MINUTES

PREVAILING WAGE ADVISORY COMMITTEE
Thursday, November 18, 2004

Committee Chair Norman Malbin called the meeting to order at 1:30 p.m.

Members Present	Members Absent	Staff Present	Guests Present
Ed Glad	Daniel Boldt	Dan Gardner	John Killin, IEC Oregon
Jessica Harris-Adamson	Dan O'Brien	Christie Hammond	Jim Pauley, IW Local 29
Mark Holliday		Lois Banahene	Jeff Dean, ABC Pacific NW
Norman Malbin		Sandra Smith	
John Mohlis		Denise O'Farrell, Employment Department	
Jay Minor		Leanna Harmon, Employment Department	
Shawn Miller			
Bob Shiprack			
Dick Springer			

Minutes of the Previous Meeting

The minutes of the October 14, 2004 meeting of the advisory committee were reviewed and the sentence "Jay Minor commented that apprentices are not readily available from union halls" was amended at Mr. Minor's request to read "Jay Minor commented that apprentices are not *always* readily available from union halls." The amended minutes were approved.

Review of 2004 Construction Industry Survey Data

Denise O'Farrell from the Employment Department introduced Leanna Harmon who also works extensively on the annual construction industry survey. Denise said that there was an 87% response rate to the 2004 survey and over a million journeyman hours were reported, which is similar to last year's response rate. Denise explained that the committee members were being provided with summaries of raw data collected which was screened for confidentiality. If two or fewer firms responded in a region, the region's data is consolidated with data received from other regions with two or fewer respondents.

Bob Shiprack requested whether data broken down by "heavy/highway" and "building" designations was available. It was noted that this data is included in the Employment Department's annual survey report which will be provided at a later date. Commissioner Gardner said that BOLI would respond to specific requests for this information if received.

Shawn Miller asked if it was possible for Commissioner Gardner to explain his methodology for setting the rates and questioned to what extent the process can be standardized in writing. Commissioner Gardner explained some of the guiding principles he applies in making rate determinations and noted that he had incorporated what he had learned from last year about the

relationships between trades in the process this year. Commissioner Gardner said that he would be happy to explain how he made any particular rate determinations. He also noted that many factors are taken into account, depending on the craft and region, and that some of these factors change from year to year, making it difficult to publish a written procedure for making rate determinations.

Norman Malbin noted that the commissioner has been given broad discretionary authority by the legislature to set prevailing wage rates.

Christie Hammond requested that the committee members review the data and let the Bureau know by the end of the month if any mistakes are found. Ms. Hammond also advised the committee members that they will receive advance copies of the wage rates once they are prepared for printing.

Draft Rule Pertaining to Construction Managers/General Contractors ("CM/GC's")

A revised draft CM/GC rule was presented. Norman Malbin explained that after previously hearing of committee member Bob Shiprack's concerns, he had convened a meeting of contractor representatives from Hoffman and Howard S. Wright Construction, Mr. Shiprack and himself to discuss issues relating to CM/GC contracts. Mr. Malbin indicated that there remains a continuing concern about significant lapses in time between the establishment of rates for a project and the commencement of construction and the possibility of inappropriate use of Early Work Amendments to "freeze" wage rates. The most recently revised rule draft would require that if construction does not begin within six months of authorization by a public contracting agency the rates in effect when construction commences apply.

Jessica Harris-Adamson said that she believes that Early Work Amendments that authorize construction for more than $25,000 did freeze the rates. She also said she was concerned about changing the applicable wage rates on projects after the GMP is established if delays occur, and treating GM/GC contracts differently than "hard bid" (traditional) contracts.

Jay Minor said that unlike CM/GC contracts, "hard bid" project specifications specifically deal with the issue of delays.

Ed Glad said he thinks the CM/GC rule needs to clearly address time lapses and the applicable wage rates so CM/CGs understand their responsibilities in the case of delays and have options.

Bob Shiprack said that CM/GCs/general contractors want a "clear bright line" regarding the applicable wage rates for CM/GC projects. He also said that some of the contractors with whom he has met have "no faith" that public agencies won't try and manipulate the system to "lock in" wage rates early. Mr. Shiprack also noted that material inflation is a bigger concern of contractors than wage inflation. He expressed his opinion that an Early Work Amendment shouldn't trigger the applicable wage rates for a project unless a GMP has been set.

Jessica Harris-Adamson said that she would review the latest rule draft with members of her association for their comments.

Norman Malbin asked committee members to contact Christie Hammond with any concerns about the most recently revised rule or language suggestions by November 24, 2004, so a final rule draft can be

available by December 1, 2004, when notice of the rulemaking process will be published in the Secretary of State's publication.

2005 Legislative Session

Dick Springer asked about the status of the bureau's 2005-2007 budget and whether any PWR related legislation was being proposed by the agency. Commissioner Gardner said that the bureau had been required to submit 10% in budget reductions at the Governor's request for consideration, but that he believed that the bureau's history of previous budget cuts and cost savings measures would be taken into consideration.

Commissioner Gardner also indicated that the bureau was proposing a legislative amendment to ORS 279C.830 which would require contractors to be apprentice training agents if they enter into contracts for public works projects exceeding $250,000.

Shawn Miller said some of his members were considering submitting legislative amendments, including making public agencies exclusively liable for failing to advise contractors of the application of PWR laws on projects and increasing subcontractors accountability for violations of the law.

It was suggested by Norman Malbin that the committee be used as a forum to explore legislative concepts by committee members, noting that legislation "endorsed" by the committee would probably enjoy a greater likelihood of passing. Mr. Malbin also suggested that some subcontractors be invited to the next meeting to discuss legislative concepts that would affect them. Several committee members volunteered to identify subcontractors who would be interested in such a collaborative discussion.

Next Meeting Date/Agenda

The next meeting of the Prevailing Wage Advisory Committee will be held on Thursday, January 6, 2005, at 1:30 p.m. at the International Union of Operating Engineers, 555 East 1st Street, Gladstone, OR.

Potential legislation will be the primary agenda topic.

The meeting adjourned at approximately 2:45 p.m.