

MEMORANDUM

To: California Vendors Policy Committee

From: Zach Mundy, Manager
Business Enterprises Program



Date: February 2, 2018

Subject: Department of Rehabilitation's Response to the CVPC Motions
from the December 18, 2017 Meeting.

This memo responds to the motions memo, dated January 4, 2018 from the December 18, 2017 meeting. The Department of Rehabilitation (DOR) has taken into careful and serious account the motions provided by the California Vendors Policy Committee (CVPC). Below, I have responded to the motions that relate to the CVPC's responsibility to participate in DOR's major administrative decisions or policy or program development as described in Title 9, California Code of Regulations (CCR), section 7226.3 in light of DOR's ultimate responsibility and accountability for the program as described in CCR Section 7226.4.

Motion 2017.16

"WHEREAS, via a letter dated May 5, 2017, Business Enterprises Program (BEP) Program Manager Mundy informed the California Vendors Policy Committee (CVPC) that In accordance with California Welfare and Institutions Code section 19630(g) (1), up to ten percent (10%) of commissions from unassigned vending machines on state property, or \$17,667.59 for 2017, is available for use by CVPC to contract for professional services; and

WHEREAS, Section 7226.3 of the California Regulations applicable to BEP makes it clear that CVPC can in fact contract for professional services and explicitly mentions contracting with legal counsel; and

WHEREAS, CVPC has been pursuing legal matters related to the Department of Rehabilitation's (DOR's) failure to pursue and enter into an agreement with the United States Postal Service (USPS) regarding vending facilities on USPS property since 2010; and

WHEREAS, CVPC has retained LaBarre Law Offices P.C. to represent it since September 24, 2008 on USPS and other matters now, therefore:

CVPC now moves that DOR release up to \$17,667.59 to pay for legal counsel related to the USPS matters, prompt payment to be made upon receipt of invoice."

Action: Moved by District 1 and seconded by District 3.

District 1 (yes); District 2 (vacant); District 3 (yes); District 4 (yes); District 5 (yes); District 7 (yes); District 8 (not present).

Motion passed.

DOR Response: The Department is unable to comply with your request for payment of \$17,667.59 to LaBarre Law Offices P.C. for legal representation for the CVPC. As previously communicated to the CVPC in the past and most recently in an email communication dated July 27, 2017 (attached) to the CVPC Chair Harry Begian with a copy to the delegates, the use of the professional services funds for legal services cannot be used to support litigation. Applicable statutes and regulations provide that the CVPC may assist a vendor in several ways, at the vendor's request, but do not authorize the CVPC to engage in administrative litigation or arbitration against the department in the CVPC's own name. As no vendor is a party to the matter in question, the CVPC did not act within its authority to assist a vendor. Regulations also require that vendors pay their own legal fees, so even if this matter was assumed to be in support of one or more vendors, the payment of legal fees would be inappropriate.

Section 7226.3 of the California Code of Regulations (CCR) was cited in the motion. Please be advised that this section outlines the responsibilities of the CVPC. CCR, section 7226.4(d) grants CVPC the ability to contract for professional services.

Motion 2017.17

Barbara Moore made the following motion, which was seconded by Roy Harmon:

“Move to approve the minutes of the CVPC meeting held in August 2017.”

Action: Moved by District 1 and seconded by District 3.
District 1 (yes); District 2 (vacant); District 3 (yes); District 4 (yes); District 5 (yes); District 7 (yes); District 8 (not present).

Motion passed.

DOR Response: No response required as the motion applies to the CVPC operating procedures.

Motion 2017.18

It was moved that the CVPC ratify the waivers that were approved by the QLDC since the last CVPC meeting.

Action: Moved by District 7 and seconded by District 5.
District 1 (abstain); District 2 (vacant); District 3 (yes); District 4 (yes); District 5 (yes); District 7 (yes); District 8 (not present).

Motion passed.

DOR Response: No response required as the motion applies to the CVPC operating procedures.

Motion 2017.19

Move to make a final motion for the CVPC to approve the revised bylaws recommended by the Rules Subcommittee.

Action: Moved by District 3 and seconded by District 1.

District 1 (yes); District 2 (vacant); District 3 (yes); District 4 (yes); District 5 (yes); District 7 (yes); District 8 (not present).

Motion passed:

DOR Response: No response required as the motion applies to the CVPC operating procedures and DOR was not involved in the review process.