

February 28, 2006 PWCA Committee Meeting Minutes

PUBLIC WORKS CONTRACT ARBITRATION COMMITTEE MINUTES

February 28, 2006

The meeting was called to order at 10:05 a.m. by Co-chairperson Tim McGowan, representing the construction industry. Other voting members present were David McCosker and Cecil Mark, also representing the construction industry; John Brooks, representing the Department of General Services (DGS); and Daniel Whisman, representing the Department of Water Resources (DWR). Member Robert Pieplow, representing the Department of Transportation (Caltrans) was not in attendance. Non-voting member Ronald Diedrich, Director of the Office of Administrative Hearings (OAH), was present. Others present included Steve Cameron, Caltrans; Steve Cohen, DWR; Dan Rios, DGS; and Phoenix Vigil, Office of Administrative Hearings (OAH).

I. MINUTES OF THE October 18, 2005 MEETING

The draft minutes of the October 18, 2005 meeting were adopted without change.

II. ADMINISTRATOR'S REPORT

New member

The Committee welcomed Phoenix Vigil back to the program. Ms. Vigil replaced Margaret Farrow in January of this year as the program's administrator.

The Administrator welcomed new committee member Daniel Whisman, Chief of the Planning and Scheduling Branch, Department of Water Resources.

Program Summary / Reports

The Administrator reported on the status of the program. A brief review of the current state of the program revealed that a substantial backlog of approximately six months worth of work exists. The Administrator estimated that with the assistance of other OAH staff the program could be back up to speed by the next Committee meeting. The Committee expressed concern about any complaints received from the parties. The Administrator explained that there were a few complaints, but it appeared that most of the parties were understanding of OAH's present situation.

The Committee was not provided with a copy of the PWCA statistical report as it did not appear that the case information had been kept up-to-date.

Regulation status

The Administrator reported on the status of regulation 1395. OAH resubmitted the rule making package for section 1395 on February 14, 2006. The Office of Administrative Law has 30 working days to review and approve or disapprove the regulation. It was brought to the Committee's attention that it was possible that the regulation would not be approved because the Water Commission had not signed off on the regulation. Steve Cohen reported that the Water Commission did not have a quorum and as of March of this year will have no appointees on the Commission. The Committee discussed alternatives to the Water Commission's approval, but ultimately decided to wait and see what action OAL took on the regulation.

Program deficient and filing fees

OAH's Director Ronald Diedrich gave the Committee a synopsis of the filing fee situation. The Director reported that for this fiscal year OAH will lose approximately \$100,000 for the support of this program. The Director brought up the suggestion of charging the three largest agency users of the program an annual prorated fee of the projected costs of the program and then reimburse the agencies once all the filing fees for the year had been collected. The Committee discussed this and various other suggestions including filing fee increases, an annual maintenance fee, OAH administrative law judges handling the arbitrations, surcharges on top of arbitrator fees, and case closure fees.

The Committee requested an estimate of the cost for OAH to break even and an indication of the three largest agency users of the program and they will discuss the filing fees issue at the next meeting.

III. REVIEW OF ARBITRATOR APPLICATIONS

No new applicants were certified to the arbitrator panel.

IV. NEW BUSINESS/PUBLIC COMMENT

No new business was presented.

V. SCHEDULING OF NEXT MEETING

The next meeting is scheduled for Monday, June 19, 2006, at 10:00 a.m.