

**PURCHASING FROM PEOPLE WITH DISABILITIES
ADVISORY COMMITTEE MEETING MINUTES
March 4, 2016**

MINUTES NO. 2

PENDING MAY 13, 2016 APPROVAL

A duly posted open meeting of the Purchasing from People with Disabilities Advisory Committee was held on Friday, March 4, 2016, at 1:00 p.m. at Texas Workforce Commission, 101 E. 15th Street, Room 151, Austin, Texas. A quorum was present.

MEMBERS PRESENT

Jean Langendorf
Larry Johnson
Linda Logan
Nicky Ooi
Ron Pigott
Michelle Wilkinson
Brandye Lacy
Sean Quigley
Kevin Jackson
Judy Zavalla
Brooke Hohfeld

MEMBERS NOT PRESENT

Russell Capers
Dave Wells

I. INTRODUCTIONS OF ADVISORY COMMITTEE MEMBERS AND STAFF

Each Advisory Committee member introduced themselves and gave a brief background.

Kelvin Moore, Program Manager, Texas Workforce Commission
Howard Joseph, Program Manager, Texas Workforce Commission

II. APPROVAL OF THE MINUTES FROM THE JANUARY 22, 2016 ADVISORY COMMITTEE MEETING

The following edits on committee member terms were suggested for the meeting minutes:

Committee member Nicky terms selection changed from 2 years to 4 years.
Committee member Linda Logan selection changed from 4 years to 2 years.

Committee member Sean Quigley moved to approve the January 22, 2016 Advisory Committee's meeting minutes with edits. Committee member Kevin Jackson seconded the motion. The motion passed.

III. PUBLIC COMMENT

Tereva Clawson, Expanco, Inc. Fort Worth, Texas, gave public comment regarding Community Rehabilitation Programs paying subminimum wages. Ms. Clawson stated that eliminating subminimum wages worries her and her disabled younger brother who will lose his job along with 147 individuals with disabilities employed at Expanco, Inc. Ms. Clawson commented that there should be more discussion before eliminating subminimum wages. She stated that Expanco's prevailing wage rate (what subminimum wage is based on) is higher than minimum wage. She also stated that she couldn't hire 147 individuals with disabilities if she had to pay \$10.10 an hour. Ms. Clawson commented that Expanco's pay role has increased 5 fold in almost 10 years. She said that Expanco has an individual that makes \$10.00 an hour, all these individuals are productive members of society, pay taxes, and they choose to work at Expanco. Expanco have a great supported employment and outplacement program. We outplace individuals who want to work in the community and if they're not successful we'll try again. Ms. Clawson asked do you want to force these individuals to work in an uncomfortable setting. Ms. Clawson stated that it's important that the Federal Government and the State recognize that these individual should have a choice to work where they want to work. Ms. Clawson stated that her younger brother may bite someone if he is placed in an uncomfortable situation. Also, if subminimum wage is taken away, they will lose their jobs at Expanco go home. She mentioned that working parents will have to put their child in an adult daycare center instead of working. I love TIBH; they've been great for the program. In addition to State Use contracts, Expanco has successful private commercial contracts with Lockheed Martin and a company out of Mineral Wells, Texas assembling ceiling fan boxes.

Committee member Kevin Jackson asked Ms. Clawson what's the minimum amount that's paid to individuals with disabilities in your organization.

Ms. Clawson said she did not know that amount, but their day rehabilitation class has 30 individuals on any given day and that their pay range from \$10 - \$15 a two week pay period to \$100 - \$200 over a two week pay period. Ms. Clawson also said their attention span is short, so they're not expected to work all day long.

Committee member Kevin Jackson suggested that the Advisory Committee visit a facility like Expanco. Mr. Jackson commented that we could see how individuals with disabilities are being productive and how working mean a lot them

Committee member Larry Johnson said he was concerned about the poverty level and ability to pay for expenses. He asked if these individuals have Supplement Security Income (SSI).

Ms. Clawson said that 99% of her employees have SSI.

Committee member Larry Johnson asked what is the real monthly income of these individuals.

Ms. Clawson said that 40% of her employees schedule a short week in order not to lose their SSI. She also said that the medical insurance (Medicaid) is more important than the money. These individuals will always need assistance via group home or family members.

Chairperson Jean Langendorf asked if Expanco have federal contracts and do they require you to pay minimum wage.

Ms. Clawson said that currently Expanco have federal contracts but are not paying minimum wages. They're working toward requiring minimum wages.

Chairperson Jean Langendorf asked what happens when you will be required to pay minimum wage.

Ms. Clawson said that Expanco will not be able to pay minimum wage and 147 people will lose their jobs and we will not be the only Community Rehabilitation Program (CRP) unable to pay minimum wage.

Ms. Clawson said when the Work Innovation Opportunity Act (WIOA). Ms. Clawson stated that if WIOA passes it will require you to pay \$10.10 an hour on all contracts.

Vikki Kezar, CEO, Texspice, Devine, Texas gave public comment regarding Community Rehabilitation Programs paying subminimum wages. Ms. Kezar stated that if we are unable to pay subminimum wages 50% of individuals with disabilities at Texspice will lose their jobs. She also said that Texspice is located in a rural community and there is no outplacement available for our individuals with disabilities.

Chairperson Jean Langendorf asked Ms. Kezar if Texspice have federal contracts.

Ms. Kezar said Texspice only have state use contracts with TIBH.

Committee member Sean Quigley stated that the public comments period for the Work Innovation Opportunity Act (WIOA) ends on March 28, 2016. Mr. Quigley said that he will share the information with Kelvin Moore for distribution to the Committee. Mr. Quigley advised the committee to review WIOA public posting.

IV. DISCUSSION REGARDING SUBMINIMUM WAGE COMMUNITY REHABILITATION PROGRAMS AS CONTRACTORS FOR STATE USE PROGRAMS

Chairperson Jean Langendorf presented a list of 6 CRPs in the State Use Program currently paying below average minimum wages. (See attachment A)

Fred Weber, TIBH Industries, Inc. explained that this list of 6 CRPs is currently paying below average minimum wages, and there are many other CRPs holding a DOL 14(c) Certificate that could be paying below minimum wage on other non-State Use contracts but their average is above

minimum wage on their state use wage report. State Use contracts and commercial contracts are average together for each CRP.

Chairperson Jean Langendorf asked what percentages of CRPs are paying below subminimum wage.

Fred Weber said that there are roughly 10% of CRPs paying below minimum wage. State Supported Living Centers do not have many contracts but have a lot of individuals working about 600 out of the 6,200 are participating in the program. Only 1.9% of the total hours worked in the Program are at CRPs with an average wage rate below minimum wage.

Chairperson Jean Langendorf explained that this discussion agenda item was raised in the Sunset Commission Report. The State of Texas adopted policy for employment first through legislation is in conflict with the State Use Program supporting subminimum wage. Ms. Langendorf asked for comment from committee members.

Committee member Sean Quigley commented that he worked at a sheltered workshop where his younger brother was employed. Mr. Quigley said that was the most appropriate place for his brother at that time and it help him gain some skills to transition into service work. Mr. Quigley also pointed out that for a many disabled individuals paid under 14(c); jobs are carved out because these individuals can be product as possible. Because of health and/or behavioral issued, individual with disabilities' production levels may vary from one day earning \$8.00 an hour another day earning \$3.00 an hour. Mr. Quigley is for employment choice for each individual and that it's appropriate for the state to continue supporting products produced under 14(c) until it is affirmed or removed. The Advisory Committee does not know what's appropriate for these all individuals.

Chairperson Jean Langendorf stated that PPD Advisory Committee is going to recommend performance measures to TWC to move forward on employment first (eliminating 14(c)) and on the States Legislation. The State Use Program might be the vehicle to move people toward an employment first environment.

Committee member Linda Logan pointed out that there are two states that were able to successfully transition everyone to a competitive positon in the community and away from a sheltered workshop approached this decision on an individual bases. Ms. Logan also said that above average wage displays a situation that's not real. Wages should be calculated on an individual bases. It doesn't matter if an average wages of 147 people is being paid above minimum wage; if only 60 or 70 individuals are being paid less than minimum wage.

Committee member Kevin Jackson commented that this program can be used by individuals who wish to transition into civilian life or other employment. The other individuals, together with their family member and the CRP should make the decision to work at a CRP he/she is thriving, productive and successful. This should continue to be an option.

Committee member David Wells (not present) submitted his written comments on subminimum wage to PPD Advisory Committee. Kelvin Moore, TWC read his comments for the record. (See Attachment B)

Committee member Nicky Ooi, asked if we eliminate subminimum wage 14(c), what happens to those jobs. Mr. Ooi pointed out that this is an employment program. If we send individuals with disabilities home, we are not fulfilling our mission. Mr. Ooi stated that the advisory committee should review 14(c) on an individual basis with proper research.

Chairperson Jean Langendorf stated that we should stay within the roadmap of the sunset commission's review and there is a state law related to employment first.

Chairperson Jean Langendorf stated that subminimum wage at the current rate of minimum wage contribute to individuals with disabilities being poor.

Committee member Sean Quigley replied by saying if it wasn't for 14(c) many of those individuals with disabilities would be receiving no wages.

Committee member Larry Johnson stated that is not a yes or no situation and that the Advisory Committee should be cautious. Unfortunately there have been organizations in other states that have exploited individuals with disabilities for their own profit. Mr. Johnson stated that the Advisory Committee needs to be careful not to make a blanket decision. Comments have been made that the State Use Program can be an incentive to get more individuals with disabilities involve in upward mobility, increase hours and/or increase pay. The Committee needs to recognize there is a population that may not aspire to that level.

Committee member Ron Pigott reminded everyone that the Advisory Commission does not make decisions and that the Texas Workforce Commission makes the decisions. We should be advising the Texas Workforce Commission on the State Use Program. Mr. Pigott also replied that it sounds like there are reasons for having subminimum wages, but you have to use perimeters. The Sunset Commission was upset because TCPPD did not measure or justified subminimum wages. Mr. Pigott stated that maybe the committee should advise that subminimum wage should exist in some form or fashion but justifies when it should be except and how much does it exist. For example; when does it mean zero wages when you raise it to minimum wages? Or when an individual can be move to civilian work. Mr. Pigot stated that the severely disable might not be able to focus and cannot transition out of a CRP, but it keep them busy, safe during the day and able to participate in commerce.

The advisory committee should develop recommendations to give the workforce commission in order to make final decisions.

Applause

Committee member Michelle Wilkinson commented that she worked with individuals in workshops and I see the value they provide. Ms. Wilkinson stated that an individual making minimum wage is not enough to afford housing in Austin. Ms. Wilkinson talked about an individual she's been working with that worked in a sheltered workshop but is making above minimum wage and is very productive with the right employment support. I would like to see presentation on Medicaid waiver. I think we need other services in place to compliment and assist individuals with upward mobility and transition out to public businesses.

Chairperson Jean Langendorf suggested that for the next meeting we should clarify what is currently being collected and what should be collected to address your suggestions.

Committee member Ron Pigott said that the Sunset Commission's reported that the information was not being collected by Texas Council on Purchasing from People with Disabilities.

Mr. Pigott suggested that the Advisory Committee identify individuals that could never be transitioned into a normal workforce and identify what falls within that parameter then recommend to TWC. CRPs can report this information. Then we can justify subminimum wage.

Kelvin Moore, TWC said that the information was not captured in past.

V. DISCUSSION REGARDING PRESENTATION BY THE OFFICE OF FEDERAL CONTRACTOR COMPLIANCE PROGRAMS (OFCCP) ON FEDERAL PERFORMANCE STANDARDS FOR COMMUNITY REHABILITATION PROGRAMS (CRPS PROGRAM OVERVIEW PROVIDED BY THE CENTRAL NONPROFIT AGENCY

Committee Member Linda Logan introduced James Shinn, acting District Director, United States Department of Labor – Office of Federal Contract Compliance Program.

James Shinn gave an overview regarding the Office of Federal contract compliance programs on performance standards. (See Attachment C)

VI. DISCUSSION AND POSSIBLE ACTION REGARDING COMMUNITY REHABILITATION PROGRAM'S CERTIFICATION PROCESS

Chairperson Jean Langendorf presented a list of 32 suggestions (see attachment D) from the Advisory Committee members on performance measures and improving the certification process.

Kelvin Moore stated that he emailed the list of 32 suggestions to each committee member for discussion. Only Committee member Dave Wells responded with written comments.

Chairperson Jean Langendorf said that the criteria number 1 was minimum wage vs average wage.

Committee member Sean Quigley stated that the State Use Wage report submitted to TIBH from CRPs have the number of hours and wages paid to individuals with disabilities and you get the average wage. It does not ask for the minimum wage.

Chairperson Jean Langendorf asked if a CRP can generate a report indicating minimum wage.

Fred Weber, President TIBH, Industries, told Chairperson that TIBH can report anything the Advisory Committee recommends.

Mr. Weber stated that all CRPs that pay subminimum wages are required to submit a 14c certificate as part of the certification process.

Chairperson Jean Langendorf asked for any committee discussion on the subject.

Chairperson Jean Langendorf asked could the Committee receive a report on the wage range of individuals placed in competitive employment positions.

Mr. Weber said that it's in the quarterly report and Kelvin can get a copy you. It's also in the annual report.

Committee member Larry Johnson asked what questions are required for the certification process.

Mr. Weber stated that when certifying a CRP to participate in the program TIBH require a building inspection, copy of the IRS nonprofit determination, certification of liability insurance, fire inspection, wage exemption of sub-minimum wage will be paid, a list that was required by the Council.

Committee member Larry Johnson asked Mr. Weber do you require CRPs to list benefits they are will be providing for the individuals.

Mr. Weber said that currently we do not asked CRPs that question, and many CRPs do not have employee until they get contracts.

Chairperson Jean Langendorf asked is there any financial requirements when certifying CRPs

Committee member Nicky Ooi stated that there is bullet point that state you must maintain records in accordance to basic accounting principles.

Kelvin Moore stated that TWC open to receive any of the committee's recommendations regarding the certification process.

Committee member Larry Johnson move to recommend the following questions be included in the certification and recertification process.

10. Look at benefits being provided to employees – both for individuals with disabilities in the program, as well as, other agency staff Are they the same benefits?

11. Look at percent of individuals with disabilities in management position compared to percentage of individuals with disabilities in 'workforce' positions

19. Job Coach needs to be certified Job Coach as well as being certified Interpreter

Committee member Judy Zavalla seconded the motion. The motion passed.

VII. DISCUSSION AND POSSIBLE ACTION REGARDING STATE USE PERFORMANCE MEASURES

Sean Quigley asked for clarification if the committee was reviewing performance measures for CRPs, TIBH, or the program.

Chairperson Jean Langendorf recommended that TWC categorize the submitted 32 (see attachment D) performance measure by into the following category; CRP, TIBH, and the overall program.

Ron Pigott asked what's needed from the advisory committee to help make this process better.

Committee member Ron Pigott suggested that TWC submit suggestions to us on what would make TWC's job better.

VIII. ESTABLISH NEXT MEETING DATE

Next meeting will be Friday, May 13, 2016