

June 24, 2008 PWCA Committee Meeting Minutes

PUBLIC WORKS CONTRACT ARBITRATION (PWCA) COMMITTEE MINUTES

June 24, 2008

The meeting was called to order at 10:10 a.m. by Co-chairperson M.B. "Tim" McGowan, representing the construction industry. Other voting members present were John Messner, representing the construction industry; Mark Leja, representing the Department of Transportation (Caltrans), and Greg Rowsey, representing the Department of Water Resources (DWR). Others present included Steve Cohen, DWR; Stephen Cameron, Caltrans; and Phoenix Vigil, Program Administrator with the Office of Administrative Hearings (OAH).

The Committee welcomed new Committee member Mark Leja, Chief of Caltrans' Division of Construction.

1. MINUTES OF THE FEBRUARY 26, 2008 MEETING

The draft minutes of the February 26, 2008 meeting were adopted with minor clerical changes.

2. ADMINISTRATOR'S REPORT

The Administrator reported on the status of the program.

Program Summary

The Administrator reported on the status of the conversion of the PWCA data to the new case management system. The technology department has finished the process of remapping the fields online to pull from the new system so the reports and information on the PWCA website is now up-to-date.

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

Filings to date appear to be down slightly with 15 complaints filed so far. The average is about 18 by this time of the calendar year. There are currently 72 active cases.

For the first time, OAH's costs recovered to date are at 146% of its expenses, and currently projected to be 155%. The Administrator attributed the surplus to the lack of time the Administrator is able to devote to the program due to other conflicting duties. The Committee expressed concern that the program is suffering as a result of the lack of staff devoted to the program. Because of the revenue surplus, the Committee considered contacting OAH's management in an attempt to solicit additional staff to help support the program. The Committee decided to add the issue of program support and resources to the agenda for discussion at its next meeting.

Arbitrator news

Two arbitrators were removed from the panel for not applying for recertification to the arbitrator panel and one arbitrator requested to be removed from the panel leaving 52 active arbitrators on the panel. The Committee acknowledged that the arbitrator panel is in need of additional members and decided to place this item, and a review of the PWCA website, on the agenda for discussion at its next meeting.

3. INTEREST ACCRUING DURING THE ARBITRATION

At its last meeting, the Committee asked the State's attorneys to research the issue of interest accruing if an arbitrator takes an extraordinary length of time to issue his decision and what, if anything, the Committee or program could do about it. The State's attorneys found that because there are statutes that control the issue of interest, the Committee would be unable to promulgate regulations that would contradict the statutes. However, it was opined that the procedures put in place to track and monitor the arbitrators' decision due dates should ensure that this does not happen again.

4. REVIEW OF ARBITRATOR APPLICATIONS

Bruce Burke, Donald Diebert, Raymond Dodson, Frederick Flowers, Kenneth Gibbs, John Goode, Gordon Hunt, William Kenton, Robert E. Leslie, Joseph Malpasuto, Charles Rumbaugh, Charles Sink and Paul Taylor were recertified to the arbitrator panel.

5. NEW BUSINESS/PUBLIC COMMENT

No new business was presented.

6. SCHEDULING OF NEXT MEETING

The next meeting is tentatively scheduled for October 14, 2008.