

# **PUBLIC WORKS CONTRACT ARBITRATION (PWCA) COMMITTEE MINUTES**

**February 9, 2010**

The meeting was called to order by co-chairperson Mark Leja, representing the Department of Transportation (Caltrans). Other voting members present were co-chairperson M.B. "Tim" McGowan and John Messner, representing the construction industry; and Jim Peddy, representing the Department of Water Resources (DWR). Others present included Stephen Cameron, Caltrans; Steve Cohen, DWR; Dan Rios, Department of General Services (DGS); and Phoenix Vigil, Program Administrator, Office of Administrative Hearings (OAH).

## **1. MINUTES OF THE JUNE 23, 2009 MEETING**

The draft minutes of the June 23, 2009 meeting were adopted with minor changes.

## **2. ADMINISTRATOR'S REPORT**

The Administrator reported on the status of the program.

### *Program Summary*

The Committee was provided with a current copy of the PWCA statistical report which is also available online.

Filings are down with only one complaint filed so far this calendar year. In calendar year 2009, only 16 complaints were filed while the average is 34-35. There are currently 53 active cases.

Last fiscal year (July 1, 2008 to June 30, 2009) OAH only recovered 67% of its costs. At this time OAH projects that it will recoup about 57% of its costs for fiscal year 2009-2010.

The Committee briefly discussed the impact that the reduced filings have on OAH's cost recovery; however, the Committee ultimately agreed that a decline in filings is a good trend.

OAH will closely monitor the filing fee and revenue situation and apprise the Committee if it needs to consider an increase in filing fees.

*Arbitrator news*

Currently there are 55 active arbitrators on the arbitrator panel.

**3. PROGRAM BACKLOG**

In prior meetings, the Committee expressed concern about the backlog of activities related to arbitration cases and requested that the topic of Program Backlog remain on the Committee's Agenda. The Administrator advised that there was currently a two-month backlog for open cases which OAH expected to be up-to-date within a few weeks. There was also a backlog of approximately 60 cases that need to be administratively closed; however, the closing process has no impact on the parties in arbitration.

The Administrator will update the Committee on the status of the backlog at the Committee's next meeting.

**4. REGULATION REVISIONS**

At the previous meeting, the Committee decided to provide interested parties a second opportunity to submit suggestions for revisions to the Program regulations. A few more suggestions were received and the Committee was provided with a revised summary of the responses and comments.

Co-chair Mark Leja moved to establish a subcommittee to review and evaluate the proposed changes to the regulations and report back to the Committee with recommendations. Tim McGowan seconded the motion and all members approved.

DWR representative Jim Peddy volunteered to chair the Subcommittee. DWR staff attorney Steve Cohen, Caltrans staff attorney Steven Cameron and DGS staff attorney Dan Rios volunteered to be on the Subcommittee. The Administrator will contact the AGC and invite them to include private industry representatives on the Subcommittee. The Subcommittee's meetings will also be available telephonically on a conference line.

**5. REVIEW OF ARBITRATOR APPLICATIONS**

John Gladych and David Dapper were certified to the arbitrator panel.

**6. NEW BUSINESS/PUBLIC COMMENT**

Suggestions for clarification to the Arbitrator application were made. The Administrator will have the changes made to the online application.

**7. SCHEDULING OF NEXT MEETING**

The next meeting is tentatively scheduled for June 8, 2010 (subsequently cancelled and rescheduled to October 12, 2010).