

## **June 12, 2007 PWCA Committee Meeting Minutes**

### **PUBLIC WORKS CONTRACT ARBITRATION COMMITTEE MINUTES**

June 12, 2007

The meeting was called to order at 10:12 a.m. by Co-chairperson Robert Pieplow, representing the Department of Transportation (Caltrans). Other voting members present were Co-chairperson Matthew B. "Tim" McGowan, David McCosker and Diane Miller, representing the construction industry; Bob Courtner, representing the Department of General Services (DGS); and Steve Cohen, representing the Department of Water Resources (DWR). Others present included Stephen Cameron, Caltrans, Dan Rios, DGS, Greg Rowsey, DWR; and Phoenix Vigil, Program Administrator with the Office of Administrative Hearings (OAH).

The Committee welcomed new Committee member Diane Miller, public member.

#### **1. MINUTES OF THE NOVEMBER 16, 2006 MEETING**

The draft minutes of the November 16, 2006 meeting were adopted without change.

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

The Administrator briefly reported on the status of the program.

##### **Program Summary**

The Committee was not provided with a copy of the PWCA statistical report as a backlog of approximately 40 cases that are closed, settled or dismissed exists and the data would be inaccurate.

The cases filed to date appear to be down compared with previous years. To date, 14 complaints have been filed while the average for this time of the year is 18 to 20.

##### **Arbitrator news**

Fred Meier and John Rayne Cropper requested to be removed from the Arbitrator Panel. This leaves 61 arbitrators remaining on the Panel.

#### **3. ARBITRATOR DISCIPLINE**

At its last meeting, it was brought to the attention of the Committee that two arbitrators took an unacceptable amount of time in issuing their decisions. In both cases the arbitrators took over a year to issue their decisions. This ultimately resulted in the public agency unfairly having to pay over a year of additional interest.

The Committee pointed out that the main purpose of the Program was a speedy resolution of the dispute. An arbitrator taking over a year to issue a decision does not support the Program's purpose. The Committee discussed various solutions to this problem. At its previous meeting the Committee added language to all arbitrator contracts establishing deadlines for submission of the decision on the merits, ruling on any objections, decision on any petitions for interest, costs and attorney's fees, and final award. The Committee decided to add the following sentence in addition to this language: Failure to comply with the timeframes specified in this paragraph may be grounds for suspension from the certified list of arbitrators.

In addition, arbitrators are to let the Administrator know if the case is submitted for decision on a date other than the last date of hearing. The Administrator will send a letter to the arbitrator panel advising them of this change. If the decision is not timely received, the Administrator will send a letter to the arbitrator requesting status of the decision and reminding them of the deadlines contained in their contract.

The Committee further decided that if an arbitrator takes an extraordinary amount of time to issue a decision, the Administrator will send a letter to the arbitrator asking for an explanation. The Committee will consider the arbitrator's response at its next meeting and the Committee may suspend the arbitrator from the panel.

#### 4. REVIEW OF ARBITRATOR APPLICATIONS

No new arbitrators were certified to the panel.

#### 5. NEW BUSINESS/PUBLIC COMMENT

No new business was presented.

#### 6. SCHEDULING OF NEXT MEETING

The next meeting is tentatively scheduled for October 16, 2007

#### 7. RESOLUTION

Co-chairs Tim McGowan and Robert Pieplow presented a Resolution signed by Senator Dave Cox to Cecil Mark. Mr. Mark served on the PWCA Committee for 20 years.