the ones who are influential on those decisions. We do business-to-business and wholesale loans, but our primary sales clients are the real estate agents. They are the ones referring the business into Stearns.

Mr. Broad said, assume for the moment that that group of workers are indeed outside sales persons, and they are exempt from the minimum wage, if they don't have a guaranteed wage, I don't see how we can fund them. Ms. Olin said, I understand where you're coming from, especially hearing the discussions earlier today. We have a couple of different compensation structures. Most of our outside sales are commission only, but they have a recoverable draw of $9.23 per hour. We examined our compensation for our sales people prior to this project and discovered that of the 245 employees, 90% of them have exceeded the ETP minimum wage requirement; the ones who didn't were fairly new.

Mr. Broad said, leaving aside the question about the 100% commission salespeople, if we are prepared to fund them, are you prepared to say to them that you can only get the training money if they earn above the ETP minimum wage, or the state minimum wage? Ms. Olin said, yes, we are. Mr. Broad said, okay.

Mr. Broad asked, of the 957 employees, how many outside sales person are exempt from minimum wage? Ms. Olin said, of the 954 trainees, 245 sales people are exempt from minimum wage.

Mr. Broad said, with regard to the outside sales person, what are we training them to do with this money? Ms. Olin said, a good deal of our training will be around the substantial legislative changes in the mortgage industry, and redesigning our process to ensure that our originators are operating compliantly. Our company has been in business for 25 years, and we were one of the few that survived the crisis. I attribute a lot of that to the fact that we are very conscious with compliance, having a no-tolerance policy, or operating outside of that. Another huge focus of our training is on products, and ensuring that our originators are well aware of our product offering, how each of them works, the qualification requirements, and ensure that we are putting customers in the right products. Another portion of our training is on technology. Our company switched out pretty much every piece of the technology, including our loan origination system last year. We spent a large amount of time on software training. Mr. Broad said, okay.

Mr. Broad asked, how many of the trainees have direct communication with the borrowers? Ms. Olin said, of the 245, about half of those. There are two different sales channels. One would be direct conversation with borrowers, and the other is a wholesale channel where they work directly with the mortgage brokers. Mr. Broad asked, when they have direct communication with the borrowers, what are they talking to them about? Are they individuals that have already applied for a loan, or are they prospective borrowers? Ms. Olin said, it's a combination of both. Generally, on the wholesale side, the consumers approach the broker directly, and the brokers make the decision as to where to sell the loans. In those instances, they don't speak to the consumer; we're providing a service to the broker. On the retail side, we have conversations with the borrower. They are in the market to purchase a home, and the real estate agent has referred them directly to our company. The borrowers that are coming to us have an idea of how much they want to borrow. At that point, we review their credit and present them with loan options.

Mr. Broad asked, what are we training those employees to do? Ms. Olin said, I'm sorry if I misunderstood your previous question. When I answered earlier about compliance and technology, that's what we're training our employees to do. One thing that is important to know is consumer protection, because that's a big concern. We now have federal laws in place that govern on how we can pay our originators. Prior to 2010, the originators could be paid based on the type of product or interest rate, and now, that is against the law. Of course, we abide by that. So the originators cannot be paid on a per loan basis, or based on the type of loan. Their compensation is based off of the total funded volume.

Mr. Broad said, I'm sorry for dominating this line of question, but this has been an issue of mine for a very long time. I felt like we really got burnt in 2008, because I was asking someone who seemed just as genuine and nice as you these very same questions. They had received superior training, because I certainly couldn't detect that they were completely lying. But anyway, I'm not suggesting that you are that person here.

Mr. Broad said, I don't want our money, in any way, to train people on how to get borrowers into loans that they can't afford. If they were to ask me for my opinion, I would say scream and run out of the room, because that's a very bad idea. I'm worried about up-selling to people who are buying more than what they can afford. I am now reading that the heat is off, and that changes have been made in the law, but high pressure practices are creeping back up in the lending industry. I hate to think that we're going to let our guard down. For a while, nobody from the mortgage industry came before the Panel, because it would have been embarrassing after all the recession. But the two of you seem like very nice people, and you've answered our questions appropriately.

Mr. Broad said, reassure me that there is no way that I'm going to read about your company in the paper the next time there is a recession. This is a real concern to us, because the mortgage industry has a checkered history. Ms. Olin said, I definitely understand that, and I see your perspective clearly. Unfortunately, there were a lot of bad decisions that were made in the mortgage industry in the previous years. I think that there's not a person in the country who hasn't suffered that. For what it's worth, I should get some points for bravery. Mr. Broad said, you should get extra points for bravery, and you're very articulate.

Ms. Olin said, to answer your question, as mentioned earlier, a lot of legislative changes were made, and that doesn't solve everything. You can pass regulations, but if the companies don't take them seriously, then the regulations are good for nothing. Going back on the originator compensation, there was a time when I can say, "Mr. Broad, I'm going to place you in this 2-1 adjustable rate mortgage loan, because it's the right decision for you", only to find out later that you weren't well informed. As I mentioned earlier, there is not an incentive for the originator to sell an FHA loan versus a VA loan. There are different loan structures where you can have a higher interest rate with low closing cost, or vice versa. The originator is paid exactly the same, regardless of how that loan is structured, so that's one protection.

Ms. Newsom asked, what about your wholesale department and the mortgage brokers, do they have an incentive when they're selling to their clients? Ms. Olin said, the mortgage brokers do not have incentives. With mortgage brokers, they can be paid one of two ways. One is the flat percentage of the loan, and it cannot vary from loan to loan. If I'm a broker and my agreement with Stearns Lending is 1%, that agreement is across those loans. The other way the broker can forgo that commission is exchange the charging fee to process the loan, or an application fee. There is a limit to that as well, and that is federally regulated, which is 3%. There is also a limit on that compensation, and its across-the-board, it cannot be based on loan characteristics. We also had some recent regulation around the ability to repay. We have to evaluate every loan to show that you are qualified to pay that loan. It has really changed the landscape on adjustable-rate loans, were borrowers would qualify for lower payments, and then the payment goes up to an amount that they can't afford. Now, you can qualify based on the highest amount of payment, and things of that nature. It's definitely a concern. Single-handedly, I would love to carry the flag, and say we're not all crazy; we're not criminals. I think we have to prove ourselves.

Mr. Broad asked, from our perspective, how do we know? These are subtle things. When a first-time home buyer is looking for low monthly payments and you get them in an adjustable-rate mortgage, but in five years, their payments would be doubled, that's a bad idea. You need to ask yourself if they can afford the payments, and most people can't afford it. The loan will eventually be sold in six months, and then becomes someone else's problem. Maybe we should fund training that involves legal compliance. Although we're not supposed to fund training that is mandatory, or training on how to get somebody into a loan that maximizes profits; in other words, sales technique. Then I ask myself, how much can we micromanage this, and ask our staff to micromanage it? We hope that we don't wind up funding a project that we will end up in the paper, and regret deeply, as we did the last time.

I'm genuinely puzzled. You obviously strike me as a good and brave person. You've been very candid, and I appreciate that.

Ms. Fernandez asked, I have a question I'd like to ask regarding the commission-based individuals. If they're commission-based, are you paying into the unemployment insurance (UI) for them? Ms. Olin said, I don't know the answer to that. That is something that I could find out from our human resource department. Ms. Fernandez said, that would be necessary to find out, because if you're not paying it, then we're technically funding people that are not contributing into the fund.

Ms. Reilly said, it is a requirement that all trainees must be employed full-time, permanent, and meet retention. The only way we can check retention is when the base salary is reported to EDD as part of payroll reporting for tax withholding for UI. In this case, the salary would be the commission. The retention requirement goes in the contract.

Ms. Fernandez asked, how do you do that with commission? Ms. Reilly said, Ms. Torres, can you address that? Ms. Torres said, it's based on the reported salary for those individuals; they pay the UI. The reported salary would be the commission that goes in there.

Mr. Broad said, what would happen here is the salesperson on commission, not outside sales, are obligated to receive minimum wage and there's a commission sales plan. So there are payroll taxes paid on that person. An outside salesperson that has no sales is owed no money. Therefore, no tax is paid for them within that pay period if they don't earn any commission; that's how outside sales work. In that situation, it's not that the tax is not owed on them; it just may not be paid if there are no earnings. I don't know where that places us. However, we started this conversation with regard to outside salesperson: are you willing to accept to be paid no less than the state minimum wage for all hours worked? The problem there is that they are not necessarily recording their hours, because they are outside sales people, and they're not subject to any of those rules.

Ms. Reilly said, regulation Section 4418 explains how commission sales are to be used in determining the post-retention wage. We can accept them as long as they are verifiable, which would mean reported to EDD. Mr. Broad said, but that could mean that they didn't earn anything, or hardly anything at any given pay period. In theory, you can retain someone who earns no money. They could be retained, but in that retention month, and the month after that, they earn their buck and a half, because they didn't sell anything. Ms. Reilly said, then they wouldn't meet the wage requirement at the end of retention as needed to earn final payment, but we can put that in the contract to make it more specific. That's the basic trainee eligibility requirement; they have to be employed full-time. We can only verify wage retention using the EDD database, which requires payroll reporting by the employer.

Mr. Broad said, I'm prepared to vote for this if we exclude training curricula related to sales techniques. I'm very comfortable with paying for how to follow the law. I don't know if you can cut it that way for commissioned salespeople. If we're going to pay for them, they need to be paid the state minimum wage, or amount equal to the state minimum wage for all hours worked. They have to be guaranteed a full-time salary equivalent, regardless of what their sales are, which you said you would agree to.

Ms. Olin said, I just want to make sure that I understand correctly. I'm a training person, so I can't modify the compensation structure. Mr. Broad said, you don't have to modify the compensation structure. The training is on your nickel if you don't meet the condition, not ours. You eat the cost. Ms. Olin said, I just want to restate to make sure that I understand. We would not be reimbursed for training hours for the employees, unless they meet the ETP minimum wage, is that correct? Mr. Broad said, yes, for the full-time worker. Ms. Olin said, quite honestly, I thought that was the rule. Mr. Broad said, it is for everybody else, except outside salesperson. That's the only group of employees that I could think of that are in that situation. Even professional employees, like administrative and executives that are exempt in other ways, but they're paid on a salary basis. They have to receive a salary; they can't receive less than their salary. But the problem with outside salesperson is there is no guarantee of anything that's required under the law. They're just totally out there. It was the fuller brush person, that's where it came from, going door to door selling things on a commission sales basis. There aren't many of them left, but you have them.

Ms. Reilly said, at the time of development, I thought there was a guaranteed draw: $19,700 a year for outside sales. Ms. Olin said, it's a recoverable draw. There are two types of draw. When a new employee is hired, there is a guaranteed period of time until they are able to learn how to operate and start their pipeline. Our salespeople also have a $9.23 per hour draw that they receive, even if they don't make a sale. Ms. Reilly asked, is that for outside sales too? Ms. Olin said, yes.

Ms. Reilly said, we calculated $9.23 against a 35 hour workweek, instead of 40 hours, and it comes to $10.70 an hour, which meets at least the state minimum wage. Mr. Broad asked, how does it get to be 35 hours versus 40 hours? Ms. Reilly asked, Ms. Olin, did you calculate the $9.23 per hour based on a 40 hour workweek? Ms. Olin said, that is based on a 40 hour work week. Ms. Reilly said, the requirement in our regulation is at least 35 hours a week. When you calculate 35 hours per week, you hit the state minimum wage. Mr. Broad asked, why wouldn't you make it times 40 hours as opposed to 35 hours a week? Ms. Reilly said, our minimum threshold for full-time employment is 35 hours a week; we looked into it because $9.23 an hour would not meet the state minimum wage. Mr. Broad said, I'm trying to make this work for us, not them, which would mean the state minimum wage time of 40 hours per week. Ms. Reilly said, if it's 40 hours a week, then they don't meet the requirements. Mr. Broad said, they are going to have to meet it, or we are not going to pay. That would be our condition; they have to earn at least that much per week; that's what we're saying. Mr. Broad said, it doesn't matter how they get the guaranteed minimum wage or earn it as part of commission, or whatever, but they have to get there. If they don't get there, we don't pay. It has to be during the training period and the retention; the whole time.

Ms. Torres said, first of all, I would like to thank Ms. Fernandez for bringing up the UI question, because this is a different type of animal. You started with one conversation, and moved to another. Whatever you decide on, I want to clarify for contract language about the 90-day retention period. The amount in the quarterly bucket, divided by 35 hours is what it comes out to. I just want to clarify that you're talking about the sales people getting paid a guaranteed wage per hour outside of the retention period during the agreement. Mr. Broad said, the problem here is every other employee, even commissioned salespeople, are guaranteed the minimum wage for all hours worked. Ms. Torres said, right; for all hours worked. Mr. Broad said, outside sales are not guaranteed a penny. Ms. Torres said, that's correct. Mr. Broad said, it would have to cover the whole training period through the retention period. Ms. Torres said, that's what I wanted to clarify. Mr. Broad said, the risk that they're taking is their payment system. If they don't get there, they don't get reimbursed, and that's just the luck of the draw. Ms. Torres said, right. Mr. Broad asked, does that make sense? Does ever body on the Panel understand what I'm getting at?

Ms. Newsom said, there are multitude components to this application that I don't feel comfortable with, and a lot of it is based on today's conversation. One, this is an applicant from the financial services industry, an industry that is not one of our priority industries. The application has been significantly revised, since I've pulled it from the Consent Calendar at the last meeting. I would also like to thank the staff for their diligence in expanding upon the employee compensation practices, which I'm not comfortable with at this point.

I looked at your website: adjustable rate mortgages, and jumbo loans. In my background working for the financial crisis, and great commission in helping to produce that report, this does not vote well for me. I also want to bring up this article that was issued by the LA Times last year entitled: "*After subprime collapse, non-bank lenders again dominate riskier mortgages."* It goes on to state, "Penny Mac, Amerihome Mortgage and Stearns Lending have several things in common. All are among the nation's largest mortgage lenders, and none of them is a bank. All are headquartered in Southern California, the epicenter of the last decade's subprime lending industry. And all are run by former executives of Countrywide Financial, the once-giant mortgage lender that made tens of billions of dollars in risky loans that contributed to the 2008 financial crisis." I just don't feel comfortable in investing our dollars in this industry at this point.

Ms. McBride said, in light of the very fine presentation that our guests have provided today in trying to give us comfort and understanding with how their system and training work, can we give them an opportunity to go back, and work with staff and their organization, rather than just kill this here? Let's give them an opportunity to come back, and give us better comfort. We may not get there, but it will give you an opportunity to go back and restructure this. I apologize to our staff, because I know that this would mean spending more time, but I would rather spend more time, and make the company feel that they've been heard with regard to the training that needs to happen. Perhaps, eliminate the training for outside sales position, where we have great concern; consider what the Panel members have said; review it, come back and restructure. I don't think it's going well in your favor today. That would be one way to approach this. That doesn't mean that things are going to change, but it would give you an opportunity to think this through a little bit further.

Ms. Bell said, I'm feeling very uncomfortable about how this is all coming down. I have dealt with outside sales; employees who don't make anything. I'm concerned with the commission piece as well. If we were to vote right now, I would totally vote against any type of funding for Stearns.

Mr. Broad said, it's pretty clear that the votes are not here under any circumstance, since at least three of us have stated some concerns. Maybe you want to take this back and rework it with staff, and see if you can come up with some formula that can work. The newspaper article regarding Countrywide and other companies are also an issue.

Mr. Broad said, I would like staff to inquire whether outside sales people meet the legal definition in the wage order of the Industrial Welfare Commission, which requires that they spend predominantly more than half of their time outside an office setting. Their house could be there office too; and include physical traveling. We have to comply with the law, and there are several issues here. I appreciate you coming forward, and you have been very candid. If I was going to send somebody, I would send you, but it didn't quite work. Why don't you go back and restructure, and see how you do. Ms. Olin said, thank you for your time. I appreciate it.

The proposal for Stearns Lending, Inc. failed for lack of a motion.

Intuitive Surgical, Inc.

Creighton Chan, Foster City Regional Office Manager, presented a Proposal for Intuitive Surgical, Inc. (ISI) in the amount of $395,876. Founded in 1995 and headquartered in Sunnyvale, ISI manufactures surgical robots used across cardiac, urology, gynecologic, colorectal, pediatric and general surgical disciplines. This is ISI's third ETP Agreement in five years.

ISI is a repeat contractor with payment earned in excess of $250,000 at the Sunnyvale facility within the past five years. Accordingly, reimbursement for trainees at the Sunnyvale facility in Job Number 1 (Retrainee) and Job Number 3 (Veteran/Retrainee) will be reduced by 15% to reflect the Company's $33,324 Substantial Contribution to the cost of training.

Mr. Chan introduced Megan Gage, Global Talent Development Manager.

Ms. Bell asked, can you tell me about the process of converting temporary employees to permanent employees? Ms. Gage said, most of our employees are brought on full-time. However, we have some employees that are brought in through our temporary agency. Our front-line workers in manufacturing are provided training from day one, and they work hand in hand with our full-time employees as they transition into their permanent position.

Ms. Bell asked, do you operate 24 hours a day, 7 days a week? Ms. Gage said, not 24 hours a day, 7 days a week, but we have some employees who work some evenings and weekends, depending on product manufacturing. Ms. Bell said, thank you.

Ms. Fernandez said, I want to commend you for having the Individuals with Disability and veteran component as part of your project. I think you have a great track record, and I wish you a lot of success, and thank you for adding those two components. Ms. Gage said, thank you, and we're very proud of it.

ACTION: Ms. Bell moved and Ms. Fernandez seconded approval of the proposal for Intuitive Surgical, Inc. in the amount of $395,876.

Motion carried, 5 – 0.

The Wine Group, Inc.

Willie Atkinson, Sacramento Regional Office Manager, presented a Proposal for The Wine Group, Inc. (TWG) in the amount of $749,988. Founded in 1981, TWG operates 13 wineries throughout the world, producing more than 56 million cases of wine in the U.S. This will be TWG's third ETP-funded training project in the last five years.

Mr. Atkinson introduced Krista DeBie, Technical Training and Communications Director of Human Resources, and Beth Ingle, Consultant.

Ms. Bell asked, do you operate 24 hours a day, 7 days a week during harvest season? Ms. DeBie said, we operate 24 hours a day; 5 days a week, sometimes 6 days. Ms. Bell asked, do you have any temporary employees? How do you recruit employees? Ms. DeBie said, there would be a small percentage that would be temporary, but most of them are hired full-time. Ms. Bell said thank you.

ACTION: Ms. Fernandez moved and there was a second on the approval of the proposal for The Wine Group. Inc. in the amount of $749,988.

Motion carried, 5 – 0.

Troon Golf, LLC

Mr. Atkinson presented a Proposal for Troon Golf, LLC (Troon) in the amount of $450,750. Founded in Scottsdale, Arizona, Troon has become the largest third party manager of golf courses and golf club operation in the world.

Mr. Atkinson introduced Jon Vespar, Director of Golf and Steve Benson, Consultant.

Mr. Broad asked, does your company manage the golf operation at the Silverado Resort? Mr. Vespar said, yes. We manage the golf operation and maintenance for Silverado. We are basically a third party management company. We have a lot of other venues that we can assist with; club house design, food and beverage, golf course construction, sales and marketing, information technology, and accounting. We have a lot of opportunities for our associates to grow, not just necessarily in the golf operation itself.

Mr. Broad asked, are the employees your direct employees? Mr. Vespar said, they are our associates. Mr. Broad said, ok. So, in a place like Silverado, when you're golfing, the golf course employees are yours, but when you walk into the hotel, they are employees of the resort? Mr. Vespar said, yes. That is correct. Mr. Broad asked, is that a common division of labor in the resort industry? Mr. Vespar said, typically, in our resort facility, we partner with Starwood and Wyndham. But in a standalone operation, like The Classic Club in Palm Desert, The Westin Mission Hills in Rancho Mirage, and The Indian Wells Resort, they are operating the entire facility; food and beverage, and all the other components as well. Mr. Broad said, okay. Thank you.

Ms. Newsom asked, what is the out-of-pocket cost of healthcare for your workers? Mr. Vespar said, Troon Golf offers 100% health care package, and we share the cost with that.

There were no further questions from the Panel.

ACTION: Ms. McBride moved and Ms. Bell seconded approval of the proposal for Troon Golf, Inc. in the amount of $450,750.

Motion carried, 5 – 0.

Truck Accessories Group, LLC

Mr. Atkinson presented a Proposal for Truck Accessories Group, LLC (TAG) in the amount of $253,726. TAG is headquartered in Indiana, with manufacturing facilities in Pennsylvania and Woodland, California. The Company manufactures truck caps, tonneaus, retractable bed covers, and aluminum and plastic automotive components.

TGA is a repeat contractor with payment earned in excess of $250,000 and a former Substantial Contribution at the 15% level, at the Woodland facility, within the past five years. Accordingly, reimbursement for trainees at this facility in Job Number 1 will be reduced by 30% to reflect the Company's $93,930 Substantial Contribution to the cost of training.

Mr. Atkinson said, on Page 5 of 5, under the prior projects table, the payment earned shows 3%, which is $15,300. However, it has been updated to reflect the earned payment of $258,777; 53% of the awarded agreement amount. This is how we right-sized the current agreement for funding request.

Mr. Atkinson introduced Fred Saldivar, Human Resources Manager, and Christian Alvarez, Consultant.

Ms. Newsom asked, can you please describe your healthcare package? Mr. Saldivar said, it's very minimal; less than $1.

ACTION: Ms. McBride moved and Ms. Fernandez seconded approval of the proposal for Truck Accessories Group, LLC in the amount of $253,726.

Motion carried, 5 – 0.

<u>Multiple Employer Proposals</u>

Apprentice & Journeymen Training Trust Fund of the Southern California Plumbing and Piping Industry

Mr. Griffin presented a Proposal for Apprentice & Journeymen Training Trust Fund of the Southern California Plumbing and Piping Industry (P&P Trust) in the amount of $949,221. P&P Trust provides training for workers in the plumbing and pipefitting industry.

Mr. Griffin introduced Armando Pulido, Executive Director.

Ms. Fernandez said, I just want to commend you for hiring veterans. It seems like it's always the trade that lead the way in creating opportunities. I really want to thank you for that. You have a great track record, and I would like to make a motion to approve.

Mr. Pulido said, I just like to say that the veterans program is supported by our international**,** even though the veterans don't stay in California. We offer them the training and ability access to join anywhere they want. Thank you.

ACTION: Ms. Fernandez moved and Ms. Newsom seconded approval of the proposal for Apprentice & Journeymen Training Trust Fund of the Southern California Plumbing and Piping Industry in the amount of $949,221.

Motion carried, 5 – 0.

California Workforce Association

Mr. Atkinson presented a Proposal for California Workforce Association (CWA) in the amount of $941,325. CWA is a non-profit, membership-based association serving the local workforce development delivery system. CWA's membership represents all 48 of the Workforce Investment Boards (WIB) in the State of California.

Mr. Atkinson introduced Bob Lanter, Executive Director and Steve Duscha, Consultant.

There were no questions from the Panel.

ACTION: Ms. Fernandez moved and Ms. Bell seconded approval of the proposal for California Workforce Association in the amount of $941,325.

Motion carried, 5 – 0.

X. ACTION ON STRATEGIC PLAN FY 2016/17

Mr. Knox said, the FY 2016/17 Strategic Plan was previewed by the Panel members last month, and the Funding Allocations and Caps were approved. We have added other pieces to the Strategic Plan, and Mr. Maslac will be presenting a brief overview.

Mario Maslac, Employment Training Panel, Planning and Research (P&R) Unit Manager

Mr. Maslac said, good afternoon Mr. Chairman and Panel members. I would like to provide you with a brief overview of the Fiscal Year 2016/17 Strategic Plan. Before I do, I would like to mention another retirement in our Central Office. Melinda Walton, Applications and Assessment Unit (AAU) Manager, retired on June 15th. Ms. Walton was with ETP for just under 10 years, and she helped develop the AAU, which centralized the eligibility and determination of applications. She will be missed. Ms. Bell said, thank you. We wish her well.

Before I proceed, I would like to thank all the members of the P & R Research Unit who did an exemplary job of putting this year's plan together. They are Elisabeth Testa, Tiffany Woodruff, Brian Lytle, Jeff Brooks, John Saunders and Madison Hummel.

The Strategic Plan for this year has been updated with a few minor revisions, and some of the sections have been moved around. In addition to ETP's vision and mission statement, introduction, overview and accomplishments, the Strategic Plan also includes goals and objectives, administrative strategies, economic overview, priority industries, workforce trends, strategic initiatives and alliances.

ETP's priority industries identified in the Strategic Plan are deemed most vital to the State's economic health. They are the focus of ETP's marketing efforts, and the employers in these industries have a higher reimbursement rate. The priority industries remain unchanged from the prior FY. They are agriculture, allied healthcare, biotechnology and life sciences, construction, green/clean technology, goods movement and transportation logistics, information technology services, manufacturing, multimedia/entertainment, and technical services.

The Strategic Plan includes information about the workforce trends which includes the Workforce Innovation and Opportunity Act (WIOA), employer-based training, training for special populations like retirees and older workers, veterans, drought victims, and middle skill workers. The workforce trends section also focuses on sector strategies and different partnerships. The plan also covers strategic initiatives which are drought relief, green technology, alternative renewable fuel and vehicle technology program (ARFVTP), career technical education (CTE), apprenticeship training pilot, support for veterans, and serving small business.

ETP's strategic alliances include the state and local Workforce Investment Board (WIB), as well as some apprenticeship training pilot program, job creation and retention, and working with High Unemployment Areas (HUA), as well as various marketing contracts.

Under the Administrative Strategies, this section includes information about the Employment Training Management System (ETMS), which is scheduled to launch at the end of July; maximizing funds, funding caps, funding allocations, lowest priority funding priorities, and other limitations. To maximize limited funding, ETP will continue to incrementally encumber training funds, incentivize retraining for newly-hired employees, apply high earner reductions to repeat contractors, apply substantial contribution levels, and adjust funding priorities and limitations including funding caps. The funding caps are subject to revisions by ETP based on adjustments to projected revenue collection of the employment training tax, and other factors. The need for flexibility in setting funding caps is an aspect of strategic planning.

The Funding Caps remain the same: Single Employer $750,000; Single Employer Small Business $50,000; Critical Proposals $900,000; Multiple Employer Contract (MEC) $950,000; MEC Apprentice Training per program sponsor $450,000. Projects with multiple sponsors may not exceed the MEC cap. The caps on AB 118 and drought funding will be determined on a case-by-case basis. Funding for active contracts may be increased on a case-by-case basis depending on performance. The caps may be adjusted upward on a case-by-case basis with justification.

The funding priorities and limitations were presented at the last Panel meeting. The funding allocations are: Multiple Employer Contracts (MECs) $20M; Single Employers $45M; Small Business $6M; Critical Proposals $6.9M; Apprenticeship/non-traditional $12.5M; overall total of $90.4M.

One thing that I would like to point out is the lowest priorities. This was a placeholder. We will be removing retail trade and mortgage industry, and we will correct this in the Strategic Plan. All the other industries listed are carryovers from before, such as retraining of employees of training agencies, all training in the adult entertainment industry, gambling, and truck driving schools. Some of the other limitations we have are support costs, substantial contribution, high earner reduction, and employer demand for MECs; they have to demonstrate that there is employer and demand for training.

<u>Strategic Plan Goals and Objectives:</u>

1. *Enhance the Visibility of the ETP Program*. The objectives are: partner with public and private sector, State and local economic and workforce development organizations, including GO-Biz, to identify projects that demonstrate a direct economic impact to the State; partner with public and private stakeholder to increase outreach and raise awareness about the ETP program; educate legislative members and staff on the availability of training funds for their constituencies; continue to work with the Labor and Workforce Development Agency (LWDA) on labor workforce objectives in alignment with the Governor's office.

2. *Target California's Key Industries*. The objective is to target program funds to ETP priority industries.

3. *Continue Support for Small Businesses*. The objectives are: improve outreach to small businesses through partnerships and develop new models for serving small business.

4. Support Governor's Initiatives and Hard-to-Serve Populations. The objectives are: continue to expand veterans program; expand services to serving people with barriers to employment; continue targeting training projects in the Central Valley region, rural California, Imperial Valley, and other HUAs; expand career opportunities for workers through support of pre-apprenticeship and apprenticeship programs; support worker returning to or remaining in the labor market; support workers and businesses impacted by the drought; continue to support green technology, training and jobs, and promote the use of industry recognized certifications.

5. *Enhance ETP's Impact on Job Creation and Retention.* The objective is to continue the Job Creation Pilot Program, and continue to work with Go-Biz on Critical Proposal designations to increase Job Creation impacts.

6. *Increase the Efficiency and Effectiveness of the ETP Program*. The objectives are: deploy ETP's new Data Management Information System to improve program efficiencies, and to ensure comprehensive, seamless data collection and reporting; continue ongoing, internal evaluation and assessment of program and contracting processes; continue to partner with the LWDA to coordinate workforce services delivery; continue to maximize funding through the use of funding priority caps and allocations.

Mr. Maslac said, we recommend that the Panel approve the Fiscal Year 2016/17 Strategic Plan, with the direction to staff to incorporate any requested changes. Staff further recommends that the Panel delegate authority to the Executive Director for final approval, prior to submitting the Strategic Plan to the Administration and Legislature. Thank you for your time, and I would be happy to answer any questions you may have.

Ms. Newsom asked, did you state that you are going to remove the mortgage banking from the lowest priorities list? Mr. Maslac said, yes; that will be removed. That was part of Ms. Reilly's presentation earlier; mortgage banking and retail trade. Those two industries were not on there last year. Of course with the Panel's direction, we can keep it in. Ms. Newsom said, I'd like to keep it in.

Mr. Broad said, I'd like to keep the mortgage banking on the list. I think we ought to focus on commission sales involved in retail. The other industry that I would like to add would be multi-level marketing firms. I don't know that we've ever had them, but they are mired in controversy continuously. The subject of consent creates an investigation, and so on. It's pretty obvious who they are. That would enable a general retail merchant, like the supermarket or department store, or anybody else, for training. Also, by focusing on commission sales in the retail industry, if you have an auto dealership and we're training mechanics on new techniques to work on engine, to me, that should be a low priority.

Ms. Bell said, thank you for the presentation, Mr. Maslac. I'm glad to see the agriculture on the priority industry list. On slide 14, where it says "continue targeting training projects in the Central Valley region, rural California, Imperial Valley, and other HUA", are there other areas with HUA, or are you targeting the highest area in the state of California? Mr. Maslac said, HUA are always a priority. We have a list of all of them throughout California. Ms. Bell asked, are they leveled? Mr. Maslac said, we treat them all equally. Ms. Bell asked, which HUA is the highest? Mr. Knox said, Imperial and Colusa County are the two highest areas in the state of California; usually around 24% to 25%. We can pull out an HUA within an urban area too. Ms. Bell said, thank you.

There were no further questions from the Panel.

Mr. Broad said, I'd like to make a motion to approve the Fiscal Year 2016/17 Strategic Plan, while maintaining the mortgage banking, changing retail trade to commission sales within the retail trade, and adding multi-level marketing firms. Ms. Newsom seconded approval of the Strategic Plan for Fiscal Year 2016/17.

Mr. Broad asked, are there any further discussion? We will now take public comments before we vote.

XI. PUBLIC COMMENTS

Larry Mandell, Training Refund Group

I'm Larry Mandell with Training Refund Group, and joining me is Monica Baumann from the California New Car Dealers Association. I apologize this morning for sounding a little strident, but I've been in sales in my entire career, and it seems to me it was an attack on my profession, and so I apologize for that.

The first thing I want to mention is, car dealers do meet the minimum wage. Everybody gets paid, whether they sell or not. I'm not sure I understood Mr. Broad's comment. Is it anybody that receives any type of commission or additional compensation to their pay, or those that are on straight commission? I'm not quite sure. Mr. Broad said, I would say employees where they are on a commission sales plan, or outside sales. Mr. Mandell said, we have no outside sales in our industry. Mr. Broad said, no; you have no outside sales.
Mr. Mandell said, it's all inside sales. Mr. Broad said, those jobs are low priority, and that doesn't mean that wouldn't apply to mechanics. We're talking about the commissioned sales jobs. We're not talking about commissions or incentive pay that may exist in some other way. I am quite familiar, as a lobbyist for the machinist union, how incentive pay works for mechanics in the auto industry; I do understand that. That's a little different than commission sales. The issue we have is the interface with the public. Mr. Mandell said, okay. Mr. Broad said, I'm selling you a car, not fixing your motor, and if you do it quickly, you'll get a bonus; that is not our concern. It's the same issue we have in the mortgage banking areas.

Monica Baumann, California New Car Dealers Association

Good afternoon. My name is Monica Baumann, and I'm the director of the California New Car Dealers Association. Mr. Mandell asked me to speak today to address some misconceptions about the industry.

Training by nature is a prospective activity. The ways that the industry were in the past should not inform the training that we fund in the future. Three things have really come together to shape how the automotive industry is moving into the future, particularly in the sales realm. Please stop me at any time if you want additional information. I'll try to move quickly, so it doesn't take up all of your time.

First, we have far more information regarding pricing. What that has resulted in is far less negotiation regarding price per vehicles, whether that's through car dealers, or simply the internet. The number of resources out there that we are seeing is far less pressure in sales price. That is shown through much research and the decrease in the margin for the purchase of a new vehicle. That's been well-established throughout the market for about 10 years. It's a growing trend that we expect to see moving forward. That is combined in addition with a renewed focus on customer satisfaction.

Secondly, Customer Satisfaction Index (CSI) is used in the industry, and it's now one of the major factors for how dealerships are compensated for individual sales of vehicles and manufacturers. It's frequently the most important determinant in whether or not a franchise continues to operate. I frequently appear in front of the New Motor Vehicle Board that deals with the relationship between manufacturers and franchise car dealers. CSI is frequently the number one reason for seeking to close down a dealership. CSI is based entirely on customer satisfaction and the purchase of the vehicle. Those are the two things combined to really change the way the cars are sold, and the tactics that are used for getting people into vehicles.

Thirdly, we're seeing a vast increase in the number of option and changes in the vehicle itself. Whether those are autonomous features, various versions of electric vehicles, such as semi-electric or fully electric, and additional new onboard entertainment system are just some of the examples. I raise these issues, because the focus on sales is moving away from the stereotype of a "gold-chain" sales man that we have in our head from the 1970's, and more towards the product specialist that's helping a person get into a vehicle that has new devices and features that no one has ever seen before. This is the movement of our industry. As a perspective program training, I was hoping that we will not have a thumb on the scale. We're moving in a different direction, and our dealership should have the opportunity to present that information to you in the future.

Mr. Broad said, we have a Strategic Plan every year. You're perfectly free to come back next year should it pass in this form, and see how much progress has been made to a different model than has existed in the past.

Ms. Baumann asked, are there any other information we can provide; what additional change in the industry would you like to see? Mr. Broad said, I'm not sure. If the pharmaceutical industry came in here, and requested funding on how to train their outside sales people on techniques to get doctors to buy their drugs, we're probably going to have a lot of questions. It's not just you guys, it's across the whole economy in those areas that share certain characteristics.

There's a continuous level of public questioning about issues in this industry. For example, the truck driving schools are not here, because they probably don't have a lot to say, and I'm glad that Trump University is not here, because it's the same issue; same story as the trade schools. They continue to have that problem. They're not here, because we had the Corinthian meltdown this year. They're probably going to wait for a while until the heat dies down.

Generally, commission sales situations tend to be an area that has issues. Maybe you can come back, and say our salespeople are paid on a salary basis. That's why I change it, because I didn't really feel like the entire retail industry should be a low priority. If you have a sales force that's paid on a salary, then we probably won't see the same kind of issues. You're always free to make that argument on a case-by-case basis. You won't automatically get the training fund, but if you say, "there's something different here, take a look", you're always free to do that. You are free to move forward with a proposal, even if our staff doesn't recommend it, the Panel will certainly listen. I'm not comfortable departing from this funding priority list.

Ms. McBride asked, is the industry moving away from the commission based customer service person versus a sales person? Ms. Baumann said, there's been a lot of experimentation in both directions. Yes, there are certainly more dealerships that are looking towards that. It's not a salary, because they would not qualify for an overtime exemption under a different system, so it will be an hourly wage. They are moving towards a non-commission system, but they will continue to have a commission aspect to their compensation for decades to come, because it is a customer service industry. When you provide the service, there is an incentive there.

Ms. Baumann said, there isn't a lot of public interest of whether the doctors are pushing Cialis versus Viagra in the pharmaceutical industry. We do have a public interest in making sure people are in the best cars available; new cars. With the growth of the electric vehicle (EV) section, that is one of the major priorities for this administration. Shutting down this kind of training program at a time when we need to get more people into these vehicles might have some unintended consequences. This is a different industry than the ones that have been cited. We would like the opportunity to not have the thumb on the scale, and to present opportunities to your staff and to this Panel in the future that would address your concerns more specifically.

Mr. Broad said, we have another funding program through AB 118 that funds electronic and low emission vehicles without the same set of limitations that are otherwise in our statutes. If you want to come in for AB 118 funding, you're perfectly free to do that for your salesforce or anybody else.

Ms. McBride said, I haven't purchased a car in over 15 years, and I might have the luxury to do that this year. It's an entirely different experience than what it was, and I commend the industry for making it a much more pleasant experience as a consumer. From the last Panel meeting, didn't we decide that we could do a review every six months, or am I confusing that with another point? Mr. Broad said, yes.

Ms. McBride said, if the industry is seeing these evolvements, maybe we can have further discussions at a later time. If we see enough experiences or presentations that come through AB 118 that makes sense, and if our feelings, as a Panel changes at that point, we can certainly look at it from that respect, as it appears that there's not an interest in making that little tweak today.

Mr. Broad asked, are there any further discussions? Do you have anything more to add? Ms. Baumman said, you mentioned that the other industries that have been called out aren't up here. We are here, and we're confident in our industry. We're standing behind it, and I hope that you would take that into account when considering whether or not to place a one-size-fits-all guidance on this kind of application. Thank you. Mr. Broad said, you're welcome.

There were no further public comments.

Mr. Broad said, we have a motion and a second before us.

ACTION: Mr. Broad moved and Ms. Newsom seconded approval of the Strategic Plan for Fiscal Year 2016/17, as amended on the record to modify the staff recommendations for Lowest Funding Priority as follows: maintain mortgage banking; change Retail Trade to commission sales within Retail Trade; and add multi-level marketing firms.

Motion carried, 5 – 0.

Mr. Broad said, Mr. Maslac, thank you so much for your presentation.

XII. MEETING ADJOURNMENT

Mr. Broad adjourned the meeting at 1:00 p.m.