



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES**

**PUBLIC WORKS EMPLOYMENT VERIFICATION
ACT
NOTICE AND APPEAL PROCEDURE
GUIDELINES**

**Tom Corbett
Governor**

**Sheri Phillips
Secretary**

I. INTRODUCTION

The purpose of the Public Works Employment Verification Act Guidelines (Guidelines) is to describe the Notice and Appeal procedures that will be undertaken by the Department of General Services Public Works (DGS) in order to administer and enforce the Public Works Employment Verification Act, 43 P.S. §§167.1-167.11, effective January 1, 2013. DGS has entered into a Memorandum of Understanding with the Governor's Office of General Counsel under which DGS is a participant of the OGC Hearing Officer Program and utilizes in-house hearing officers of other executive agencies who have staff dedicated for that purpose.

II. APPEAL

A public works contractor or subcontractor, or representative of an employer or group of employers engaged in a contract for a public work, or a representative of a craft or classification of workmen, affected by a determination made by the DGS regarding compliance with the Public Works Employment Verification Act ("Act") may, within ten (10) calendar days of the date of said determination, file a written request for an administrative hearing to appeal the determination with the Deputy Secretary for Public Works. The request for an administrative hearing should set forth the facts upon which the appeal is based. All hearing requests shall be addressed to:

Deputy Secretary for Public Works
Department of General Services
Public Works Headquarters
18th and Herr Streets
Harrisburg, PA 17125

If an appeal is timely filed, the DGS will stay the collection of any civil penalties and/or sanctions until a final determination is issued following an administrative hearing.

III. FILING FEE

Each request for an administrative hearing shall be accompanied with a non-refundable filing fee in the amount of \$100.00 in the form of a certified check or money order made payable to the Commonwealth of Pennsylvania, Department of General Services. A request for an administrative hearing that is not accompanied with the required \$100.00 filing fee will not be accepted for filing.

IV. HEARING OFFICER

Upon receipt of a request for an administrative hearing with the Filing Fee enclosed, DGS will forward a request for the appointment of a hearing officer to conduct the hearing. The Chief Hearing Officer will designate a hearing officer for the matter.

V. HEARING

The designated hearing officer will schedule a hearing and provide notice of the hearing to all parties, including the public body who holds the public works contract with the contractor or subcontractor against whom a violation or violations of the Act are alleged.

The General Rules of Administrative Practice and Procedure (GRAPP), 1 Pa. Code §§31.1 – 35.251, shall govern the practice and procedure to be followed during the administrative hearing. Hearings shall be recorded by the official reporter of the agency, and a transcript of the report shall be a part of the record and the sole official transcript of the proceeding. All parties shall have the right to be represented by counsel, to present testimony and documentary evidence in support of their case in chief, to cross-examine witnesses, and to object to the admissibility of evidence offered against them. All relevant and material evidence shall be admissible, but evidence that is repetitious or cumulative may be excluded. The hearing officer will rule on the admissibility of evidence and otherwise control the reception of evidence so as to confine it to the issues in the proceeding.

VI. CLOSING STATEMENT AND POST HEARING BRIEF

At the conclusion of the hearing and presentation of evidence, the parties shall have the right to make a closing oral statement for the record and/or to file a post-hearing brief in accordance with 1 Pa. Code §§35.191-35.193. Closing statements and/or post-hearing briefs will become part of the record.

VII. PROPOSED REPORT

Upon the conclusion of the hearing and receipt of all evidence, the hearing officer will prepare a proposed report containing a statement of (1) findings and conclusions, as well as the reasons and basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and (2) the appropriate sanction, penalty or relief. The proposed report will become part of the record

and will be filed with the Secretary to make the final adjudication on the matter. Once filed with the Secretary, DGS shall serve copies of the proposed report to all parties.

VIII. EXCEPTIONS

Within thirty (30) days after the service of a copy of the proposed report, a party may file exceptions to the proposed report or part thereof by filing a brief on exceptions with the Secretary. Briefs opposing exceptions may be filed in response to briefs on exceptions within twenty (20) days after the time for filing exceptions has expired.

IX. ADJUDICATION

Upon receipt of the proposed report and all briefs on exceptions and briefs opposing exceptions, if any, the Secretary shall issue a written adjudication on the matter. The adjudication of the Secretary shall be final unless an appeal is filed with Commonwealth Court within thirty (30) days of the date of the adjudication.

X. DGS RIGHTS RESERVED

DGS reserves the right to change these Guidelines. The amended Guidelines will be posted on the DGS website with the changes highlighted for easy comparison to the prior version of the Guidelines.