

California Victim Compensation and Government Claims Board
Open Meeting Minutes
May 21, 2015, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Marybel Batjer, Secretary, California Government Operations Agency, at 400 R Street, Sacramento, California, on Thursday, May 21, 2015, at 10:07 a.m. Also present was Board member Richard Chivaro, Deputy State Controller and Chief Counsel, acting for and in the absence of Betty T. Yee, Controller. Board member Michael Ramos, San Bernardino County District Attorney, was absent.

Executive Officer Julie Nauman and Chief Counsel Wayne Strumpfer were in attendance. Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

Item 1. Approval of Minutes of the April 16, 2015, Board Meeting

The Board unanimously approved the minutes of the April 16, 2015, Board Meeting.

Item 2. Public Comment

Public comment was provided by Barbara Tseng. Ms. Tseng commented that she was a former multi-award winning State employee and whistleblower at the Department of Public Health. She commented that it was unsafe to whistle blow because laws and policies do not protect whistleblowers.

Item 3. Executive Officer Statement

Last month California commemorated April as California Crime Victims' Rights Month and recognized Sexual Assault Awareness Month. CalVCP participated in a number of events and activities.

Digital Town Hall

Earlier in the month, CalVCP hosted a Digital Town Hall discussing military sexual assault. CalVCP was joined by panelists Lindsey Sin, Deputy Secretary of Women Veterans Affairs, and Ann McCarty, Associate Director of the North County Rape Crisis and Child Protection Center to discuss legislative changes, cultures, benefits, reports, and resources, among others.

Alameda County Family Justice Center Tour

On April 17 Executive Officer Nauman joined Secretary Batjer and Alameda County District Attorney Nancy O'Malley on a tour of the Alameda County Family Justice Center.

San Bernardino County DA's Office Hosted National Crime Victims' Rights Week Memorial

On April 20, Executive Officer Nauman joined Michael Ramos, San Bernardino County District Attorney and Board member, for the Second Annual National Crime Victims' Rights Week Memorial at the San Bernardino County Government Center Rotunda.

"The Hunting Ground" Screening

On April 22, CalVCP hosted a groundbreaking documentary "The Hunting Ground" that took a look at campus sexual assault. CalVCP partnered with Sacramento City College and had a great turnout for the viewing. A panel discussion followed that examined current stigmas, statistics, resources, and more.

Denim Day California

On April 29, Executive Officer Nauman joined CALCASA and other policymakers on the West Steps of the State Capitol to commemorate Denim Day and demonstrate our commitment to finding solutions and delivering helpful resources for victims.

California Crime Victim Services Summit

CalVCP will celebrate its 50th anniversary this year. CalVCP is looking ahead to the future of crime victim services and will host the California Crime Victims Services Summit on November 3rd in San Diego. The Summit will bring together policy makers, victim advocates, law enforcement officials and criminal justice leaders to address emerging trends in victims' services delivery, in addition to other victim rights issues. The collaborative goal is to better meet the needs of victims of crime in the future.

Item 4. Contract Report

New Contract

Contractor: Leading Resources, Inc. VCGC4118

Contract Amount: \$68,900

Contract Term: 3/16/15-2/29/16

Funding Source: Restitution Fund

The contractor will assist the Board in developing a new, long-term Strategic Plan and Implementation Plan.

Contract Amendment

Contractor: Continuity Consulting, 4VCGC220

Original Amount: \$198,825

Original Term: 2/23/15-9/30/15

Amendment 1: \$49,050

Amended Term: 2/23/15-4/30/16

New Contract Total: \$247,875

Funding Source: Restitution and OVC Technology Capacity Grant Funding

The Board was awarded a Technology Capacity grant from the Office for Victims of Crime to plan for an online access system. The contract will provide consulting services to complete a Feasibility Study Report and Budget Change Proposal, two key planning activities associated with the online access system project. The contract has been amended to increase funding and extend the term.

Solicitation

CaRES Testing Services

Vendor Unknown

Purchase Order Number – Pending

Estimated Amount: \$1,100,000

Term: 6/15/15 -10/31/16

Funding Source: Restitution Fund

In consultation with CalTech, it is necessary to secure this contract for testing services to support the CaRES Modification Project. The contractor team would be comprised of four resources: a test manager and three testers. The testing team will manage and execute all system testing preparation and testing activities, as well as support user acceptance testing as necessary.

Solicitation

CalVCP E-Learning

Invitation for Bid No. VCGC-4122

Estimated Amount: \$100,000 – \$250,000

Term: 6/01/15 – 6/30/16

Funding Source: OVC Compensation Initiative Year Two Grant Funding

The Board was awarded grant funds from the Office for Victims of Crime to identify underserved victims of crime in California and develop effective strategies to reach this population. Using the grant funds, this contract will make possible the development and implementation of online training courses for service providers, medical personnel, mental health providers, and victim advocates. Training will be available 24/7 to better serve underserved victims of crime.

Executive Officer Nauman reported that it is anticipated that the award of the solicitations would be made at the June 18th meeting; however, if the timing of the award did not work out, she would request delegation of authority to enter into the award and contracting at the June 18th meeting because the Board is silent in July.

The Board approved the contracts and solicitations.

Item 5. Legislative Update

AB 1140 (Bonta) — Victim Compensation Program Modernization

The bill modernizes Victim Compensation Program statutes by making a number of changes to eligibility and benefits. The bill is on the suspense file in Assembly Appropriations Committee.

SB 518 (Leno) — Trauma Recovery Centers

The bill would require the Board to use the evidence-based Integrated Trauma Recovery Services model developed by the Trauma Recovery Center at San Francisco General Hospital as a criterion when it provides grants to trauma recovery centers. The bill is on the suspense file in Senate Appropriations Committee.

SB 519 (Hancock) — Victim Compensation Program

The bill would require all correspondence by the Victim Compensation Program to an applicant to be written in English, Spanish, and Chinese. It also would prohibit the Board from requiring an applicant to submit documentation from the Internal Revenue Service, the Franchise Tax Board, the State Board of Equalization, the Social Security Administration, or the Employment Development Department in order to determine eligibility for compensation. It makes an applicant who is 65 years of age or older who has been financially exploited by a relative or caretaker, when there is reasonable fear of continued exploitation, a victim eligible for mental health counseling services and relocation benefits. It makes a witness of a crime who is 18 years of age or older at the time of the crime eligible for mental health counseling services. It requires the board, when it pays a claim to compensate funeral and burial expenses, to pay a flat amount of \$7,500. It requires the board to approve or deny applications within 90 days total rather than an average of 90 days. The bill is on the suspense file in Senate Appropriations Committee.

SB 556 (De Leon) — Victims of Crime: Applications

The bill would define “time of processing applications” as the period of time that begins when the board first receives an application and ends when a decision to approve or deny is made and notice is sent to the applicant. It would require the board to post on its Internet Web site, on an annual basis, its progress and current average time of processing applications, the number of incomplete

applications received, and the number of applications approved and denied. The bill is on the Senate Floor.

AB 165 (Gomez) — Government Claims Bill

VCGCB's first Government Claims Bill of 2015, which appropriates \$504,743.99 to pay claims approved by the Board from May 2014 through December 2014. It also appropriates \$968,400 to pay the erroneous conviction claims of Ronald Ross, Susan Mellen, and Brian Banks. The bill is scheduled to be heard in the Senate Appropriations Committee next week.

Item 6. Consideration of the Non-Profit Organization Applications for 2015 Our Promise: California State Employees Giving at Work

Leslie Ortiz, Director, Our Promise: California State Employees Giving at Work, and Andy Sheehy, Executive Vice President and Chief Strategy Officer, United Way California Capital Region, were in attendance.

Anne Gordon, CalVCP Public Information Officer, explained that Our Promise: California State Employees Giving at Work (Our Promise) was established in 1957. The campaign provides a single, coordinated fundraising drive that allows State employees to direct regular contributions from their paychecks to any of the thousands of participating charitable organizations. Ms. Gordon requested the Board approve the 2,645 applications that were reviewed and deemed complete for approval.

Mr. Sheehy thanked the Board for the second year that United Way California Capitol Region has been tasked with managing the certification process. He reported that last year Our Promise raised over \$6.5 million.

The Board approved the 2,645 applications.

Government Claims Program

Chairperson Batjer asked Chief Counsel Wayne Strumpfer to explain the roles and responsibilities of the Board as they relate to government claims.

Mr. Strumpfer explained that the Government Claims Program is an administrative remedy for claims against government entities. When the Board can, they facilitate resolutions between claimants and departments. Many claims involve complex issues of fact and law often needing witnesses called and expert testimony presented. In those cases, the Board denies the claim due to complexity because the Board is not equipped to hear such evidence. The claim is better suited for superior court where a judge and jury can hear the case.

When the Board rejects a claim due to complexity, it is not a judgment on the merits of the claim and the Board is not saying that a claimant does or does not have a case; instead, the Board is simply saying that the claimant would be best served by going to court where a claimant can have a trial and call witnesses to prove their case.

Item 7. Consent Agenda (Nos. 1-446)

Nicholas Wagner, Government Claims Program Manager, reported that item numbers 59, 91, and 408 were removed from the consent agenda and continued to a future Board meeting and item number 113 was removed from the consent agenda to allow the claimant an opportunity to address the Board.

The Board unanimously approved the consent agenda for numbers 1-446, as amended.

Consent Agenda Appearance

Item 113, 623033

Claim of Barbara Tseng

Barbara Tseng was in attendance. Lynda Williams, Senior Counsel, Office of Legal Services, attended on behalf of the Department of Public Health.

Nicholas Wagner, Government Claims Program Manager, explained that Barbara Tseng claimed damages against the California Department of Public Health in an amount exceeding \$25,000 for discrimination and retaliation. He stated that Government Claims Program (GCP) staff recommended that the Board reject the claim because it raised complex issues of fact and law beyond the scope of analysis and interpretation typically undertaken by the Board.

Ms. Tseng explained that she began work at the Department of Public Health in 1996 and was an award winning specialist in the human resources department. She stated she reported racism, but was told to refrain bringing up the issue. When she asked to work for a different supervisor, her request was rejected and she was told to look for another job. She stated that her supervisor witnessed her breakdown at work but rather than come to her assistance, her supervisor smirked at her, which was witnessed by two human resources analysts who reported it to management.

Chairperson Batjer asked Ms. Tseng if her case was currently with the Equal Employment Opportunity Commission (EEOC).

Ms. Tseng stated that her case was still before the EEOC. She explained that she was disappointed when she was informed that the Oakland EEOC office was reduced to four investigators. She explained that she experienced racism. In 2012 a psychologist diagnosed her with PTSD and informed her that her mind was disassociating in order to cope with all of the abuse at work. She stated that the findings letter identified that the HR manager admitted that she reported numerous complaints but told her that her stress was not work related, it was personal. Yet, one month prior to being placed in that supervisors' unit, her former manager praised her for being a great asset. She explained that she later became a training coordinator and observed noncompliance with the sexual harassment and workplace violence trainings. She commented that only 20% of the approximately 4,000 employees at the Department of Public Health were compliant.

Chairperson Batjer stated that Ms. Tseng's claim was complex. She explained that it was not the Board's role or responsibility to take up matters such as those involved in Ms. Tseng's claim.

Ms. Williams stated that the Department of Public Health would rest their recommendation on the letter sent to Mr. Wagner.

Ms. Tseng stated that she received the same letter that Ms. Williams referenced after 6:00 p.m. the day before. She explained that the letter was full of inaccuracies, some of the investigations were omitted, and her retirement date was incorrect.

Chairperson Batjer stated that the Board did not have a copy of the letter that Ms. Williams sent to Ms. Tseng and Mr. Wagner.

Ms. Williams stated that she could read the letter into the record, if necessary.

Chairperson Batjer explained that if Ms. Williams read the letter, both sides would begin debating the facts of the letter because Ms. Tseng alleged that it contained errors. She further explained that the Board was not the proper place or forum to resolve the matter. Chairperson Batjer asked

Ms. Williams to address whether the Department of Public Health performed an investigation and, if so, to explain the circumstances. She stated that under the Fair Employment and Housing Act, the Department of Public Health was obligated under federal law to conduct an investigation.

Ms. Williams stated that a complaint was received in the Office of Labor Relations that was in the nature of a hostile work environment. At that time, the Office of Labor Relations was the body that enforced their Incident and Injury Prevention Program. If something came in as a complaint of a hostile work environment, it was investigated as a workplace violence prevention investigation because the key words used were hostile work environment. At the time, the term was defined in their Injury Prevention Program policy and that department had the responsibility to prevent workers from feeling like they were in a hostile work environment; therefore, an investigation was conducted under that authority. A report was issued on July 6, 2012, that included the individuals interviewed and the findings. Ms. Tseng received a copy of the report.

The Board adopted the staff recommendation and rejected the claim because the issues involved were too complex for the Board.

Item 8. Applications for Discharge From Accountability for Collection

The Board approved the one request by a State agency for discharge from accountability for collection of debt, totaling \$48,804,757.80.

Victim Compensation Program

The Board commenced the Victim Compensation Program portion of the meeting at 10:56 a.m.

Proposal to Approve Trauma Recovery Center Grant Awards

Robin Foemmel Bie, CalVCP Resource Branch Manager, explained that CalVCP requested the Board approve three Trauma Recovery Center (TRC) grant awards for fiscal year 2015-16 funding.

Based on the applicant's response to the Notice of Funds available and after careful evaluation by staff, three TRCs were recommended. She explained that the recommendation was in the amount of \$2,000,000, the appropriation for the fiscal year.

Ms. Foemmel Bie reported that the following three TRCs were recommended for approval:

1. Children's Nurturing Project, \$426,341.00 (new TRC)
2. Fathers and Families of San Joaquin, \$716,932.00 (new TRC)
3. Special Service for Groups, \$856,727.00 (continuation of TRC funding)

Ms. Foemmel Bie recommended that the Board approve the grant awardees. She stated that several of the recommended grant awardees were in attendance.

The Board approved TRC grant awards.

Closed Session

Pursuant to Government Code section 11126(c)(3) and (e) (1), the Board adjourned into Closed Session with the Board's Executive Officer and Chief Counsel at 10:59 a.m. to discuss pending litigation and to deliberate on proposed decision numbers 1-71.

Open Session

The Board reconvened into Open Session pursuant to Government Code section 11126 (c)(3) at 11:09 a.m. The Board adopted the hearing officer's recommendations for proposed decision numbers 1-71.

Adjournment

The Board meeting adjourned at 11:10 a.m.