



Employment Training Panel

STATE OF CALIFORNIA EMPLOYMENT TRAINING PANEL

Friday, April 28, 2023

Panel Members

Rebecca Bettencourt
Chair

Rick Smiles
Acting Chair

Dee Dee Myers
Ex-Officio Member

Ernesto Morales
Member

Gretchen Newsom
Member

Douglas Tracy
Member

Madison Hull
Member

Michael Hill
Member

Executive Staff

Reg Javier
Executive Director

Peter Cooper
Assistant Director

Jaime Gutierrez
Chief Deputy Director

Tara Armstrong
Deputy Director of Technical Branch

Erich Shiners
Assistant Director/Chief Counsel

STATE OF CALIFORNIA
EMPLOYMENT TRAINING PANEL
California Environmental Protection Agency (CalEPA)
1001 I Street, 2nd Floor, Sacramento, CA 95814
Friday, April 28, 2023

I. PUBLIC PANEL MEETING CALL TO ORDER

Acting Chair Rick Smiles called the meeting to order at 9:32 a.m.

II. ROLL CALL

Present

Gretchen Newsom
Rebecca Bettencourt
Rick Smiles
Madison Hull
Michael Hill
Chris Dombrowski

Not in attendance

Douglas Tracy
Ernesto Morales

Executive Staff

Peter Cooper, Assistant Director
Jaime Gutierrez, Chief Deputy Director
Tara Armstrong, Deputy Director of Technical Branch
Erich Shiners, Assistant Director/Chief Counsel

III. AGENDA

The April Agenda was reviewed.

ACTION: Member Newsom moved and Chair Bettencourt seconded approval of the April Agenda with no changes. All Panel Members present voted in the affirmative for approval of the April Agenda.

Motion carried, 6 to 0.

IV. MINUTES

The March Meeting Minutes were reviewed.

ACTION: Member Newsom moved and Member Hull seconded the approval of the March Meeting Minutes with no changes. All Panel Members present voted in the affirmative for approval of the March Meeting Minutes.

Motion carried, 6 to 0.

V. REPORT FROM ASSISTANT DIRECTOR COOPER

Starting in July all meetings will be in person. Since we have run out of SET funds for the fiscal year we will be inactivating applications in the queue. The application window for the 2023-24 Fiscal Year will open on May 1st. Today's panel meeting is for 19 projects totaling \$6.6 million in funding requests. This includes six Delegation Orders. After today's panel meeting, the Employment Training Panel will have approximately \$20.4 million left in contracting capacity for the 2022-23 Fiscal Year.

There was a large demand for the Healthcare Advancement Fund (40 applications [14 MEC & 26 Single Employer] for a total requested amount of \$35,207,704) and Workforce Literacy Pilot Program (45 applications [34 MEC & 14 Single Employer] for a total requested amount \$16,507,130). The application window for both programs closed on March 20th. Applications are being reviewed. We will be getting proposals to Panel in June with some in July or August.

VI. UPDATE ON CAL-E-FORCE

Cal-E-Program applications for Fiscal Year 2023-24 opens Monday, May 1st at 9:00 a.m. Apprenticeship applications open from May 1st –June 9th. Productive lab questions have been added to the Application for clarity. Next steps will be working on streamlining the proposal from the application efforts with CivicMakers. Under Cal-E-Grants we are continuing to work with the California Workforce Development Board on the Grants. Lastly our Enterprise Support Security measures are being increased to comply with state regulations for conditions of use and Privacy Policy updates.

VII. LEGISLATIVE AND LEGAL UPDATE

Added new bill, Assembly Bill 1766, to our ETP Legislative Tracking. This Bill was amended April 13 to include ETP's legislative proposal; no date for policy committee hearing. Three bills have moved from policy committee to Appropriations Committee: AB241, SB382 and SB822.

The two action items are the beginning of efforts to update ETP's regulations. There have been no regulation changes since 2011.

VIII. REPORT OF THE CHIEF DEPUTY DIRECTOR

Regarding Funding

Today's Panel Meeting is for approximately \$6.8 million, which includes six Delegation Orders with a total of \$173,190. Delegation Orders are Proposals capped at \$75K and approved under delegated authority by the Executive Director on a continuous flow basis. For this state fiscal year ETP has approved a total of 64 Delegation Orders. If all proposals scheduled for this Panel Meeting are funded today, the Panel will be approving 19 projects and 4 amendments for the California Community College Funds (CCCCF). After today's panel meeting the Employment Training Panel will have approximately \$20.4 million left in contracting capacity for the 2022-23 fiscal year.

Regarding Demand and Allocations:

There are 116 applications currently in demand and 70 applications are with the Regional Offices in development. With 23 applications under review with the applications and assessment unit

and 16 submitted applications pending review. The estimated value of the 116 applications is \$26.6 million (\$20 million for single employers, \$3.3 million for multiple employer contracts, \$2.7 million for small business, and \$454,776 for Apprenticeship Proposals; with zero demand for Critical Proposals). We are currently within our allocations for this fiscal year 2022-23. The four amendments for the CCCF are to increase existing contracts.

IX. CONSENT CALENDAR

Tab 9 (Orange Coast Title Company) was pulled from the consent calendar.

ACTION: Member Newsom moved and Member Hull seconded approval of the Consent Calendar without Tab 9 (Orange Coast Title Company) with inclusion of the four Amendments for the California Community College Funds. All Panel Members present voted in the affirmative to approve as moved.

Motion carried, 6 to 0.

X. POLICY COMMITTEE REPORT

Policy Committee Meeting took place Tuesday, April 18 at 1:00 p.m. Reminder regarding Alternative Record Keeping was given. There was a discussion about strategies for Apprenticeship funding for Fiscal Year 2023-24. Two discussion items were heard regarding NAICS and Priority Industries. Committee approved an item regarding the collection of occupations at enrollment for all trainees and moved that it be brought to Panel today.

Motion was made to hear Proposals before Presentations

ACTION: Member Dombrowski moved and Member Newsom seconded approval to hear Proposals before Presentations. All Panel Members present voted in the affirmative to approve as moved.

Motion carried, 6 to 0.

XI. ACTION ON PROPOSALS

SINGLE EMPLOYER CONTRACTS

Tab No. 18: Fujifilm Irvine Scientific, Inc.

First time contractor. Funding requested \$590,640 to train 350 retrainees and 292 job creation trainees. Training will take place in Orange County.

ACTION: Member Newsom moved and Member Dombrowski seconded approval of the proposal submitted by Fujifilm Irvine Scientific, Inc. in the amount of \$590,640. All Panel Members present voted in the affirmative to approve the proposal as moved.

Motion carried, 6 to 0.

Tab No. 19: George Reed, Inc.

Acting Chair Smiles recused himself.

First time contractor. Funding requested \$496,800 to train 450 retrainees and 50 job creation trainees.

ACTION: Member Newsom moved and Member Hull seconded approval of the proposal submitted by George Reed, Inc. in the amount of \$496,800. All Panel Members present voted in the affirmative to approve the proposal as moved.

Motion carried, 5 to 0.

Tab No. 20: Kings Healthcare & Wellness Center, LP

Repeat contractor. Funding requested \$499,560 to train 443 retrainees.

Agreement to have staff update the contract to increase wages in Jobs 4 & 5 to \$19-\$22.

ACTION: Member Newsom moved and Member Hull seconded approval of the proposal submitted by Kings Healthcare & Wellness Center, LP in the amount of \$499,560 also reflecting the increase in wages for Jobs 4 and 5 to \$19 to \$22. All Panel Members present voted in the affirmative to approve the proposal as moved.

Motion carried, 6 to 0.

Tab No. 21: Producers Dairy Foods, Inc.

Repeat contractor. Funding requested \$499,560 to train 543 retrainees.

ACTION: Member Newsom moved and Member Hull seconded approval of the proposal submitted by Producers Dairy Foods, Inc. in the amount of \$499,560. All Panel Members present voted in the affirmative to approve the proposal as moved.

Motion carried, 6 to 0.

Tab No. 22: Sensient Flavors LLC dba Sensient Dehydrated Flavored Company

First time contractor. Funding requested \$443,900 to train 543 workers. Training will take place at Turlock and Livingston locations.

Agreement to have staff update the contract to increase wages to \$18.06.

ACTION: Member Newsom moved and Member Hull seconded approval of the proposal submitted by Sensient Flavors LLC dba Sensient Dehydrated Flavored Company in the amount of \$443,900. All Panel Members present voted in the affirmative to approve the proposal as moved.

Motion carried, 6 to 0.

MULTIPLE EMPLOYER CONTRACTS (MEC)

Tab No. 23: Los Angeles Trade Technical College

Repeat contractor. Funding requested \$599,970 to train 885 retrainees in Los Angeles, Orange and Santa Bernardino counties.

ACTION: Member Newsom moved and Member Hull seconded approval of the proposal submitted by Los Angeles Trade Technical College in the amount of \$599,970. All Panel Members present voted in the affirmative to approve the proposal as moved.

Motion carried, 6 to 0.

Tab No. 9: Orange Coast Title Company

Request made to table matter to future Panel meeting.

ACTION: Member Newsom moved and Member Hull seconded approval to table Orange Coast Title Company to future Panel meeting. All Panel Members present voted in the affirmative to table Orange Coast Title Company to future Panel meeting.

Motion carried, 6 to 0.

XII. ACTION ITEMS

Collecting of Occupation Titles at Enrollment and Final Invoice for All Trainees

Staff is requesting that the Panel approve the addition of the collection of occupation titles, at enrollment, and at final invoice for all trainees. To make things very simple, at enrollment, contractors will enter job titles used internally by the employer and at the final invoice, there would be a picklist of the occupations entered previously at enrollment. Allowing us to collect changes in the occupations (resulting from training etc.) at final invoice.

ACTION: Member Newsom moved and Member Hull seconded adoption and approval of the collection of occupation titles at enrollment and final invoice for all trainees. All Panel Members present voted in the affirmative to adopt and approve as moved.

Motion carried, 6 to 0.

Project Caps, Reimbursement Rates, Moratorium, and Allocations

Every year we review our funding strategies and make recommendations for the next Fiscal Year on Funding Caps, Reimbursement Rates, Moratoriums, and Allocations. For the 2023-24 Fiscal Year this is for core funding only. Staff recommends that Project Caps remain the same for Single Employers (including Small Businesses) and Apprenticeship Proposals. The Recommendation is that for Critical Proposals and MECs the Caps should be increased from \$500K to \$750K, based on the demand of the last Fiscal Year. Regarding Reimbursement Rates staff proposes they remain the same. Comments were made at Policy Committee to look at increasing these due to inflation but with a limited budget this year we would serve fewer

trainees. Also, wages throughout the economy do not appear to have increased even though inflation has. The moratorium on our traditional “lowest funding priority” projects would be continued. The following allocations are being recommended based on an estimated \$86.4M in contracting capacity for 2023-24: Single Employer (\$32,395,605), Small Business (\$5,399,268), MEC (\$21,597,070), Apprenticeship (\$21,597,070), and Critical Proposal (\$5,399,268). With the allowance for staff to rebalance allocations at the end of the FY based on demand.

Requested inclusion of the educating of the Panel when a rebalance of the allocations is being made and reconsideration of increasing the Reimbursement Rates to come back to Policy Committee next year.

ACTION: Member Newsom moved and Member Dombrowski seconded approval as presented and described by staff the recommendations on Project Caps, Reimbursement Rates, Moratorium and Allocations (with the allowance for staff to rebalance allocations at the end of the Fiscal Year based on demand). All Panel Members present voted in the affirmative to approve as moved.

Motion carried, 6 to 0.

Industry Names and NAICS classifications

ETP used the LMID data and compared it to ETP’s current designation policies and regulations, keeping in mind ETP Legislation and Regulations statutes. ETP Industry Names do not match NAICS classifications (BLS). Recommendation is to keep ETP’s current Priority Industries and adopt LMID’s recommendations, minus some codes that do not align with ETP legislation or Governor’s office initiatives and renaming ETP Priority Industry names consistent with NAICS database names.

Question regarding removal of nursing care facilities and ambulatory care services.

Staff had concerns with high turnover rates and those not performing well and wanted to prioritize to better utilize funds.

ACTION: Member Newsom moved and Member Hull seconded approval to keep current priority industries and adopting LMID’s recommendations minus some codes that don’t align with ETP legislation or Governor’s office initiatives, which include the 102 NAICS codes changes adding 109 priority industries and removing seven existing priority industry designations. Also, renaming the ETP Priority Industries names consistent with NAICS database name and at a future time we will take up the other items. All Panel Members present voted in the affirmative to approve as moved.

ACTION: Member Newsom moved to amend the original motion and Member Hull seconded approval to keeping the NAICS code for the nursing facilities. All Panel Members present voted in the affirmative to approve as moved.

Motion carried, 6 to 0.

Legal Action Items

First Action Item is to Approve Revisions to Out-of-State Competition Regulations (22 CCR 4416 subsection i). ETP uses NAICS code to determine if a particular industry or sector has out of state competition. Our regulation contains a list, those on the list are deemed to be automatically exempt from proving out of state competition in order to receive ETP funding. One of the currently listed subsectors is 511 Publishing Industries except internet. Last year the Federal Government updated the NAICS codes and eliminated the 511 code and replaced with 513 Publishing Industries and added the Internet Publishing industries that were covered under a separate code, creating a combined Publishing Industries NAICS code. This is a substantive change, which has the effect of expanding the exemption in our regulation to include some employers, namely Internet Publishers that were not previously exempt. Additional change is to delete "2002" to avoid confusion as to which version of the NAICS codes we are using.

Recommendation is to approve proposed revised text of 22 C.C.R. section 4416 governing out of state completion. Authorize the Legal Unit to initiate the formal rulemaking process based on the approved text and further authorize the Legal Unit to review, evaluate and respond to public comments after the 45-day comment period without further Panel approval unless the Legal Unit suggests making substantive changes from the previously approved text; in which case the Legal Unit must bring the proposed changes to the Panel for approval.

Comment was made to bring any substantive changes to the Policy Committee to give the opportunity for public engagement.

ACTION: Member Newsom moved and Member Hull seconded approval of the attached revised text of 22 CCR 4416 governing out of state competition. Authorize the Legal Unit to initiate the formal rulemaking process based on the approved text and further authorize the Legal Unit to review, evaluate, and respond to public comments after the 45-day comment period without further Panel approval unless the Legal Unit suggests making substantive changes from the previously approved text; in which case the Legal Unit must bring the proposed changes to the Panel for approval, first going to Policy Committee. All Panel Members present voted in the affirmative to approve as moved.

Motion carried, 6 to 0.

Second Action item is to rescind the current ETP bylaws. Our implementing legislation requires that the Panel adopt by regulation procedures for conducting its business meetings as well as disclosure of contacts between Panel members and interested parties. ETP has never gone through the formal state required administrative rulemaking process to adopt those rules. We looked at the Panel adopted bylaws from a Legal angle and determined that they do not qualify as the regulations contemplated by the Statute. Recommendation to repeal the existing Panel bylaws effective immediately. Staff will then prepare draft regulations for the scheduling and conduct of Panel meetings, and disclosure of contacts with interested parties, to be reviewed and approved first by Policy Committee and then by the Panel prior to initiating the formal APA rulemaking process. In the meantime, the Panel would proceed according to Robert's Rules of Order, its governing statutes, and its regulations.

ACTION: Member Newsom moved and Member Hull seconded approval to repeal the existing Panel bylaws effective immediately. Staff will then prepare draft regulations for the scheduling and conduct of Panel meetings, and disclosure of contacts with interested parties, to be reviewed and approved by the Panel prior to initiating the formal APA rulemaking process. In the meantime, the Panel would proceed according to Robert's Rules of Order, its governing statutes, and its regulations. All Panel Members present voted in the affirmative to approve as moved.

Motion carried, 6 to 0.

XIII. PRESENTATIONS

NAICS Industries/Priority Industries-Economic Highlights by Brandon Hooker.

Apprenticeship Funding for Fiscal Year 2023-24 by Heather Miguel.

Presentation and Recommendation by CivicMakers.

XIV. OPPORTUNITY FOR PANEL MEMBERS TO REQUEST AGENDA ITEMS FOR FUTURE PANEL MEETINGS

No comments were made.

XV. PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

Public comment by Phillip Herrera asked if they are not going to use a first in first out criteria, then it is going to result in a complete bidding process. Phillip Herrera proposes the idea that the ETP staff score and give feedback as to where employers fall in the line and stack up against the others.

XVI. MEETING ADJOURNMENT

Acting Chair Smiles adjourned the meeting at 11:46 a.m.