

PUBLIC WORKS CONTRACT ARBITRATION COMMITTEE MINUTES

October 18, 2004

The meeting was called to order at 10:10 a.m. by Co-chairperson Robert Pieplow, representing the Department of Transportation (Caltrans). Other voting members present were Cecil Mark, David McCosker, and Tim McGowan, representing the construction industry; John Brooks, representing the Department of General Services (DGS); and William McDonald, representing the Department of Water Resources.. Non-voting member Ronald Diedrich, Director of the Office of Administrative Hearings (OAH), was present. Others present included Steve Cameron, Caltrans; Margaret Farrow, OAH; Michael Doughton, Department of Corrections and Phoenix Vigil, OAH.

I. MINUTES OF THE JUNE 8, 2004 MEETING

The draft minutes of the June 8, 2004 meeting were approved without change.

II. ADMINISTRATOR'S REPORT

Proposed Fee Increase

The administrator reported on figures for a proposed fee increase to provide additional funds to cover the costs of administration of the program. However, the administration is not permitting any fees to be increased at the present time. The fee scale was discussed and different options considered, including using a flat rate per case, increasing rates for lower dollar-amount claims or statutorily permitting lower dollar-amount claims to go to small claims court. The moratorium on fee increases was discussed, as well as the possible impact of the three affected agencies supporting a fee increase. If during the consideration of the fee increase, it appears that agency support for the increase would help in getting approval, the administrator will let the Departments of General Services, Water Resources, Corrections and Caltrans know.

Regulation status

The administrator reported that the regulation package was approved and effective August 12, 2004. The regulations will be available on the internet in a printable version for insertion into a binder, including the Judicial Council disclosure rules that are referenced in the regulations. When there are changes to the program statutes or regulations, individual pages of the binder version can be changed and people can be

notified of the required page change. In addition, OAH is preparing a supplement for the "purple books."

The committee expressed an interest in having code sections that are referenced in the regulations and statutes either in the publications or accessible to arbitrators and parties in arbitration. It has been determined in past efforts that including all the statutes in publications or on the website is not feasible. However, staff will explore the possibility of adding links to the various statutes.

OAH is monitoring the responses by arbitrators to the new disclosure requirements to be sure that they are using the new standards. Concern was expressed by one arbitrator that with all the disclosures required everyone would be objectionable. However, after disclosures were made no objection followed and that arbitrator was appointed. There have been no other complaints.

Revised committee meeting schedule

The committee approved a revised meeting schedule with meetings approximately every four months on Mondays in accordance with the practice developed over the past year.

Arbitrator news

We received word that Dario deBenedictus passed away. Dario has been an arbitrator for the PWCA Program for over 20 years and has heard nearly 20 cases for the Public Works Contract Arbitration Program.

Reports

The Committee was provided with a copy of the PWCA statistical report and a report of cases assigned to each active arbitrator.

III. REVIEW OF ARBITRATOR APPLICATIONS

Edward Kiefer and Robert Leslie were recertified to the arbitrator panel.

IV. NEW BUSINESS/PUBLIC COMMENT

Concern was expressed about the absence of a statement in regulation section 1395 that arbitration training and experience is required. The committee requested that a

draft of proposed amendments to regulation section 1395 be circulated to the committee members prior to the next meeting.

V. SCHEDULING OF NEXT MEETING

The next meeting is scheduled for Monday, February 14, 2004 at 10:00 a.m. in a conference table format at the Executive Dining Room in the Ziggurat Building.