

Meeting Minutes
 Prevailing Wage Advisory Committee
 April 25, 2014

Attendees:

Prevailing Wage Advisory Committee Members: Kathleen Garrity (Associated Builders and Contractors), Josh Swanson (Operating Engineers Union IUOE Local 302), Dave Myers (Washington State Building and Construction Trades Council), Ginger Eagle (WA Public Ports Association), Alison Hellberg (AWC), and Van Collins (Associated General Contractors).

L&I Staff: Liz Smith, Jim Christensen, Marcus Ehrlander, Laura Herman, Ramona Christensen-Russell, Reasa Pearson, Debbie Loomis, Leeann Bosshard, Allison Drake, Matthew Ehrlich.

Others Present: Earl Smith, Billy Wallace, Miriam Israel Moses, Aaron Bailey, Deken Letinich, Jeff Douglas, Bob McDonald, Jimmy Osborne, Ken Ervin, Earl Liss, Troy Andrews, Tom Wishard, Tom George, Suzanne Jones.

Agenda Item	Discussion	To Dos
Opening Remarks Introductions/ Updates from Assistant Director	<p>Liz Smith</p> <ul style="list-style-type: none"> • Opened the meeting at 9:10 a.m. • Marcus Ehrlander presented the safety topic regarding scooter bike and pedestrian safety. • Had committee members and L&I staff introduce themselves. • Indicated there was no PWAC since the December meeting. • Announced that Jim Christensen was appointed as the Industrial Statistician/Program Manager and provided his background information. • Reported that there was an emergency PWAC meeting called on 4/4/14 to discuss the legal challenge regarding the release of public records for surveys. Liz reviewed the background and the details of the lawsuit. • The budget package submitted to the legislature that included PWIA system improvements and an FTE for an operation manager was reviewed. The legislature did not approve the operations manager position but did approve the improvements to the PWIA system. The improvements include the ability to file forms electronically in certain situations that previously required manual filings, improvements that will allow various systems to talk with each other for the Strike & Debarment list, and providing a secure email system for submitting Certified Payroll records which now must be provided in a paper form. This will require a greater level of staffing support which will include an IT person. The IT core team is building a plan to implement and make these happen within the next 1-1/2 years. 	

<p>Review and approve minutes from last meeting – 12/19/13</p>	<p>Jim Christensen</p> <ul style="list-style-type: none"> • Dave Myers motioned to approve the minutes. Josh Swanson seconded the motion. The motion carried and the minutes were approved. 	
<p>Legislative Update</p>	<p>Marcus</p> <ul style="list-style-type: none"> • Jim Christensen announced the implementation of HB 1254 which exempts certain contractors from paying for the filing of Affidavits under certain circumstances when there are no workers affected by the prevailing wage. Contractors must still file and pay the fee to submit the Statement of Intent. We are on track to be ready by the June 12th deadline. Marcus added that we are working on PWIA updates to make HB 1254 possible, updating information on website, and paper form instructions. • Dave Myers asked about any rules being put in place for those contractors who misfile. Jim Christensen and Laura Herman reported that there are already systems in place (\$500 fine, strikes and debarment). Josh Swanson added that they would ask that penalties are enforced on false filings. • Jim was asked how this will affect funding. Jim reported that the program could take a hit of \$400k per year but believes the program can absorb this. Nathan Peppin is putting together a revenue forecast. Other concerns were discussed regarding the possibility of contractors filing false statements of Intent so as to avoid the filing fee. 	
<p>Vision for Program and PWAC</p>	<p>Jim Christensen</p> <ul style="list-style-type: none"> • Reported on his vision for the program and the PWAC going forward. Jim admitted to a great deal of complexity in the PW law, which makes it more difficult for specialists to wade through the complex questions posed by contractors. The group looked at the determination process and specialists recorded the volume of calls and emails they received regarding complex issues in 2-week period and found that they dealt with 401 questions in that period. Jim will be looking at what is driving contractor’s questions and frustrations and intends to do more policy development to alleviate the issues. Policy development will involve looking at what the program already knows, determinations of the past, and also what the department doesn’t know – and providing answers those answers to contractors. Jim believes that elevated legislative attention in recent years is due largely to frustration 	

	<p>from contractors on these issues.</p> <ul style="list-style-type: none"> • Provided a handout that stated the PWAC Mission Statement along with a Statement of Values. The document was not dated but it is believed to be the most current. Dave Myers indicated that he would like to discuss the mission and believes a statement of value should concern the fact that prevailing wage is a worker protection. Jim agreed that workers are beneficiaries of the law, and that there are positive spin-off effects of creating a level playing field for contractors. • Jim discussed that he would benefit from more time with the committee than is currently scheduled. He is envisioning that the committee would meet possibly once a month or every other month as there are too many issues that need the committee's attention. 	
<p>Personnel Update</p>	<p>Marcus</p> <ul style="list-style-type: none"> • Provided the following personnel updates: <ul style="list-style-type: none"> ○ Laura Herman has moved to the Mount Vernon office. ○ Saul Olivarez has been hired as a temporary IRA4. ○ Desiree Schott, CSS2 is on maternity leave. ○ Tonia Garcia has been hired as a CSS2. ○ Debbie Loomis is leaving the program to go to Fraud Prevention, Audit on May 1st. ○ Leeann Bosshard is temporarily appointed as Secretary Supervisor beginning May 1st. ○ In the process of hiring an Administrative Assistant 3 to support the PW Industrial Statistician/Program Manager. 	
<p>NOVs/Strikes/Debarments</p>	<p>Reasa Pearson</p> <ul style="list-style-type: none"> • Provided a handout to the committee detailing the number of NOVs/Strikes/Debarments and reviewed the document. 	
<p>Lean Process Improvement Efforts</p>	<p>Reasa Pearson</p> <ul style="list-style-type: none"> • Reported that the FOBO process backlog has been eliminated due to improvements made to the process. NOVs are now being issues in a timely manner. • Director's Orders also underwent the Lean process, and the procedure has been improved. • A Kaizen event was held at the end of March to identify improvements needed for field agent investigation standard work processes. 	

	<ul style="list-style-type: none"> • A Lean process for providing Determinations is part way through and will be finalized. Jim reported the processing is being streamlined. He is looking at posting the requests for determinations to the website to give the public a chance to comment before determination decisions are made. The comments would be visible to all. This is in response to the program’s attempt to be more transparent. The response time to provide a determination will still be between 60-90 days but that is as quickly as can be done. 	
Internal Policy Discussion	<p>Jim Christensen</p> <ul style="list-style-type: none"> • Provided and discussed a document titled, <i>Prevailing Wage Survey Methodology</i>. • Jim indicated that the department intends to resume surveys, and stated during the course of a survey the department runs into issues such as those involving complete and conflicting information. When the department receives survey information from employers as well as interested parties, it has used the employer information as it is generally more detailed and both reports can’t be used. • Jim asked the group if we should continue with those past practices. Josh Swanson asked if errors are on forms, do they both get kicked out or is there a phone call made? Jim stated it was a good question, and went on further that during the course of a survey many forms do have these problems, and when we cannot get all of the information we are reluctant to use the data, the form is put aside and other forms are entered into the database. • Jim was asked if unions may help gather data for the department, Jim answered that previously this may not have been possible but with the new court ruling, that may now be an option. Jim added that staff are researching prevailing wage in other states and other states seem to have confidentiality clauses. • Kathleen Garrity reported that contractors she deals with will be told not to send in surveys until the confidentiality issues are addressed – as it stands all competitors would have access to wages and benefits of employees. Others agree, and state that contractors have no incentive to file without confidentiality. • Liz states that the advisory committee should look at methodology in the near term, as well as look at issues facing surveys over the next two years. Dave Myers states we need to clarify the time line for this, and Liz responded that prior to the court case the department was looking to resume surveys by fall. Liz asked the committee to think about what the priorities are and use the May and June meetings to deal with policy issues. Dave Myers states the need to confer with business, and Kathleen Garrity states that she would like to see a process map to understand the whole picture, and that committee can’t move forward 	

	<p>without dealing with the confidentiality issues. Members of the audience indicate they wish to confer with their members.</p> <ul style="list-style-type: none"> • Dave Myers indicated he commits to every other month, Liz states no PWAC while legislature is in session. Jim indicates he would like to refine agenda to focus time on major issues. Liz agrees. Jim indicates he would like to schedule a meeting in May, and agrees to go north. The committee agreed to a date of May 20th in the Seattle or Tukwila location beginning at 1pm. Dave Myers states he will not have answers on issues today but will be able to put something together for the May meeting. • Jim proceeded to next point which was the role of setting rates based on CBAs, rates can change during the 12 month period of the survey, we've never asked contractors if they are signatory to a CBA – is this something we should ask? It is possible a rate may not get updated if it isn't from a CBA – it may become stale and then it is not reflective of local wage standards. Additionally, Jim notes that if there isn't a wage for a rate, then we may have to average and it is possible that we may come up with an absurd answer – work may be covered under a CBA, but the wage is not from the CBA. Dave Myers stated that the department's actions are defensible, and a CBA benefits workers whether they are signatory or not. Josh Swanson agrees and posed question about what an extraterrestrial rate is. Jim answered that this is a rate from a CBA that operates outside the area, it's not common but we do deal with it from time to time, and it is something that needs to be dealt with. Josh Swanson further mentioned a situation where two groups claimed one county for wages, Jim responded that this was unusual as well but it would need to be dealt with and will likely be continued at the May and/or June meetings. 	
<p>Dates and Locations for upcoming meetings</p>	<p>Liz Smith reported that the next PWAC meeting will be in May on the 20th in Seattle or Tukwila. Future agendas will include construction wages for offsite work, and coming up with processes for this, as well as future rule-making and the rule-making process. Meeting adjourned.</p>	<p>Leeann to find room/location for May 20th scopes and PWAC.</p>