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Subject: Points of Clarification by Community Union: Re: I.18-07-009, May 4, 2020 Case Management Conference
Date: Thursday, May 7, 2020 5:20:29 AM

On May 4, 2020 ALJ Zhang asked that Community Union clarify data requests and witness lists provided by Community Union in its Case Management Status Conference response. Community Union in response to this clarification submits the following:

ALJ Zhang:

Community Union asks that you accept this late submission of the responses promised during the May 4th hearing. As I explained during the May 4th hearing, the Covid-19 has had a major financial impact in our ability to respond to the courts requests.

As to the question on the witnesses listed by Community Union, why they will be called and their contact information:

Neri Rivas, served as lead trainer for Community Union and knows exact hours of each session provided, how the invoicing process worked from trainers' invoices to the CPUC for Reimbursement, will serve to impeach the testimony of Hyepin in Settlement Agreement language, and the testimony of Mr. Hom.

Debra Janes, served as trainer assistant for Community Union and knows exact hours of each session provided, responsible for bringing the press and major media coverage, worked on promotional pieces as a matter of promoting to other locations, helped coordinate schedules with Trainers at various locations, will serve to impeach the Auditor's testimony on whether and when documentation was provided to the Auditor on the question of 40 hours, bank statements, trainers invoices, Debra has first hand interaction with Auditors.

Ron Vera, expert witness on contract interpretation, will serve to impeach Brain Hom's and Robert Osborn's contract interpretation as it relates to financial and legal liability, as it relates to Activity 5 in the Work Plan, the percentage value of Activity 5 as it relates to the overall value of the contract.

Jane Doe's: These persons are graduating Alumni from the California One Million NIU program. They will serve to impeach Devla Singh's testimony. I will attempt to reach-out to the alumni attending the classes for which Devla said she made a surprise visit to on and data collected from that visit. One of the 70 students will testify that Ms. Singh simply had the wrong date and time, and that they in fact were 1 of 70 graduates from the Huntington Beach graduation ceremony. I will also be inviting student alumni to provide testimony from varying locations served by NIU, as to the time their course took place, how they completed the course, in part at home and in part in the class room. I do not yet have any names that I am able to provide as confirmed at this time, but this is how these witnesses will be used. In a manner of providing the court with the necessary testimony straight from those graduates served as to how the courses were conducted.

Regarding the contact information for each of the named witnesses, I will be able to provide those details once I have a more firm commitment on who the Jane Does which cannot be ascertained until I have confirmation from the alumni themselves. I should

have this within the next 10 days. My intent is to provide CPED their contact information.

Regarding Questions of Discovery Issues and Data Request #12 and #13

Point of Clarification the data request to the CD's office that was referred to during the May 4th hearing: that request was made during ADR. By the terms of the ADR, we are prohibited from using that communication in this proceeding. As such, Community Union hereby requests the following on the basis of identifying if Mr. Wullenjohn was acting on behalf of the protocols set forth by the CD's office in handling CASF reimbursement requests or did California's One Million NIU Reimbursement Requests receive special treatment, outside the protocol set forth by CD's Office at Mr. Wullenjohn's instruction? It is our contention that Mr. Wullenjohn instructed staff and either told or withheld the information from Mr. Dulin (potentially making Mr. Dulin an accomplice to the special treatment of NIU's Reimbursement requests) and regarding how subsequent reimbursement requests from One Million NIU were being handled.

Emails as requested in Discovery Issues: #12 and #13 of the Case Management Response will reveal if Mr. Wullenjohn was acting as a maverick in his own department, or were protocols setup regarding the handling of backup information to the Reimbursement Requests being followed for One Million NIU's Reimbursement request.

We hereby formally request CPED to provide the following:

1. Community Union seeks to ascertain all emails from March 1, 2015 to September 30, 2015 re: California's One Million NIU contract. Specifically emails by and between Robert Wullenjohn and Communications Division's staff on Reimbursement packages sent for Quarters 11, 12 and 13. Community Union believes Mr. Wullenjohn may have acted outside the protocol set forth for managing Reimbursement Requests. Only by seeing emails relating to California's One Million NIU contract can we determine if Mr. Wullenjohn gave instructions for special handling of One Million NIU. Only by reviewing if Mr. Wullenjohn was acting with prejudice and staff went along with it. Therefore we desire emails by and between Robert Wullenjohn and former Deputy Executive Director, Mr. Ryan Dulin to ascertain if they acknowledged receipt of quarterly reimbursement requests for quarters 11, 12 and 13 from California's One Million NIU and what instructions were given for the handling of these requests. Were the protocols of managing and tracking performance and spend followed with these subsequent reimbursement requests?
2. Will CPED stipulate to the SCO not discovering 40-hour reduction in hours during their audit? They did not look at any performance data, nor did they ask for it during the Audit. SCO's office did not ask for performance data during the audit. No information relative to the amount of hours in training was ever provided to the SCO. As such, this information as written in the Audit gives the appearance that SCO discovered this information during the audit. It is our contention that it was included in the audit without evidence or articulation as to its value in what it represented to the contract. And that the SCO simply parroted a contention given to them by the CD's office which we believe emails will reveal. Community Union seeks to ascertain all emails from Communications Division to and from Auditors Andrew Finlayson and Chris Prasad

(State Controller's Office) re: California's One Million NIU contract. Prasad told Larry Ortega, President of Community Union, that the 40-hour Training misinformation came from Communications Division, implying their Audit did not discover this information. If CPED will not stipulate to the fact that the Auditor did not make the discovery of 40-hours changes during the Audit then we ask for the following emails by and between SCO's office and Mr. Wullenjohn or the person responsible for communicating with SCO from CD's dept.

Additionally:

1. *"Does the CD office acknowledge receipt of Payment Requests for Y3Q3 and Y3Q4?"*
2. *"Does the CD office have these reimbursement packages on file, as submitted via email – to include sign-in sheets that were physically mailed to the CD's office and referenced in Reimbursement Requests?"*
3. *"What work, if any, has been performed by CD's office on the reimbursement request for Y3Q3 and Y3Q4? From California's One Million NIU?"*
4. *"Does CD acknowledge a complete account of performance metrics has been completed by their office?" Can they show the measurement tools to track performance? Are they able to authenticate the date in which these updates to these tracking tools on performance were actually made.*
5. *"Does the CD's office have something that would represent a final report relative to One Million NIU's meeting and exceeding all goals and metrics as stated in the contract, post receipt of Y3Q3 and Y3Q4 reimbursement packages?"*
6. *"Were the goals and metrics per the WorkPlan met or exceeded?"*
7. ***What tools or systems were being used to track progress of goals by CD's office? When the Reimbursement packets for Qtrs. 11, 12 and 13 were received, what was the instruction by and between the CD's Director and Mr. Wullenjohn? What protocol was used in the handling of California One Million NIU Reimbursement Requests for these later quarters?***
8. *"Will the CD's office acknowledge receipt of actual sign-ins that were physically mailed to CD's office in support of Reimbursement Requests that showed completion of all contract metrics as dictated in the Work Plan?"*
9. *Does CD's office have a record of California's One Million NIU TV coverage links? Will they acknowledge receipt of these links? Did the count them toward the goals and metrics outlined in the Work Plan? If not, why not?*
10. *Do they have record of any other agency garnering major media outlet's attention to cover the CASF grant in Spanish language TV?*

Larry Ortega
For Community Union, Inc.