

**Northern New Jersey NIGP
Minutes of the Regular Meeting – June 12, 2014
The Imperia Conference Center, Somerset New Jersey**

The meeting was called to order at 10:14 AM by President James J. Jorgenson. After the flag salute, followed by a moment of silence, the President welcomed all new guests and introductions were made by the attendees.

By motion, the Treasurers Report and the minutes from the previous meeting held on March 13, 2014 were approved.

Jim then introduced the two guest speakers from the Division of Wage and Hour Compliance, NJ State Department of Labor, Robert Gaines and Kevin Triplett. Robert Gaines, Director of Division of Wage and Hour Compliance, addressed the meeting first.

Each attendee was provided with a copy of the ‘Blue Book’, dealing with the New Jersey State Prevailing Wage Act and Regulations. He discussed the history of the Public Works Contractor Registration Certificate which was instituted in 2000 due to problems with independent contractors. A contractor working on a public works project that exceeds the threshold must be registered in the state of New Jersey and all public works projects are subject to the New Jersey Prevailing Wage Act. All contractors and all listed subs must be registered prior to the bid opening. (see pages 48-51 of the Blue Book). Currently there are approximately 10,500 firms that are registered. The registration requirement not only provides a pool of registered contractors, it also provides revenue to the State. All registered contractors are listed on-line. The Certificates are issued for either a 1 or 2 year period. When checking the physical hard copy Certificate that would be submitted in a bid, check to see that it has the name of Commissioner Wirth on the bottom. It was emphasized that it important to also check on-line that the Certificate is valid as the on-line list is current and up-to-date. Mr. Gaines reviewed the Division’s website and homepage, showed how to search for registered contractors under the Public Works Contractor Registration Page. The list is updated daily. He was asked by an attendee, about changing the current \$2,000 prevailing wage limit. Mr. Gaines explained that this limit actually varies widely from state to state. In New York it is \$0 and in Maryland it is \$500,000. He emphasized that it can only be changed by the Legislature.

He also mentioned the upcoming Prevailing Wage and Worker Misclassification Conference to be held October 7th to October 10th in Atlantic City.

Mr. Gaines concluded his presentation and introduced Kevin Triplett, the Section Chief for Public Contracts, Wage and Hour Compliance. In 2013, Mr. Triplett’s unit handled 870 cases, with 2700 claimants resulting in recovering over \$4,000,000 in back wages. He said that as Purchasing Agents, we are responsible to determine if the work meets the definition of a “public work” (includes material and labor) as defined by the law. He gave examples of what is not a public work, which included, snow plowing, landscaping only, tree trimming and tree removal. However, if for example, trees are being removed

as part of a larger construction project, then that would be subject to prevailing wage. A rule of thumb is if it involves any kind of tool to accomplish the work, then it probably is a public work. Also if your entity were to hire a surveyor, that would not be subject to Prevailing Wage, however if the surveyor is hired by a contractor, then it would be. He emphasized that as purchasing agents we need to check the debarment list for owners and principals, as that would mean that their companies were also debarred. There are no exemptions for the certificate requirement. He also mentioned that the prevailing wage to be paid on a project is determined by the date of contract award and the contractor should receive both county and statewide rates. Prevailing wage language should be in contracts, including Purchase Orders. For contracts awarded through a cooperative, the original cooperative contract award date is used for the prevailing wage determination. Contractors don't have to bid prevailing wage, they just have to pay it. Prevailing wage is comprised of wages and benefits. As public entities our obligation is to collect certified payrolls and they should be kept for 2 years. Also, a minor can never be on a construction job, with few exceptions, one being for a vocational school. He reiterated that the threshold goes up to \$15,444 on July 1, 2014 for municipalities. He also touched on the following:

- Davis Bacon Act-applies when a project is federally funded
- Maintenance Contracts-once they hit the \$50,000 aggregate threshold, will be subject to prevailing wage.
- Janitorial Services are not subject to prevailing wage unless it is a component of a prevailing wage job.
- Insurance and Warranty work are subject to prevailing wage

He provided the attendees with his business card and advised all to call him anytime with questions. After the conclusion of his presentation, there was a short meeting break from 11:30 AM to 11:40 AM

After resumption of the meeting Jim Jorgenson gave a presentation on analyzing boilerplates for construction bids and Engineer provided technical specifications. He emphasized the following:

- Construction bids must be advertised for no less than 10 calendar days.
- Bond are required if over \$100,000.
- OPRA and how it relates to the cost of your Specifications.
- Liquidated damages-what if they are not in your bid spec and the deadline is missed-you cannot collect.
- For the 10% Bid Bond requirement as per NJSA 40A:11-21, you cannot have the wording to the effect that you will pay the obligee the difference.
- There are 26 contradictions in AIA documents vs. NJ Local Public Contracts Law.
- Department of Transportation has verbiage you must be concerned with.

- Fixed price allowances are acceptable in bids for PSE&G, soil testing, soil removal, and police. Unsuitable material can now be added to that list. The problem comes when there are allowances for other than the above.
- Alternates must be in order of use.
- If your bid is for \$850,000 and only \$800,000 is expended to complete the job, the funds should be unencumbered. Additional work cannot be awarded with leftover money. Need to communicate with your CFO. Jim gave an example of a recent issue that arose in Essex County with the Public Works Department, spending money left over for work that wasn't part of the original bid.

OLD BUSINESS

Jim raised the issue of the chapter's status/alignment with the national organization (NIGP). In order to remain a chapter it is necessary to have 3 officers who are members of NIGP and we must pay an assessment fee of \$850. There was discussion as to the relevancy of remaining aligned with the National and its usefulness. Does anyone make use of their website or webinars? Should the group merge with other existing NJ Public Purchasing associations or reorganize as a totally different organization?

Jim asked for a vote and the attendees were unanimous in their approval of a motion to approve the Board's recommendation to not pay the full assessment without a clear understanding of the insurance offered as a chapter value, and to assess what options are available. The outcome will be brought back to the membership.

NEW BUSINESS

None

The meeting was adjourned at 12:23 PM

Next meeting date: Wednesday September 10, 2014