

Meeting Minutes
 Prevailing Wage Advisory Committee
 June 25, 2009

Attendees:

1. Prevailing Wage Advisory Committee Members: Dave Johnson (Building & Construction Trades Council), Randy Loomans (Operating Engineers Local 302), Lee Newgent (Seattle-King County Building Trades), Kathleen Garrity (Associated Builders and Contractors), and Mike Howard (Snohomish County PUD)
2. L&I Staff: Steve McLain, Dave Soma, Laura Herman, Nathan Peppin, Reasa Pearson, Ann Selover, Bea Hart, Kathi Hicks
3. Other Present: Dave O’Meara, Miriam Israel Moses, Bob McDonald, Bob Abbott, Aaron Bailey, Matt Thompson, Paul Nordsletten, Eric Coffelt, Tom George, Joe Baca, Roger Johanson, Mel Fitzpatrick, Alison Hellberg, Tara Schaak, D.R. Smith, and Eric Gustafson

Agenda Item	Discussion	To-Do
Opening Remarks Introductions	The meeting was opened by Dave Soma at 9:30 a.m. There was a formal introduction of the newest member to the committee – Lee Newgent.	
Review and approve minutes from last meeting	David Johnson made the motion and Mike Howard seconded and all voted in favor of approving the minutes from the January 5, 2009 meeting.	
Budget Update	<p>We are doing well with our budget. The new budget has been approved and we received the following with that package:</p> <ul style="list-style-type: none"> • 4 new FTEs (2 IRA, 1 AG, and 1 CSS2 – make the temp currently helping with CP permanent), • Upgrade and improve the current PWIA and wage update databases. 	
Strategic Direction	<p>L&I is working on being more proactive instead of reactive.</p> <p>We are working complaint response time:</p> <ul style="list-style-type: none"> • More timely • More responsive <p>We are working on being timelier in responses to determinations and clarifications. Goal is a turnaround time of no more than 60 days.</p> <p>Stricter guidelines for obtaining certified payroll and if we do not get them then issue an NOV.</p>	Bob Abbott asked for a contact list of the Industrial Relations Agents.

	<p>The following are items we are implementing for more proactive compliance:</p> <ol style="list-style-type: none">1. Provide education to awarding agencies about their responsibilities.2. Having the agents go out and investigate current jobs – spend an as yet undetermined amount of time each month in the field. <p>Dave Johnson asked how much time would be spent on education versus compliance. Steve told him there would be about 70 percent to compliance and 30 percent to education.</p> <p>Bob Abbott addressed the new legislation - SB 5873 This will allow debarment from public works for apprenticeship violations. Both programs are working together on cross training.</p> <p>There was some discussion concerning the issue of how accurate the information that is provided on Intents is. When interested parties try to obtain certified payrolls or work on compliance then accurate information saves time.</p> <p>Eric Gustafson, from the Iron Workers, said it took months to get a certified payroll request from a contractor for the Lowell Elementary School project due to insufficient information. The contractor was not even paying minimum wage for the apprentices on the project and they owe L&I back premiums.</p> <p>There was a problem with the fringe benefits and there needs to be a way to substantiate that these are being paid. Notification to the employees of the package.</p>	
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	<p>Miriam Israel Moses said that we used to do this. We would ask what the fund was and who it was paid to – such as a 3rd party, etc. If the package was more than 30% of the whole pay package then it was looked at.</p> <p>Steve said that we would work with the new automated system contractors to see how much we can expand the system.</p>	
Personnel Update	<p>We had an agent training in April. We had an emphasis on timeliness of investigations and implemented a new procedure to accomplish this. Getting information has always been hard so we are doing the following:</p> <ol style="list-style-type: none"> 1. Ask for the information and wait an appropriate time frame. 2. Send a demand letter and wait an appropriate time frame. 3. Send a subpoena. 	
Scope of Work Update	<p>Summary presented on the status of the scope of work subcommittee.</p>	
NOVs	<p>Gave a summary of the number of strikes that have been issued since January 5, 2009.</p>	<p>Dave Johnson asked for a report showing the number of debarments since the new system went into place.</p>
Legal Update	<p>Laura Herman gave an update of the legal issues that are currently going on.</p> <p>She talked about a determination that was in the packet regarding landscaping constructions. This has been a big issue for us this year.</p> <p>Dave Johnson asked that the department talk to WSDOT and ask them to include the difference between landscaping and erosion control in their specifications to contractors. They do not look at the bids when they come back in and they say it is not their problem or issue.</p> <p>The department met with WSDOT last</p>	<p>Randy Loomans and Dave Johnson want the landscaping determination letter sent to WSDOT so they can see how they are supposed to handle their different projects.</p>

	<p>week and they will be making adjustments in their headings to help with this problem.</p> <p>We have met with one landscaping contractor to resolve some issues and we will be meeting this next week with yet another one.</p> <p>Bob Abbott said that the stimulus money is coming in and the contractors are reporting the work under landscaping construction. The general contractors are major contributors to this misclassification. We need to work with them.</p> <p>Ann Selover went over SB 5903 which states that if an awarding agency makes the decision that a project meets the definition of residential construction, they must include this in the contract. If later it is determined that it does not meet the residential construction definition then the awarding agency will be responsible for paying the difference between residential and commercial rates to the contractor.</p> <p>Laura went over SB 5904 which is the implementation of a 7-point check list for prevailing wage purpose about independent contractors that will be effective July 26, 2009. It will look at who a subcontractor versus and employee. We are looking at the need for implementing a rule.</p> <p>Dave Johnson said there had been a problem with the current 6-point checklist and referring any cases based on it to prevailing wage. Can we take these cases now?</p> <p>Prevailing Wage will have to look at it on a case-by-case basis to make sure there is an actual problem and we can take action.</p>	
Rule Making	There will be public hearings coming up for the Electronic Technician.	Dave Johnson stated that it would be helpful to have a

	<p>It has been 15 years since a comprehensive review has been done of the prevailing wage rules. We are currently working on doing this review with the AAGs.</p> <p>A draft of the proposed current changes to the rules was distributed. The CR101 just went out. We are just doing basic “housekeeping” changes right now.</p>	<p>side-by-side of the changes instead of just track changes.</p> <p>Kathleen Garrity asked for the proposed rule changes.</p>
<p>Determinations</p>	<p>Latest determinations were distributed.</p> <p>We are going to turn the landscaping determination into an actual policy.</p>	
<p>Surveys</p>	<p>Group 2 & 3 will be published August 1, 2009 and included 22 trades.</p> <p>Once the rates are published then they become effective 30-day later. If there are any errors found after publication then we have to republish the rates and wait another 30 days.</p> <p>Group 4 data entry is 50-60% complete.</p> <p>Group 5’s deadline for receiving the surveys is almost up.</p> <p>We may go ahead with a September survey but we are not sure yet. There is a group that could be surveyed.</p> <p>Dave Johnson expressed concerns with the 22 crafts that were surveyed and will now be published in August for several reasons.</p> <ol style="list-style-type: none"> 1. Gustavo had asked for a box to see if a contractor was signatory then removed the box from the form. 2. We ask for the latest wage information and hours but the rates changed mid-year. The rate was \$28 but then went up to \$30 in July but we want all the hours at \$30. He is concerned with the legality of this. 	<p>Dave Johnson would like to have the rates prior to publication so that they can review them so that if there are any errors they can be found before publication.</p> <p>Bob Abbott would like the locals to have a chance review the wage rates too.</p>

	<p>Randy Loomans asked if the forms were approved at a PWAC meeting. The answer was yes. Were there changes made after that they did not know about? If so, that was not ok – the form should have been brought back the committee for another approval. If the form is what they had agreed upon then that is how it is. If changed then a different matter.</p> <p>Nathan Peppin stated that with or without the check box you can tell the forms that came in from a union shop. Can even tell which union they came from.</p> <p>Dave Johnson just stated that he felt things had changed - right or wrong.</p> <p>There were problems with signing a document that this is true when not what was actually paid for all hours – just the most recent wages. A lot of companies will not sign the form as is.</p> <p>Miriam Israel Moses asked for a prequalification process where a card is sent out before the survey with the scope of work listed asking the company if they do that work and then they would get the survey.</p> <p>Miriam said thanks to Dave and Nathan on the surveys – especially Nathan and the extra help.</p> <p>Dave Johnson appreciated what we were doing. We increased the field agents from 6 to 11, increased the number of NOV's being issued, and cleaned up certified payroll.</p> <p>Dave Soma made it clear that it was the group at the table and the others back at the office's work that made it possible.</p>	
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Dates and Locations for upcoming meetings	Next meeting will be: September 3, 2009 Tumwater, Room S118	
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