

STATE OF ILLINOIS – DEPARTMENT OF LABOR
160 N. LASALLE ST., STE. C-1300
CHICAGO, ILLINOIS 60601

IN THE MATTER OF:)
)
STANLEY SIMRAYH, as Member of the)
INTERNATIONAL UNION OF OPERATING)
ENGINEERS, LOCAL 150, AFL-CIO, DON)
BISSING, as Member of the INTERNATIONAL)
UNION OF OPERATING ENGINEERS, LOCAL)
150, AFL-CIO and the INTERNATIONAL UNION)
OF OPERATING ENGINEERS, LOCAL 150,)
AFL-CIO,)
)
PETITIONER(S),)
)
v.)
)
JOSEPH BEYER, DIRECTOR OF THE)
ILLINOIS DEPARTMENT OF LABOR, and)
THE ILLINOIS DEPARTMENT OF LABOR,)
)
RESPONDENTS.)
)

STATE FILE NO. 2019-H-PK09-2248

ORDER

THIS MATTER COMING on to be heard under the Prevailing Wage Act, 820 ILCS 130/0.01-12 and Notice of Hearing issued there under; and, 56 Illinois Administrative Code 120.130 all parties having been duly advised in the premises issues this order;

1. While many, if not all parties prefer **bifurcation** of the **survey methodology** from **rate issues** for hearing, historical experience and perspective demonstrates that bifurcation is problematic and does not serve judicial economy. The verbal Motion to Bifurcate is denied. The parties may file their agreement or disagreement with this ruling on the record by filing a statement on or before **November 30, 2018**.
2. The parties have verbally raised the issue of **consolidating all 2019 Section 9 Prevailing Wage Objections** that contain a **survey methodology** issue within **2019 Section 9 Objections** or hearing request. While the issue may present some commonality of facts throughout as well as some identical evidence to be received in some hearings, the issues differ in fact given the Department's decisions were made individually per county and classification based upon responses received from the survey participants. To consolidate matters where multiple if not hundreds of classifications and multiple counties raise the issue of survey methodology necessarily presents varying and specific factual issues pertaining to each classification and county. This causes consolidation to be problematic and difficult. The verbal Motion to Consolidate is denied. The parties may file their agreement or disagreement with this ruling on the record by filing a statement on or before **November 30, 2018**.
3. **Respondent** shall file an **answer** on or before **November 16, 2018**.

4. General discovery (e.g., deposition, interrogatories or request to produce or admit) is not permitted. 56 Ill. Adm. Code 120.410 (a).
5. Any **discovery dispute** is to be addressed with the opposing party prior to filing a motion with the undersigned. Evidence demonstrating said outreach is required when filing a motion regarding a discovery dispute prior to entertaining same.
6. All **Petitions to Intervene** shall **comply** with 56 Ill. Adm. Code 120.320.
7. Failure to file the **Petition to Intervene** in accordance with 56 Ill. Adm. Code 120.320 will result in the Petition not being in compliance with this order and subsequent denial.
8. Any **Petition to Intervene** filed after **November 30, 2018** will be deemed **untimely** and will unduly delay or prejudice the adjudication of rights of the original parties 56 Ill. Adm. Code 120.320 (2).
9. Any and all dispositive motions shall be filed on or before **November 30, 2018**. Responses are due **December 7, 2018**. Replies are not allowed.
10. This matter is set for a **telephonic pre-hearing conference/status** to address any outstanding motions on **December 14, 2018** at **9:30 a.m.**
11. Each party shall provide the opposing party with a copy of any **document/evidence** that it may offer into evidence. The parties shall exchange documents on or before **January 11, 2019**. Each party shall provide newly discovered documents/evidence, except for witness statements, as it becomes known to the party intending to introduce the document/evidence. Any newly discovered documents must be produced on or before **January 18, 2019**. A party will require leave of the administrative law judge to provide any documents after this date except for documents obtained pursuant to a third-party subpoena.
12. The parties shall file **motions for third party subpoenas**, along with a draft copy of a subpoena (the subpoena shall show on its face the name and address of the party) at whose request the subpoena was issued with the undersigned on or before **December 14, 2018**. The parties maintain a duty to supplement document exchange wherein documents have been obtained in this fashion. In any case, those documents shall not be produced to the opposing parties after **January 14, 2019** without leave of the administrative law judge or as agreed to among the parties.
13. **Subpoenas for the attendance and testimony of witnesses** shall be filed on or before **December 14, 2018**. The subpoena shall show on its face the name and address of the party at whose request the subpoena was issued.
14. Each party shall provide to the opposing party and the undersigned a **witness list** containing the name, address and affiliation with the matter of any witness who may be called to testify on or before **January 15, 2019**. Witnesses not on these lists will require leave of the administrative law judge to be allowed to testify.
15. This matter is set for a **telephonic status conference** on **January 15, 2019** at **11:30 a.m.** at which time all outstanding issues will be discussed as well as any pending motions. The undersigned will initiate the conference at previously provided phone numbers.

16. **Written stipulations** shall be provided to the undersigned on or before **January 15, 2019**.

17. This matter is scheduled for in person hearing on **January 22, 23 and 24, 2019** at **9:00 a.m.** at the Illinois Department of Labor, 160 N. LaSalle St., Ste. C-1300, Chicago, IL 60601. The parties shall be prepared to proceed.

DATE: 10/30/18

/s/ Claudia D. Manley

Claudia D. Manley

Chief Administrative Law Judge

Claudia D. Manley
Chief Administrative Law Judge
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601
V: 312-793-1805
DOL.hearings@illinois.gov

NOTE: Entrance into the building requires security screening and production of valid government issued photo identification.

CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I C.Y. Jackson, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Order upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Order in Case No. 2019-H-PK09-2248 and a copy of the Certificate of Service in an envelope addressed to each party or party's agent via email address shown on the Certificate of Service, having caused each to be served via email from 100 W. Randolph Street, Chicago, Illinois on the 30th day of October, 2018 prior to 4:30 p.m. and placed on the Illinois Department of Labor's official website at and placed on the Illinois Department of Labor's official website at www.state.il.us/agency/idol/

Petitioner(s) Attorney:

Melissa Binetti
mbinetti@iiffc.org

Marc Poulos
mpoulos@iiffc.org

Kara Principe
kprincipe@iiffc.org

John Sweeney
jsweeney@iiffc.org

Respondent Attorney:
Benno Weisberg
benno.weisberg@illinois.gov

/s/ C. Y. Jackson
C.Y. Jackson, Office Specialist