IN THE MATTER OF:  
SHEET METAL WORKERS LOCAL UNION NO. 265  

PETITIONER(S).  

STATE FILE NO. 2019-H-PK09-2293  
DATE OF NOTICE: 10/1/2018  
CERT. MAIL/RETURN RECEIPT: 7017 2620 0001 0467 5938  

V.  
JOSEPH BEYER, DIRECTOR OF THE ILLINOIS DEPARTMENT OF LABOR, and THE ILLINOIS DEPARTMENT OF LABOR.  
RESPONDENTS.  

NOTICE OF HEARING

PLEASE TAKE NOTICE that Joseph Beyer, Director of the Illinois Department of Labor, and the Illinois Department of Labor [hereinafter, "Respondents"] have received from Sheet Metal Workers Local Union No. 265, [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations posted by the Department on its website on August 15, 2018, and a request for hearing on those objections pursuant to Section 9 of the Prevailing Wage Act [hereinafter, "PWA" or "Act"], 820 ILCS 130/0.01 et seq.

Pursuant to the PWA, Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 et seq., and 56 Ill. Admin. Code 120.100 et seq., Respondents will convene a hearing on:

DATE: OCTOBER 24, 2018  
TIME: 1:00 P.M.  
PLACE: ILLINOIS DEPARTMENT OF LABOR  
160 NORTH LASALLE STREET, SUITE C-1300  
CHICAGO, ILLINOIS 60601  

ADMINISTRATIVE LAW JUDGE:  
CLAUDIA MANLEY  
CHIEF ADMINISTRATIVE LAW JUDGE  
ILLINOIS DEPARTMENT OF LABOR  
160 NORTH LASALLE STREET, SUITE C-1300  
CHICAGO, ILLINOIS 60601  

The hearing involves the written objections and hearing request filed by Petitioner(s), attached hereto and made a part hereof (Exhibit A).
The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the administrative law judge shall issue a Decision and Order. In the event no timely or proper exceptions are filed, the findings, conclusions, recommendations and order of the administrative law judge shall automatically become the decision and order of the Director of Labor.

The proceedings are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 et seq. The Director of Labor’s determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law.

Joseph Beyer
Director of Labor
September 14, 2018

EXHIBIT A

Via Hand Delivery and Email: Joe.Beyer@illinois.gov
Director Joe Beyer
Illinois Dept. of Labor
160 N. LaSalle Street
13th Floor
Chicago, IL 60601

2019-H-PK09-2293

RE: Article 9 Challenge to Department’s Prevailing Wage Determination
Local Union No. 265 SMART of the International Association of Sheet Metal, Air, Rail and Transportation Workers
Our File No. 28225

Dear Director Beyer:

We are the attorneys for Local Union No. 265 SMART of the International Association of Sheet Metal, Air, Rail and Transportation Workers (“Local 265” or “Union”). This letter is sent pursuant to the Illinois Prevailing Wage Act, 820 ILCS 130/9, as the written notice required to challenge various Prevailing Wage Determination posted by the Illinois Department of Labor on August 15, 2018.

It appears that the Department has significantly changed its methodology for determining and posting the prevailing wage rates without advanced notice and the opportunity for comment by interested parties. The Department previously considered collective bargaining agreements covering a given County as a reliable indicator of the prevailing wage in that County. Under the new methodology, the Department fails to credit the surveys and supporting documents (i.e. the collective bargaining agreements and rate sheets) submitted by the Union for Counties and/or classifications in which any employer also completed a survey with rates that differ from those reported by the Union. The Department has offered no explanation for its change in methodology. The Department’s failure to give any credit to the Union’s survey and supporting document in such situations is arbitrary and capricious. This is particularly troubling where an employer reported a minimal number of days worked in the jurisdiction, in contrast to the numerous employers who are paying wages and benefits on public works projects consistent with the rates set forth in the applicable collective bargaining agreement.

The Union further objects to the Department accepting what employers reported without supporting documentation. Certified payrolls and other payroll records should have been obtained from employers to verify their reporting. The Union supported its survey responses with the collective bargaining agreements and applicable wage rate sheets. Every employer signed to a collective
Director Joe Beyer  
September 14, 2018  
Page 2  

bargaining agreement with the Union is paying the contractual wages and benefits on all prevailing wage projects. To the extent an employer claims to have paid less than those rates, they should be required to substantiate their claims before the Department credits such responses.

With the above in mind, the Union is specifically challenging and objects to the wage and fringe benefit rates highlighted on the attached spreadsheets for the “Sheetmetal Worker” title in the Counties of DuPage, Grundy, Iroquois, Kane, Kankakee, Kendall, Livingston, McHenry and Will. The spreadsheet states the rates posted by the Department, and highlights where the Union disputes the posted rates. It is the Union’s position that the prevailing rates are those set forth in its applicable collective bargaining agreement (rate sheet effective June 1, 2018 also attached), which are the rates paid by all Local 265 signatory employers on public works project in these Counties since June 1, 2018.

In light of the above, unless the Department determines that it has improperly posted the prevailing wages referenced above and issues a prompt correction, the Union hereby requests that the Department set a date for hearing on its objections. At such hearing, the Union will present further evidence of the wages and benefits paid by its signatory employers on prevailing wage projects in these Counties during the relevant time frame.

If you have any questions or would like to discuss this matter further prior to any hearing, please feel free to contact me.

Very truly yours,

BAUM SIGMAN AUERBACH & NEUMAN, LTD.

Patrick N. Ryan

PNR/kp  
Enclosures  
cc: John Daniel (via email, w/enclosures)  
Benno Weisberg (via e-mail, w/enclosures: Benno.Weisberg@illinois.gov)  
Paul Kersey (via e-mail, w/enclosures: Paul.Kersey@illinois.gov)
The following Wage Rates and Fringe Benefit contributions per hour, and Payroll Deductions shall be in effect from June 1, 2018 through November 30, 2018.

### Journeyman (A & C Members):

**Deductions:**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organizing Fund</td>
<td>$0.50</td>
</tr>
<tr>
<td>Equality Fund</td>
<td>$0.05</td>
</tr>
<tr>
<td>Savings Fund</td>
<td>$0.50</td>
</tr>
<tr>
<td>IA Working Assessment</td>
<td>$0.17</td>
</tr>
<tr>
<td>LU Working Assessment</td>
<td>2.25% of gross wages</td>
</tr>
<tr>
<td><strong>Total Deductions</strong></td>
<td>$1.22 plus LU Working Assessment</td>
</tr>
</tbody>
</table>

**Fringe Benefits:**

<table>
<thead>
<tr>
<th>Local Pension</th>
<th>National Pension</th>
<th>Health &amp; Welfare</th>
<th>Local</th>
<th>National</th>
<th>LMCC</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 7.39</td>
<td>$0.87</td>
<td>$10.75</td>
<td>$0.85</td>
<td>$0.18</td>
<td>$0.89</td>
<td>$31.47</td>
</tr>
</tbody>
</table>

**Total Package (Base Wage + Fringe Benefits):** $79.49

### Journeyman (B Members):

**Deductions:**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
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<td>$0.50</td>
</tr>
<tr>
<td>Equality Fund</td>
<td>$0.05</td>
</tr>
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<td>Savings Fund</td>
<td>$0.50</td>
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<tr>
<td>IA Working Assessment</td>
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<tr>
<td><strong>Total Deductions</strong></td>
<td>$1.22 plus LU Working Assessment</td>
</tr>
</tbody>
</table>

**Fringe Benefits:**

<table>
<thead>
<tr>
<th>NO Local Pension</th>
<th>National Pension</th>
<th>Health &amp; Welfare</th>
<th>Local</th>
<th>National</th>
<th>LMCC</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 10.59</td>
<td>$10.75</td>
<td>$0.85</td>
<td>$0.18</td>
<td>$0.89</td>
<td>$33.90</td>
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</tr>
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</table>

**Total Package (Base Wage + Fringe Benefits):** $79.49
<table>
<thead>
<tr>
<th>County</th>
<th>Trade Title</th>
<th>Region</th>
<th>Type</th>
<th>Class</th>
<th>Base Wage</th>
<th>Foreman Wage</th>
<th>OT M-F</th>
<th>OT Sa</th>
<th>OT Su</th>
<th>OT Hol</th>
<th>H/W</th>
<th>Pension</th>
<th>Vacation</th>
<th>Training</th>
<th>Other Fringe Benefit</th>
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<tbody>
<tr>
<td>DuPage</td>
<td>SHEETMETAL WORKER</td>
<td>All</td>
<td>BLD</td>
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<tr>
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<td>McHenry</td>
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</table>
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 Notice of Hearing upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Notice of Hearing in Case No. 2019-H-PK09-2293 and a copy of the Certificate of Service in an envelope addressed to each party or party’s agent at the respective address shown on the Certificate of Service, having caused each envelope to be served by U.S. mail certified mail return receipt requested and at 100 W. Randolph Street, Chicago, Illinois on the 1st 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/

Sheet Metal Workers Local Union No. 265
c/o Patrick N. Ryan, Esq.
Baum Sigman Auerbach & Newman, Ltd.
200 W. Adams Street, Suite 2200
Chicago, IL 60606
pryan@baumsigman.com

Via messenger:

Joseph Beyer
Director of Labor
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

Illinois Department of Labor
c/o Benno Weisberg
General Counsel
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

C.Y. Jackson

Subscribed and Sworn to this 1 day of October, 2018

[Signature]
Notary Public

[Seal]