

Meeting Minutes  
**Prevailing Wage Advisory Committee**  
 November 19, 2015 / 9:00 am – 11:30 am / Tukwila, WA

Attendees:

**Prevailing Wage Advisory Committee Members:** Wendy Novak (Associated Builders and Contractors), Josh Swanson (Operating Engineers Union IUOE Local 302), and Ed Kommers (MCA of Western WA.)

**L&I Staff:** Liz Smith, Jim Christensen, Marnie Morris, Ramona Christensen-Russell, Reasa Pearson, Laura Herman, Leeann Bosshard, Desiree Schott, Aimee Nunes, Angie MacNeil, and Matthew Ehrlich.

**Others Present:** Jim Hernandez, Greg McClure, Earl Smith, Kim Burdette, Justin Palachuk, Eric Gustafson, Jeff Douglas, Lance Gyldenenege, Brad Moore, Glenn Curry, and Miriam Israel Moses.

Agenda Item	Discussion	To Dos
Opening Remarks Introductions Safety Tip	<b>Jim Christensen</b> <ul style="list-style-type: none"> <li>• Opened the meeting at 9:10 a.m. Mentioned that light attendance may possibly be due to legislative meetings.</li> <li>• Safety topic was a reminder about servicing fire extinguishers.</li> <li>• Introductions by committee members and L&amp;I staff.</li> </ul>	
Review and approve minutes from last meeting: – August 18, 2015	<b>Jim Christensen</b> <ul style="list-style-type: none"> <li>• Miriam Israel Moses noted that her name was misspelled.</li> <li>• Josh Swanson motioned to approve the minutes. Ed Kommers seconded the motion. The motion carried and the minutes were approved.</li> </ul>	
Program Updates: – Recap of August 18, 2015, PWAC Workshop Session	<b>Jim Christensen</b> <ul style="list-style-type: none"> <li>• A workshop was held August 18, 2015, to solicit and gather feedback from PWAC members and attendees about administrative actions going forward. Broke into four stations to cover the following topics: 1) Enforcement; 2) Policy; 3) Technology, and 4) Communication.               <ul style="list-style-type: none"> <li>○ Comments reflected the following areas of greatest interest:                   <ul style="list-style-type: none"> <li>▪ Labor Representatives – Good, effective enforcement;</li> <li>▪ Business Representatives – Regulation clarity and good communication;</li> <li>▪ Awarding Agencies – More streamlined processes,</li> </ul> </li> </ul> </li> </ul>	

	<p>communication, and better technology.</p> <ul style="list-style-type: none"> <li>○ A compilation of the feedback indicated there were no major subject areas in conflict with stakeholder groups. Results were complimentary rather than antagonistic.</li> <li>○ L&amp;I will work on the issues that were raised.</li> </ul> <p><b>Liz Smith</b></p> <ul style="list-style-type: none"> <li>● Addressing bad actors requires communication tools. The following comments were provided:           <ul style="list-style-type: none"> <li>○ Agree that communication is important. Need to know about the requirements before compliance can occur. Regulations must be clear.</li> <li>○ Laura Herman goes into the community to perform workshops that take place over 40 times each year. Reach out to her to request a workshop, and Jim may even join in.</li> <li>○ Developing standard work for Industrial Relations Agents (IRA) is in the development process.               <ul style="list-style-type: none"> <li>▪ Standardized letters for open/closed status.</li> <li>▪ Finding some letters not consistent for receipt, findings, and release of confidential information.</li> </ul> </li> </ul> </li> </ul>	
<p>Program Updates:          – Budget / IT Upgrades          – Web-Based Tools for Agencies, Business, and Labor          – Guidance for Independent Contractor Investigations</p>	<p><b>Liz Smith</b></p> <ul style="list-style-type: none"> <li>● Web-based compliance tools being scoped for development.           <ul style="list-style-type: none"> <li>○ In August - Jim and Liz attended the national ILSA conference (Interstate Labor Standards Association.)</li> <li>○ Many common efforts with other agencies – in NY, AZ, CA, and NJ they are moving to Prevailing Wage registration – where firms have to register specifically to be allowed to perform public works construction, and background checks are done to look for debarments or past violations of wage and worker’s comp laws. The registration process makes sure that businesses with outstanding delinquent debt owed to state agencies are not competing for public work contracts.</li> <li>○ Other states were dealing with interesting complexities around</li> </ul> </li> </ul>	

	<p>enforcement, such as whether funds for charter schools related to construction, maintenance, and repairs were subject to prevailing wage requirements.</p> <ul style="list-style-type: none"><li>○ L&amp;I has built substantial system upgrades for awarding agency partners using the PWIA system. Asked if this system would connect to Verify – the L&amp;I Look Up A Contractor feature, and reply was that this would be part of the proposed budget package. Ideally, if a contractor has strikes and/or is debarred from public work, that should be viewable on the Verify application.</li><li>○ The prime contractor portal that is being proposed to the Legislature for development will make it clear and obvious to a prime contractor the compliance status for their subcontractors: It will provide real-time alerts and red flags if subcontractors have filed Intent and Affidavits, if they have a suspended worker’s comp account, in their contractor registration is suspended. Alerts will be given for problems so that they can very clearly see a problem and resolve it early.</li></ul> <ul style="list-style-type: none"><li>● Eric Gustafson raised the issue of licensing, debarments, and other problems. Wanted specifics on the concept in other states that would prohibit contractors with compliance problems from getting a license.<ul style="list-style-type: none"><li>○ Josh Swanson brought up idea of providing an educational piece on how to do public work and possible competency requirements.</li><li>○ In response, Liz Smith said that she was not sure that an educational requirement is a part of the requirement in other states. Mentioned that in CA construction contractors have to pass a competency test just to get a contractor license.</li></ul></li><li>● Miriam Israel Moses noted that while programs are talking to each other now, some awarding agencies are still releasing retainage before all Affidavits are filed. Contractors have to pay Industrial Insurance, but also need to pay workers.<ul style="list-style-type: none"><li>○ Liz Smith stated that the Contract Release Unit requires that all contractors file an Affidavit before the Request for Release form may be processed. Some projects under \$35,000 have no retainage and federal</li></ul></li></ul>	
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	<p>transportation projects have no retainage.</p> <ul style="list-style-type: none"><li>○ Miriam Israel Moses said that some awarding agencies are not aware subcontractors are on a project and inquired if contractors and awarding agencies will see all in the portal.</li><li>○ Liz Smith affirmed that the one system is all PWIA-based and functionality is around same system. Jolene Skinner from Contract Release worked on it in partnership with Jim Christensen and Shari Purves-Reiter.</li><li>○ Miriam Israel Moses asked if strikes and debarments are shown to awarding agencies in the portal and Liz Smith said that it is part of the record on the website today, listed under the strikes and debarment look-up, and under the proposed technology budget package to fund the Prime Contractor Portal, L&amp;I will be combining that information.</li><li>○ Josh Swanson wanted to know if possible electronic exchange of certified payroll records is part of the proposed hub and Liz Smith affirmed that it is.</li></ul> <p><b>Jim Christensen</b></p> <ul style="list-style-type: none"><li>● The PW program is looking at options for re-designing the website to be more user-friendly.</li><li>● The prime contractor portal is in the concept design phase and will be designed to have similar functions as the awarding agency portal.</li><li>● In the new awarding agency portal - electronic certified payroll will have data authentication– allowing digital signatures – and redacting will occur when necessary. No plans to require more security such as multi-part questions.</li><li>● The Project Dashboard feature is one of the PWIA enhancements.</li><li>● On-line filing of PW complaints is not in the works at this time. Employment Standards initiated this and it caused a significant increase in the number of complaints, and a backlog for that program. PW has not yet done it as we need to ensure we have investigative horsepower to cover the workload first.</li></ul>	
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- L&I is working on developing the technology to make all of our online features accessible to mobile devices.
- Concerning proactive investigations: Getting much better at mining resources to identify those employers that need more attention. Creating a method for L&I initiating their own investigation. L&I PW program does not benefit financially from investigations – wages go to workers, and penalties go into the Public Works Account.
  - Miriam Israel Moses noted that current PWIA data downloads of all contractors on PW jobs provides some information, but it appears that all fields are not turned on. There are certain fields that she would like to see added. Information cannot be provided in the data dump.
  - Reasa Pearson said all data will be in [data.wa.gov](http://data.wa.gov) and L&I has a portal into that site. She will be checking it to ensure it reflects information collected through PWIA.
  - Liz Smith confirmed that L&I set up pipelines from our databases to those who want that information. Contractor Registration can download all registered contractors. It was noted that [data.wa.gov](http://data.wa.gov) has staff to assist with creating reports.
- Regarding PW’s budget request: The legislature mandated that we provide surveys online. Timeline is up by end of the year. L&I is proceeding with developing a tool for online collection of PW survey data, and will be asking legislature for appropriate funds to cover the work. (See handout provided titled PW Technology Improvements – Phase 2.)

**Reasa Pearson & Leeann Bosshard**

- Prevailing Wage Technology Improvements PowerPoint.
  - Online certified payroll filing went live November 17, 2015. Follows Awarding Agency Portal and Project Dashboard in PWIA.
  - Miriam Israel Moses questioned whether new system would create reports

	<p>on Intent and Affidavit differences and she was advised by Jim Christensen that it will not do that at this time, but more reports will be done for special circumstances.</p> <ul style="list-style-type: none"> <li>○ Miriam Israel Moses asked if there would be the capability to download certified payrolls from this online system into spreadsheets and was advised that is was not possible at this time.</li> <li>○ Eric Gustafson felt that a contractor portal should be created. Liz Smith stated that possibly in the next phase it would be done, if the program could get approval for funding. However, she noted that the purpose of the portals is to help contractors understand and navigate PW requirements, and to help them see and fix problems early.</li> </ul> <p><b>Break</b></p>	
<p>Program Updates:        – Implementing legislative proviso relating to fees for projects under \$750</p>	<p><b>Jim Christensen</b></p> <ul style="list-style-type: none"> <li>● The program is still deliberating on how to handle the fee waiver for Intents and Affidavits but they will be advised when a decision is made.</li> <li>● Josh Swanson said two options were presented at a previous PWAC. They decided on one option and wondered if that is what they were deciding between.</li> <li>● Jim Christensen stated that they got hybrid input, and it may not be one of the two options presented at PWAC.</li> <li>● Liz Smith said requirement described certain variations that “reduce or waive fees.” Option 1 got most interest. Intent fee is charged and the Affidavit fee is waived if the final project is under \$750. Option 2 has a box marked in which they don’t pay the Intent fee; however, if the Affidavit shows it was over \$750 they go back and pay for both forms. Possible option to just pay \$20 for each form.</li> <li>● Miriam Israel Moses liked a single form to be used so Option 1 is better.</li> <li>● Josh Swanson asked about the life of the requirement, which is 1-1/2 years of a fee reduction.</li> <li>● Desiree Schott asked if this is affected by on-call forms and how those would be handled.</li> <li>● Liz Smith said it would affect how they file for on-call.</li> </ul>	

	<ul style="list-style-type: none"> <li>• Miriam Israel Moses stated that she does not feel L&amp;I should develop a contingency for on-call as it is not a valid form of contracting for public works.</li> <li>• There was further discussion related to the variations that may occur to on-call forms.</li> </ul>	
<p>Program Updates:        – Agent Training        – Sub-Prevailing Wage</p>	<p><b>Reasa Pearson</b></p> <ul style="list-style-type: none"> <li>• When doing referrals for suspected compliance problems, we are looking at other agency databases.</li> <li>• Policies and processes for Sub-prevailing wage certificates – and sub-minimum wage too – are being worked on by the programs. The process is under review with stakeholders and representatives for workers such as non-profit vocational rehabilitation providers, worker advocates, DSHS, counties, and the Governor’s Office.</li> <li>• Got recommendations on how to change and improve processes for issuing certificates.</li> <li>• L&amp;I staff are working on process and policy change recommendations, and intent is to finalize next steps after the legislative session is over.</li> </ul>	
<p>Program Updates:        – Scopes &amp; Rulemaking        – Move to TC3        – Personnel Updates        – Next Meeting</p>	<p><b>Jim Christensen</b></p> <ul style="list-style-type: none"> <li>• There has been not a lot of movement on the three scopes last drafted. The CR-101 for these three scopes will be filed in the near future. These are for Truck Drivers, Ready-Mix Truck Drivers, and Dredge Workers. Still have work to do on other scopes – including Fabricated Precast Concrete and Shipbuilding.</li> <li>• Move of PW program to TC3 building may occur in February.</li> <li>• Marcus Ehrlander and Saul Olivarez have both taken new jobs at other agencies.</li> <li>• Chuck Ziegert has moved to an IRA2.</li> <li>• May get a temporary IRA or Management Analyst to cover Marcus Ehrlander’s position responsibilities.</li> <li>• IRA Jessie Starr has left and Liz Volkman took his place.</li> <li>• IRA Shawn Dove has left for a position in Contractor Compliance.</li> <li>• Next meeting set for March 31, 2016, in Tumwater.</li> </ul>	