FUNDING PRIORITIES FY 2014/15

The Panel took action to approve a modified version of staff recommendations for Funding Priorities FY 2014/15 effective immediately, as outlined below:

1. **Review Pre-Applications/Applications in Date Order Received by ETP –** Adopted.

2. **Fund Priority Industries Only –** Not adopted.

3. **Establish Funding Allocations by Contract Type –** Adopted based on historical averages, subject to review in the Spring of 2014. See Funding Limitations on ETP website.

4. **Manage Repeat Contracts –** Adopted as follows:

    - Repeat MECs can only be funded once per FY with 70% performance for any active contract
    - Repeat Single Employer will be funded after demand is met for first-time Single Employer (prior participation in a MEC does not count)

5. **Reduce Funding Caps –** Adopted, subject to review in the Spring of 2014. See Funding Limitations on ETP website.

6. **Accept Pre-Applications for FY 2015/16 in April 2015 –** Adopted, subject to review in the Spring of 2014.

7. **Apply Highest Substantial Contribution –** Adopted.

8. **Reduce the Threshold for High Earner Reduction –** Adopted.

9. **Adopt a new Delegation Order –** Adopted, as revised to include a "reservation of right" to appear before the full Panel.

10. **Revise Retrainee-Job Creation Guidelines –** Postponed until November 14, 2014 on the issue of "new net jobs" and other clarifications.

Memorandum

To: Panel Members | Date: September 19, 2014

From: Jill McAloon, Acting Executive Director | File:

Subject: FUNDING PRIORITIES FY 2014/15

This Memorandum outlines staff recommendations for prioritizing core program funding for the remainder of Fiscal Year 2014/15 (FY). Staff recommendations are designed to make the most effective use of available funds and staff resources. This memo does not address funding for next FY 2015/16. Staff recommends a separate planning session for that purpose, to be scheduled in early 2015, at which time a decision be made on when to begin accepting new Pre-Applications for FY 2015/16.

BACKGROUND

After the August 22 Panel Meeting, there was $19.9M in remaining capacity (contract value). Since then, ETP received an additional appropriation of $10M under a “trailer bill” to the Budget Act (AB 1476) effective August 31. This appropriation equates to an additional $26.3M in capacity, for a total of $46.2M in contract value for the remainder of the fiscal year.

Staff presented two funding priority plans for Panel consideration at the August meeting. The second plan was contingent on whether or not the additional appropriation would be enacted. Both plans allocated funds by contract type, in addition to the funding caps imposed by the Panel at the meeting in June. Both plans were responsive to the fact that remaining funds, even with the additional $10M, were insufficient to meet demand.

Currently, there is approximately $90M in remaining demand, which is an estimate based on the Pre-Application stage. This figure varies from the $87M estimate discussed at Panel meeting in August, when the two plans were presented by staff. This is due to revisions made primarily at the Application stage of development.

In both plans, money allocated to Single Employer Contracts was limited to only those projects containing Job Creation. However, stakeholders asked the Panel to avoid excluding any type of contract from funding. Some consultants and MEC representatives presented a “Share the Pain” plan seeking to spread remaining funds to the greatest number of participants. They have since developed a revised “Share the Gain” plan with the same intent.

Given the uncertainty of the additional $10M appropriation, the Panel asked staff to develop a revised plan of action that would include every type of contract with options for discussion. Following, are a series of recommendations **and** discussion points:

RECOMMENDATIONS

These recommendations may be implemented separately or in combination with one another. They are meant to be prospective in effect, for contracts and amendments approved on and after November 14, 2014.

1) *Review Pre-Applications/Applications in Date Order Received by ETP*

Review Pre-Applications and Applications for funding in the date order received. This is ETP's current practice. However, if key information is missing and/or if the applicant does not timely respond to staff inquiries, processing of a Pre-Application or Application may be delayed. There may be other workload factors that also impact the review and development of a project. As such, this recommendation is not the same as the First-In, First-Out (FIFO) that has previously been discussed by stakeholders. Instead, it is First-In, First-Reviewed which is the only feasible approach.

This recommendation is predicated on the assumption that new applications will not be accepted for the remainder of this FY. There is approximately $90M in remaining demand, with some 400 requests for funding now under review.

However, staff recommends that Critical Proposals, including core program funding for RESPOND (drought), continue to be accepted in order to support efforts by the Governor's Office of Business and Economic Development (GO-Biz) to attract and retain business in California. This has been a long-standing policy objective of the Panel, as recognized in regulation: once designated as a Critical Proposal ". . . the development of that project will be given priority over other projects." [Title 22, CCR Section 4402.2(a)(1).]

2) *Fund Priority Industries Only*

Fund training for employers in Priority Industries only for all contract types, including participating employers in a Multiple Employer Contract (MEC). The priority industry sectors are identified by the Panel in its FY 2014/15 Strategic Plan. This approach is consistent with "funding priorities" outlined in the Panel's enabling legislation at Unemployment Insurance Code Section 10200(b):

- Manufacturing
- Allied Healthcare
- Construction
- Green/Clean Technology
- Goods Movement/Transportation Logistics
- IT Services
- Technical Services
- Multimedia/Entertainment

These industry sectors are identified by NAICS codes, as an aspect of eligibility determination. The NAICS code review is automated. This is an objective factor that does not require case-by-case review.

However, the "priority industry" designation does not include "strategic initiatives" that are also in the Panel's FY 2014/15 Strategic Plan. The initiatives include Job Creation, High Unemployment Areas (HUA), Veterans and At-Risk Youth.

It is not possible to automate a review for strategic initiatives, with the possible exception of using zip codes to determine HUA. Even if this review could be automated, the strategic initiative attributes cross-over into all industry sectors. For example, a hotel may be located in a HUA and may propose training for Veterans, but it is not in a priority industry.

In short, the priority industry and strategic initiative attributes cannot be combined in an automated process for prioritizing eligibility determinations and proposal development. However, staff recommends that proposals with a Strategic Initiative component be considered in further prioritizing workload in the field, for proposal development.

3) ***Establish Funding Allocations by Contract Type***

Establish funding allocations by contract type, to ensure that none are excluded. In addition, many Priority Industry Pre-Applications were submitted in the two-week period that ended on July 18, and would not meet the First-In, First-Reviewed criterion. For example, as of late August there were 17 Apprenticeship projects and 35 Multiple Employer Contract (MEC) projects still in the queue for assignment to the field, or in the earliest stages of development. In order to reach these late-submitted projects, the Panel must allocate funding specific to Apprenticeship and MEC projects. Otherwise, staff would begin developing projects based on date submission to ETP only, and these projects would not be reachable.

Historically (FY 2009/10 through FY 2013/14), an average of 67% of annual funding goes to Single Employer Contracts and 33% goes to MECs. The following table shows proposed core program allocations based on these historical percentages, as applied to the $46.2M in remaining contract value for this FY.

Proposed Funding Allocations for Remainder FY 14/15

Contract Category	Historical % 5-Year Period	Total $ Approved to Date	Proposed Allocation for Remainder FY 14/15	Projected Total $ to be Approved FY 14 -15	Projected Total % of FY Funding to be Approved by Contract Category
Single Employer Contracts	**67%**	**$31.5**	**$29.8**	**$61.3→**	**67%**
Single Employer Standard	55%	$26.4	$22.4	$48.8→	54%
Critical Proposals	5%	$2.0	$4.1	$ 6.1→	7%
Small Business*	7%	$3.1	$3.3	$ 6.4→	7%
Multiple Employer Contracts (MEC)	**33%**	**$13.4**	**$16.4**	**$29.7→**	**33%**
MEC Standard	22%	$6.3	$13.4	$19.7→	22%
Apprenticeship**	11%	$7.1	$3.0	$10.1→	11%
Total	**100%**	**$44.9**	**$46.2**	**$91.1→**	**100%**

**Small Business is only shown for Single Employer Contracts although they are also served through MECs.*

***Apprenticeship Historical % is only for a 2-year period (FY 12/13 and FY 13/14) because the Apprenticeship Pilot did not start until March 2012.*

In order to set-aside funding for Critical Proposals referred by GO-Biz, staff recommends reducing the overall allocation for Single Employer Contracts, and designating $4.1M for this purpose. Critical Proposals are also Single Employers, so this is actually just a shifting of funds within the overall allocation by contract type.

4) *Manage Repeat Contracts*

Staff recommends managing repeat contractors by (a) limiting the time period for consideration of a new contract to three months from an active contract end-of-term date, and (b) requiring at least 70% performance for the active contract measured by hours of training delivered and entered in ETP's Online Tracking.

The strict requirement for 70% performance would only apply when there is an active contract, and the request is for another full contract (as compared to an amendment). This would require contractors to strategically manage the approved amount of funding without expectation of overlapping terms. [Note: MECs with Apprenticeship training have recently been adhering to this practice, without apparent hardship.]

Again, this recommendation does not preclude a contractor from requesting an amendment for additional funding if sufficient time is remaining in their active contract, and they can show good performance based on hours in ETP's Online Tracking.

5) Reduce Funding Caps

Funding caps were reduced by the Panel in June 2014, for new contracts and amendments. Staff recommends simplifying the caps on Single Employer Contracts to a constant of $425K. This means a large employer with multiple facilities will be limited to the same funding as an employer with one facility, and proposals with Job Creation will have the same cap as all other Single Employers.

Staff also recommends a 20% further cut for MECs, moving from $750K to $600K. However, staff recommends against further reductions for Critical Proposals, for the same policy purposes stated earlier. Staff also recommends against further reductions for Small Business and Apprenticeship program sponsor because these caps are already so low. [Note: Apprenticeship training is capped separately from Journeyman and Pre-Apprentices, but the overall MEC cap also applies.]

The goal of further reducing caps is to spread funds among a greater number of contractors. This would have been a vital aspect of planning when ETP had $19.9M in remaining capacity. Now that ETP has received additional funding with $46.2M in remaining capacity, deep reductions are not necessary. [Note: with $91.1M in total contract value, FY 2014/15 will be one of the largest in ETP history.]

See Recommended Funding Caps table on the next page.

The table below shows current and recommended funding caps. For the sake of discussion, reductions are shown at the 20% and 30% level.

Recommended Funding Caps FY 2014/15				
Contract Type	**Current Caps**	**20% Reduction**	**30% Reduction**	**Recommended Caps**
Single Employer	$425,000	$340,000	$297,500	**$425,000**
Single Employer & Job Creation ***Retraining Only Job # Cap:*** ***Job Creation Only Job #Cap:*** ***Combined Total:***	 $425,000 $325,000 $750,000	 $340,000 $260,000 $600,000	 $297,500 $227,500 $525,000	N/A
Single Employer Multiple Facilities	$625,000	$500,000	$427,500	N/A
Multiple Employer	$750,000	$600,000	$525,000	**$600,000**
Small Business	$50,000	$40,000	$ 35,000	$50,000
Apprentice Program Sponsor	$225,000	$180,000	$157,500	$225,000
Critical Proposals	$750,000	$600,000	$525,000	$750,000

6) *Accept Pre-Applications for FY 2015/16 in April 2015*

Staff recommends opening the Pre-Applications process for FY 15/16 funding in April 2015. Staff does not recommend "carrying over" pending Pre-Applications received this Fiscal Year into the new 15/16 Fiscal Year given that most training plans will have changed significantly in the 10-12 months since they were originally submitted. However, grant pending applicants, a two-week "grace period" to re-submit their Pre-Application in advance of the general public. Opening the Pre-Application process prior to April would only increase the gap between remaining funds ($46.2M) and current remaining demand ($90M).

This approach will result in some MECs being unable to submit new Pre-Applications this FY and having a "down time" between contracts, although they will be able to request amendments for additional funding up to the cap. Also, some first-time contractors will need to wait until the spring to submit a Pre-Application for funding in FY 2015/16.

7) *Apply Highest Substantial Contribution*

Staff recommends applying the highest Substantial Contribution (SC) allowed under the current regulation. Substantial Contribution is only applicable to a Single Employer Contractor or a participating employer in a MEC that previously earned ≥$250K at the same facility, in the aggregate, over the prior five-year period. (Title 22, CCR Section 4410.)

The Panel has discretion to apply a SC ranging from 15% to 30% of approved funds the first time, and from 30% to 50% the second time. The Panel also has discretion for waiver. As applied, the SC reduces the approved amount of funding. Staff recommends applying the highest amount to help achieve an equitable distribution of funds in the remainder of this FY:

- 30% first-time Substantial Contribution
- 50% second-time Substantial Contribution

However, staff recommends that the Panel continue to waive the SC for Job Creation.

8) *Reduce the Threshold for High Earner Reduction*

Staff recommends reducing the High Earner Reduction (HER) threshold from $2M to $1M. Also, discontinue the "tiered approach" which mirrors the tiered SC (15%, 30%, and 50% respectively). Instead, apply a 50% reduction to the approved amount of funding across-the-board:

- 50% HER for Single Employers with prior earnings ≥$1M regardless of facility.

The HER is only applied to a repeat Single Employer with prior earnings that exceed the threshold amount. Earnings are measured in the aggregate, over the same five-year time period as for a SC. However, earnings are based on all facility locations, unlike the SC which is based on earnings at the same facility. The HER is only imposed if the SC does not apply.

9) *Adopt new Delegation Order*

Staff recommends that the Panel adopt a new Delegation Order authorizing the Executive Director to approve Small Business projects ≤$50K and Single Employer projects ≤$100K as presented to Panel at its August meeting. This will facilitate the approval process for smaller contracts. This will be discussed further in the Report of General Counsel.

10) *Revise Retrainee-Job Creation Guidelines*

Staff recommends that the Panel revise its Retrainee-Job Creation guidelines to only fund training for "net new jobs" in keeping with the Panel's direction at its meeting in August. This will be verified by ETP by comparing a "base quarter" and a "qualifying quarter" in the EDD wage database. This will be discussed further in the Report of General Counsel.

SUMMARY OF STAFF RECOMMENDATIONS

Staff recommends the Panel approve the following Funding Priorities for FY 2014/15 as outlined above:

- *Fund Priority Industries Only;*
- *Review Pre-Applications/Applications in Date Order Received by ETP;*
- *Establish Funding Allocations by Contract Type;*
- *Manage Repeat Contracts;*
- *Reduce Funding Caps;*
- *Accept Pre-Applications for FY 2015/16 funding in April 2015;*
- *Apply Highest Substantial Contribution;*
- *Reduce the Threshold for High Earner Reduction;*
- *Adopt a new Delegation Order; and,*
- *Revise the Job Creation Guidelines.*

Staff recommends that this plan be prospective in effect, for new contracts and amendments presented to the Panel on and after its meeting on November 14, 2014, as submission deadlines are two months prior to the meeting dates, and proposals for November are already in the final stages of development. It is also recommended that the Panel re-assess funding allocations and other aspects of this plan in the spring. At that time, the Panel could re-allocate funds from one contract type to another, or make other modifications.