**MINUTES**

**CalAccount Blue Ribbon Commission**

**Thursday, June 21, 2023 – 1:30 P.M.**

901 P Street, Rm 102 Sacramento, California 95814

*Public Participation Call-In Number:* (877) 411-9748; *Access Code:* 3790012

**OPEN SESSION**

ITEM #1 ROLL CALL

***Call to Order and Roll Call***

Patrick Henning for Treasurer Fiona Ma, Chair, calls the meeting to order at 1:31 P.M. and advises that the meeting is being recorded.

Darren Shearer, Public Phone Line Coordinator announces to the public joining in by phone the instructions for being heard.

Andrea Paval, Commission Presenter, calls roll.

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| Members Present: | Patrick Henning for Fiona Ma, CPA, State Treasurer’s Office |
|  | Greg Young for Clothilde Hewlett, Commissioner of the Department of  Financial Protection and Innovation |
|  | Byron Lopez, Governor Appointee |
|  | James Hicken, Governor appointee |
|  | Manisha Padi, Governor appointee |
|  | Fr. Gregory Boyle, Assembly appointee |
|  | Miguel Santana, Assembly appointee |
|  | Paulina Gonzalez-Brito, Senate appointee |
|  | Frank Robinson, Senate appointee |
|  |  |
| Members Absent: | n/a |
|  |  |
| Staff Present: | Juan Fernandez, Deputy Treasurer |
|  | Spencer Walker, General Counsel |
|  | Andrea Paval, Commission Presenter |
|  | Carolina Hernandez, Spanish Translator |
|  | Darren Shearer, Public Phone Line Coordinator |

Chair Henning declares a quorum present.

Chair Henning advises that public comment will be limited to two minutes per person or four minutes if an interpreter is needed.

Carolina Hernandez, Spanish Translator, translates the instructions for public comment in Spanish to public participants joining in the room and on the public phone line.

ITEM #2 ACTION ITEM

***Approval of the Minutes from March 23, 2023***

Chair Henning introduces the item and asked if there were any public comments on the or comments from the Commissioners.

Seeing none, Chair Henning asks Mr. Shearer, if there were any public comments on the public participation line.

Hearing none, Chair Henning asks if there was a motion to approve the Minutes from the March 23, 2023 meeting.

Commissioner James Hicken motions to approve.

Commissioner Greg Boyle seconds the motion.

Chair Henning asks Ms. Paval to call roll.

Ms. Paval calls roll:

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| *AYE* | *NAY* |
| *Chair Patrick Henning* | *None* |
| *Commissioner Greg Young* |  |
| *Commissioner Byron Lopez* |  |
| *Commissioner Jim Hicken* |  |
| *Commissioner Manisha Padi* |  |
| *Commissioner Greg Boyle* |  |
| *Commissioner Miguel Santana* |  |
| *Commissioner Gonzales-Brito* |  |
| *Commissioner Frank Robinson* |  |

Chair Henning recognizes the Minutes as approved.

ITEM #3 ACTION ITEM

***Approval of the Selection of a Contractor to Perform a Market Analysis to***

***Determine if it is Feasible to Implement a “CalAccount Program”***

Chair Henning introduces item number 3 of the agenda: Approval of the Selection of a Contractor to perform a Market Analysis to Determine if it is Feasible to Implement a “CalAccount Program” and introduces Deputy Treasurer Fernandez as the presenter.

Deputy Treasurer Fernandez presents on the recommendation of the RAND Corporation to the Commissioners. He presents on the timeline of events in putting together the proposal to publishing it, receiving, and scoring them. He also explains the scoring and evaluation process and how the Evaluation and Selection Committee came to select the RAND Corporation. Deputy Treasurer Fernandez concludes that upon approval of the RAND Corporation by the Commission board, a posting of an Intent to Award announcement on the CalAccounts Blue Ribbon Commission website would follow, with a five-day period to receive protests. If there are no protests, DGS would sign the prepared documents for the RAND Corporation to begin work.

Chair Henning thanks Deputy Treasurer Fernandez and addresses Spencer Walker, General Counsel, on what happens if the proposal is rejected.

General Counsel responds to Chair Henning’s question and states that if the proposal is rejected at this point before the end of the fiscal year, June 30, the Commission will lose the appropriation. Additional appropriation will then be needed from the Legislature which would push the timeline out. It will be months before the Commission can receive a new appropriation if it does not act regarding the recommendation.

Chair Henning thanks the General Counsel and asks if there are comments from the Commissioners.

Commissioner Manisha Padi raises her hand, and is acknowledged by Chair Henning. She asks two questions: 1) Would it possible to go back to re-evaluate the proposals and what would be the consequences of going back to reevaluating the proposals? And 2) When would be an appropriate time to provide input to the selected bidder to better tailor the consultant’s work in terms of the feasibility study?

General Counsel speaks and gives an overview of the timeline for once the proposal is selected. He notes that a Notice of Intent to Award is then posted. After this posting of the Notice of Intent to Award, a five-day period follows for protests to be made and filed to the Department of General Services. General Counsel also notes to the Commissioners to keep in mind that beyond the June 30th date, appropriation can be lost, and a new solicitation will have to take place.

Deputy Treasurer Fernandez answers the second question and clarifies, from his understanding, that the procurement rules do not allow back and forth correspondence with the bidders on their proposals or work plan. However, opportunities to provide input into the work will be available once a bidder is selected.

Chair Henning recognizes General Counsel’s response and thanks Deputy Treasurer Fernandez.

Chair Henning acknowledges Commissioner Santana.

Commissioner Santana asks to confirm that the Commissioners have only two options to either a) accept the proposal, or b) reject the proposal.

Chair Henning, General Counsel, and staff affirm this.

Commissioner Santana then reiterates that should the Committee reject all proposals, the consequence would be that the appropriation made to complete this work would be lost. He comments then that following this, a new appropriation would need to be made in the new fiscal year. This would be an action taken by the Legislature and supported by the Governor. Commissioner Santana asks if a new process would need to be initiated.

Chair Henning responds in the affirmative and refers to the deadline being set in statute.

Commissioner Santana follows up and asks who would make the decision for an extension of the deadline?

Chair Henning explains the process that would take place at the Legislature should initiation of a new process take place.

Commissioner Santana then clarifies and states his question again: does reinitiating appropriation reset the process for the RFP where the current process cannot be used in the new fiscal year?

Chair Henning acknowledges Deputy Treasurer Fernandez and Deputy Treasurer Fernandez responds that Commissioner Santana’s assessment is correct.

Commissioner Santana then states that a protest was just sent out. He asks what the protest process looks like.

Chair Henning turns to the General Counsel for an answer.

General Counsel states that the protest received is premature because a Notice of Intent to Award has not been posted yet. Once said Notice has been posted, then a protest may be accepted by the Department of General Services (DGS) with certain requirements. Upon a quick look at the protest received, there are no immediate concerns.

Chair Henning acknowledges Commissioner Gonzalez-Brito.

Commissioner Gonzalez-Brito expresses several concerns about the recommended consultant and circumstances in which Commissioners must vote on the recommendation of a contractor to this study. She then asks if the General Counsel would elaborate on having no concerns about the protest.

General Counsel responds that the issue of the protest was not on the Agenda for discussion and explains that it was touched upon briefly because one of the Commissioners brought it up and ultimately, the protest was sent prematurely.

Commissioner Gonzalez-Brito asks then if there will be opportunities for the community to provide input or for Commissioners to be involved in that process if there are protests?

General Counsel responds in the negative, saying a hearing will be required and the hearing will take place with DGS.

Commissioner Gonzalez-Brito asks then if Commissioners could participate in the hearing process to which General Counsel responds that only witnesses would be allowed.

Commissioner Gonzalez-Brito states then, that Commissioners should have been given the opportunity to be present during the scoring and evaluation process. Commissioner Gonzalez-Brito then turns to the topic of the Advisory Committee and makes a comment about its role. Should the recommended consultant be selected, the recommended consultant should be vetted by the Advisory Committee to work well with the communities asked to study.

General Counsel speaks and addresses the comments about community involvement. He asks the Commissioners to keep in mind that the proposals were based on the requirements contained in the RFP. If the stipulation of community involvement was in the RFP, then the Evaluation and Selection Committee would have been able to consider it, but the Evaluation and Selection Committee was not permitted to go outside of what was contained in the RFP when evaluating the proposals.

Commissioner Gonzalez-Brito comments and makes a statement on bidders scored on competencies in terms of being able to work with communities, and the recommended consultant does not show a competency in this area.

Chair Henning thanks Commissioner Gonzalez-Brito for her comment and statement.

Chair Henning addresses the Commissioners at large, asking for two minutes time to have staff reconfigure and move around some technical equipment to ensure that callers on the public phone lines can properly hear.

Chair Henning reconvenes and thanks the Commissioners for their patience and asks if the Commissioners had other questions or comments at this point.

Commissioner Lopez raises his hand.

Chair Henning acknowledges Commissioner Lopez.

Commissioner Lopez asks if there will be more community and public input in future for meetings such as in the convening of a potential Evaluation and Selection Committee.

Deputy Treasurer Fernandez responds and says he is not aware of a process where community input has been allowed to be incorporated in the selection process under the DGS procurement rules.

General Counsel responds and says that it is not possible for the public to weigh in. The reason is that a potential proposer, as a member of the public, would be in a position to provide information and influence the decision. If a proposer is going to bid in an RFP, they should not be allowed to to weigh in. This is why public input has not been included.

Commissioner Lopez continues and asks if there were other processes that Commissioners could be more involved in when discussing such items, processes where Commissioners could meet more frequently rather than monthly meetings, especially in the case that the recommended consultant does not get approval by the Commission. He also expresses feeling rushed to vote.

Deputy Treasurer Fernandez states that he is unaware of a way that Commissioners could have meetings outside official meetings, but more frequent meetings could be had, if that is what is desired.

General Counsel affirms this.

Commissioner Santana raises his hand and Chair Henning addresses him again.

Commissioner Santana asks if staff could walk Commissioners through the protest process.

Chair Henning asks General Counsel to keep him straight and responds that if the recommended consultant is approved today, the State would encumber the funds for that contract. Following the approval and once the Notice of Intent to Award is posted after, with the five-day protest period beginning, and protests are received, DGS would receive the protest and assess the situation. During this process, the State would still hold the appropriation. If DGS finds something wrong, the funds would be set aside. Potentially, a renewed RFP process would then be initiated with additional steps to keep the RFP process clear and straight.

Commissioner Santana asks then, what the potential ways this issue would come back the same?

Chair Henning clarifies that the timelines set forth were not set by the State Treasurer's Office, but rather by the State of California. Deadlines are set within the statute because of the enacting legislation.

Commissioner Santana thanks Chair Henning for that clarification and asks on a different matter: Conflict of interest. He asks how “conflict of interest” is being defined in the broadest sense in relation to the proposals and the RFP itself. He also asks if the legislation provides clarity or guidance around the issue of conflict of interest.

Deputy Treasurer Fernandez responds saying the only reference to conflict of interest in the legislation is in connection with the membership of the Commission. Those who have certain relationships with banks and have financial interest in banks cannot serve as a Commissioner, with some exceptions. The legislation is silent with respect to conflicts of interests for any consultant or vendor.

Commissioner Santana asks then that given the legislation itself is silent on the selection of a consultant related to its specific conflict of interest, how did the evaluation team define what a conflict of interest is in the context of making a recommendation?

Deputy Treasurer Fernandez answers Commissioner Santana saying that the RFP disclosed the conflicts of interest to the vendors or proposers. Deputy Treasurer Fernandez reads from the RFP: “The proposing company, and its parent or controlling organizations, and subsidiaries, if any, must not have financial or other conflicts of interest that would potentially interfere with the development of an independent, fact-based, market survey, analysis, recommendations, and report without perceived or actual bias. Therefore, the proposing company shall not be a business within, or have financial relationships or partnerships with, the banking industry or the financial technology industry.” Deputy Treasurer Fernandez then states that one of the bidders disclosed that they were working in the creation of a public bank. This disclosure was discussed at length by the Evaluation and Selection Committee. The members of the Evaluation and Selection Committee all felt that the definition does not make a distinction between a public bank and a private bank. In an abundance of caution, the conflict of interest language was read as conservatively as possible. Deputy Treasurer Fernandez noted that the team included a Senior Counsel from the Department of Financial Protection and Innovation. Additionally, the Evaluation and Selection Committee consulted the State Treasurer’s General Counsel to make sure that the conflict of interest were being properly applied.

Commissioner Santana acknowledged and thanked Deputy Treasurer Fernandez’s explanation.

Chair Henning acknowledged Commissioner Gonzalez-Brito.

Commissioner Gonzalez-Brito made a comment about the disqualification of one of the consultants over a conflict of interest. Commissioner Gonzalez-Brito brings forth two questions: 1) What is the difference between subcontractors versus suppliers, and 2) would it be possible for the RFP to be reissued and the Commissioners take part of in the evaluation process such as scoring, though not in a meeting?

Deputy Treasurer Fernandez responds and says he will answer Commissioner Gonzalez-Brito’s second question first. Deputy Treasurer Fernandez explains that one of the Commissioner approached him about being a member of the evaluation team after the RFP had been released. Deputy Treasurer Fernandez’s explained to the Commissioner that while there are no objections to Commissioners being part of the evaluation team, the Commission had been made aware of the proposed composition of the evaluation team at the prior public Commission meeting. At that time, the Commission did not raise any objections. No questions or requests were made at the time. To add Commissioners to the evaluation team then, would require another public meeting at which all Commissioners were afforded the opportunity to participate in the evaluation team. This was Deputy Treasurer Fernandez’s understanding after consulting with the General Counsel. Having to schedule another public meeting would have pushed back the timeline. The Commissioner informed Mr. Fernandez that he understood. Deputy Treasurer Fernandez then added that all individuals involved in the Evaluation and Selection Committee were not Commission members.

Deputy Treasurer Fernandez then returned to Commissioner Gonzalez-Brito’s first question and provides examples from one RFP differentiating between a supplier and a sub-contractor. An example of a supplier included a company providing software, compared with a subcontractor who was performing work.

Commissioner Gonzalez-Brito asked then if one more question could be asked.

Chair Henning pauses the discussion to get public input since they have been patiently waiting to address the Commissioners while the discussion had been ongoing. Chair Henning asks for public comment in the room.

A Public Participant in the room asks if there are Korean translators provided. If not, they had brought someone in who could translate as well.

Chair Henning thanks the Public Participant for having someone present to help translate for the Korean speakers. Chair Henning welcomes Public Participant Speaker 1 to the microphone.

Public Participant Speaker 1 approaches and makes her comments in Spanish and finishes.

Chair Henning prompts Ms. Hernandez to Public Participant Speaker 1’s comment to the Commissioners.

Ms. Hernandez translates Public Participant Speaker 1’s experiences on the struggle of living making minimum wage and having banking inaccessibility. Public Participant Speaker 1 asks for the Commission to postpone voting on the recommendation.

Chair Henning acknowledges Public Participant Speaker 1’s testimony, and welcomes Public Participant Speaker 2 to speak.

Public Participant Speaker 2 takes a seat before the Commissioners and makes her comments in Spanish and finishes.

Ms. Hernandez translates Public Participant Speaker 2’s experiences on being charged overdraft fees and the experience of having been hacked through the bank she banked with and how that impacted her financially. Public Participant Speaker 2 asks the Commissioners to postpone voting until the community has had a chance to view information and weigh in.

Chair Henning acknowledges Public Participant Speaker 2’s testimony and prompts the next speaker to the mic, recognizing that the next speaker has a Korean translator with them.

Public Participant Speaker 3 makes her comment in Korean and finishes.

Public Participant Speaker 3’s translator translates Public Participant Speaker 3’s introductory remarks about Public Participant Speaker 3’s background and asks that the Commission share more information and seek input about updates and completing the study. Public Participant Speaker 3 also asks the Commission to wait on voting.

Chair Henning thanked both Public Participant Speaker 3 and their translator.

Public Participant Speaker 4 steps up to speak and makes a comment about the need of more support given the prevalent checks cashing experiences.

Chair Henning acknowledges Public Participant Speaker 4’s comments and thanks them.

Public Participant Speaker 5 introduces himself and makes a comment to support the CalAccount Program.

Chair Henning thanks Public Participant Speaker 5 and asks if there are any more public participants who would like to speak.

Seeing none, he prompts Mr. Shearer for phone line participants who would like to make a comment.

With two speakers on the line, Mr. Shearer provides instructions on speaking via the phone line and then prompts the phone line participants to speak.

Phone Line Participant 1 speaks and introduces themselves, asking the Commission to allow for community involvement and weigh in, in the process of providing a recommendation. Phone Line Participant 1 asks to postpone voting.

Chair Henning thanks Phone Line Participant 1 and prompts Phone Line Participant 2 to speak.

Phone Line Participant 2 speaks, expressing concerns on process. Phone Line Participant 2 also notes that a letter was sent to the State Treasurer's Office and requested that the letter be distributed to Commissioners and submitted as public comment. Phone Line Participant 2 also asks the Commission to postpone voting, to allow community members to weigh in.

Chair Henning thanks Phone Line Participant 2 and prompts Mr. Shearer to see if anyone else is on the phone line.

One more speaker is on the line. Chair Henning asks Phone Line Participant 3 to speak.

Phone Line Participant 3 speaks on her negative experience with a local bank regarding hacking as well, and the lack of support she received from the bank in that situation.

Chair Henning thanks Phone Line Participant 3 for her testimony and prompts Mr. Shearer to see if anyone else is on the phone line.

One more speaker is found to be on the line. Chair Henning asks Phone Line Participant 4 to speak.

Phone Line Participant 4 speaks on the scoring and evaluation process of the RFP to be transparent and fair.

Chair Henning thanks Phone Line Participant 4 and asks Mr. Shearer if anyone else is on the phone line.

Hearing none, Chair Henning turns back to Commissioner Gonzalez-Brito.

Commissioner Gonzalez-Brito expresses the important role the Advisory Committee will have working with the recommended consultant. Commissioner Gonzalez-Brita also raises concerns on the recommended consultant, and highlights a report written by the DFPI. From the report, Commissioner Gonzalez-Brito then asks if there is a way the work plan outlined by the recommended consultant could have input or be adjusted from the Commissioners, since the Advisory Committee will be involved in the work plan?

Chair Henning affirms the important work the Advisory Committee will be involved in and says once a contract has been established between the State of California and the chosen consultant, it is generally understood that the consultant can accept less work, but not accept more work unless additional appropriation is given.

Chair Henning turns to Deputy Treasurer Fernandez and the General Counsel who affirms his statement is correct.

Deputy Treasurer Fernandez then adds that if adjustments are made to the scope of work, such adjustment must be mutually agreed to by the recommended consultant and the State.

Chair Henning asks the Commissioners if there are further questions.

Commissioner Frank Robinson raises his hand and Chair Henning recognizes him to speak.

Commissioner Robinson introduces himself and asks, if the Commissioners gave direction to go out and seek RFPs for the feasibility of this study. Leading to that point as well, was there opportunity for the Commissioners to discuss and provide direction or context for what the Commissioners wanted to have in the feasibility study, specifically, to add into the Statement of Work?

Chair Henning affirms the first part of Commissioner Robinson’s question.

Deputy Treasurer Fernandez responds to the second part saying the Commissioners were given the opportunity to provide input on the Statement of Work, as well as questions and data they would like the vendor to include in the market study. He says Commissioners provided input and all input were incorporated in the final RFP.

Commissioner Robinson asks for Deputy Treasurer Fernandez then to affirm that Commissioners and folks did have the opportunity to weigh in, to which Deputy Treasurer Fernandez affirms.

Commissioner Robinson thanks him and turns to the role of the Advisory Committee, given its mission critical role in working with whomever the recommended consultant is. He asks about the structure of the Advisory Committee.

Deputy Treasurer Fernandez responds and says that while a structure has not been established yet, the advisory body would be the next matter on which staff would focus. The Advisory Committee will be limited in number or members, otherwise, Bagley-Keene rules apply, which may impact the timeline and arrangement of work. Once the consultant is selected, staff will come back to the Commission about membership of that Advisory Committee.

Commissioner Robinson acknowledges Deputy Treasurer Fernandez’s response.

Chair Henning asks if there are any further questions from the Commissioners.

Seeing none, he asks if there are any further questions from the public participants in the room.

Seeing none, Chair Henning asks Mr. Shearer for participants waiting to speak on the phone.

Hearing none, Chair Henning asks if there is a motion to approve the recommendation of the RAND Corporation to the Commissioners.

Commissioner Jim Hicken motions to approve.

Commissioner Greg Young seconds the motion to approve.

Chair Henning asks Ms. Paval to call roll.

Ms. Paval calls roll:

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| --- | --- |
| *AYE* | *NAY* |
| *Chair Patrick Henning* | *Commissioner Byron Lopez* |
| *Commissioner Greg Young* | *Commissioner Gonzales-Brito* |
| *Commissioner Jim Hicken* |  |
| *Commissioner Padi Manisha* |  |
| *Commissioner Greg Boyle* |  |
| *Commissioner Miguel Santana* |  |
| *Commissioner Frank Robinson* |  |

Chair Henning recognizes the recommendation as approved.

ITEM #4

***Public Comment***

Chair Henning introduces item number 4 of the agenda: Public Comment.

Chair Henning asks if there are any questions or comments from the Commissioners.

Seeing none, Chair Henning asks if there are any questions or comments from those in the room.

Seeing none, Chair Henning asks if there are any questions or comments from those on the phone.

Hearing none, Chair Henning thanks everyone for their participation.

Chair Henning adjourns the meeting at 3:12 P.M.