NCMA

National Construction and Maintenance Agreement

Wage Appeal Procedure

NABTU North America's Building Trades Unions

THE ASSOCIATION of UNION CONSTRUCTORS

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EFFECTIVE
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NATIONAL CONSTRUCTION AND MAINTENANCE AGREEMENT POLICY COMMITTEE – WAGE APPEAL PROCEDURE

Introduction

The National Construction and Maintenance Agreement Policy Committee (NCMAPC) seeks to continually improve the NCMAPC Program and remain at the forefront of the union construction and maintenance industry, and to ensure that due process exists to maintain the efficiency and integrity of the Agreement that allows the NCMAPC Program to meet the standards of the owner/client.

This Wage Appeal Procedure shall be utilized to provide clarification and guidance regarding the correct application of wage rates contained in local collective bargaining Agreement for work performed under the National Construction and Maintenance Agreement (NCMA). The NCMAPC has granted expanded authority to the Wage Appeals Subcommittee to address questions involving applicability of certain wage rates when work is performed under the Agreement. These decisions are only for the determination of the specific wage rate in the specific case, and decisions do not apply to other wage appeal cases. **All decisions rendered shall be final and binding upon the specific case only, and shall not be subject to any appeal.**

Submission of Wage Appeals

Any wage appeal formally submitted must be filed on the NCMAPC Wage Appeal Form Fact Sheet with the NCMAPC administrative office, and must include any relevant documentation for consideration of the specific wage appeal. The wage appeal must also include a concise statement of procedural issue(s), if any; a concise statement of substantive issue(s); reference to specific applicable provisions of the Agreement and/or relevant NCMAPC policy decisions; a brief statement of the facts, complete with a short statement of the rationale for why the wage appeal should be sustained; a request for specific remedy; any relevant documentation and the applicable local collective bargaining agreement(s), complete with the wage sheet(s) in question, for consideration of the specific wage appeal.

Upon receipt of a wage appeal formally submitted to the NCMAPC administrative office for processing, the NCMAPC administrative office will send the opposing party a copy of the completed Wage Appeal Form Fact Sheet, along with any documentation received, requesting that the party submit a formal position on the matter. The opposing party, and grieving party, will be directed to submit their positions and all related documentation to the NCMAPC administrative office via email to ensure receipt by the NCMAPC administrative office **no later than 5:00 p.m. (Eastern) on the specified date.** The "specified date" will consist of ten (10) business days beginning with the date of the formal NCMAPC letter of notification to the opposing party. It is important for all parties to note that this designated date is considered as a **deadline for all concerned parties** to submit any and all documentation pertaining to the wage appeal. Thereafter, the written record for the wage appeal will be considered closed on the designated date specified in the letter from the NCMAPC and no further written information will be accepted unless received by said date or unless the NCMAPC administrative office has received a written request for a time extension. Any time extension will consist of a maximum of five (5) additional business days for submittal of a position beyond the original designated date.

On the designated date, the NCMAPC administrative office will, under separate cover letter, provide each party with a copy of all documentation submitted to the NCMAPC administrative office by and on behalf of the parties in conjunction with the wage appeal. Further, the parties are advised at that time that the written record on the matter is considered closed and no further documentation will be accepted; however, the parties are afforded and encouraged to supplement the written record by making a personal appearance before the Wage Appeal Subcommittee which will conduct a formal hearing of the wage appeal. If a party fails to submit a position in a timely manner, the wage appeal will be addressed regardless. **All decisions rendered shall be final and binding upon the specific case only, and shall not be subject to any appeal.** Further, all determinations will be based on the facts presented and reviewed, both written and oral, in each case and will apply to that specific wage appeal only.

Wage Appeals Subcommittee

As noted previously, the NCMAPC, Inc. has granted expanded authority to the Wage Appeals Subcommittee to settle wage appeals. The Wage Appeals Subcommittee will consist of the following: five (5) NCMAPC management representatives; five (5) NCMAPC labor representatives; and one (1) NCMAPC staff representative, with five (5) representatives making a quorum provided at least two (2) representatives each from management and labor are present. The Subcommittee will meet on an as needed basis to hear and adjudicate wage appeals as quickly as practical, typically at the NCMAPC administrative office. In addition, a party submitting a wage appeal may request an expedited hearing of the matter. The expedited processing of a wage appeal will typically occur within thirty (30) days from the date that the NCMAPC administrative office receives the dispute from the requesting party.

Once a hearing before the Wage Appeals Subcommittee is scheduled, the parties to the wage appeal will be afforded an opportunity to appear before the Subcommittee in order to supplement the written record. Hearing participants are limited to one (1) representative per affected party. Appearances by interested parties from the affected local union will be at the discretion of the affected International Union and shall not change the limit of one (1) representative for the party. **It is the policy of the NCMAPC that persons not directly party to the Agreement may not participate, as an advocate, witness or spectator, in the proceedings of the NCMAPC Wage Appeals Subcommittee.** Consistent with the NCMAPC's longstanding position, participation in a hearing through a personal appearance by outside legal counsel on behalf of a party will not be allowed. When parties to a wage appeal make a personal appearance before the Subcommittee, each party will be limited to ten (10) minutes in which to present their respective positions. The ten (10) minute time limit will not include time involving questions and answers posed through the Subcommittee Chairman. Each party will then be given ten (10) minutes for rebuttals, followed by questioning and cross examination conducted by the Subcommittee. Further, the presiding Chairman will retain the authority to waive this time limit at his discretion should he deem it appropriate. The Subcommittee will rule on wage appeals by a majority vote through a secret ballot process. Any member of the Wage Appeals Subcommittee whose organization is party to a wage appeal will not participate in any post-hearing deliberations and subsequent determinations pertaining to such wage appeal. In those instances where the Subcommittee's vote may result in a deadlock, the matter will be referred to the next regularly scheduled meeting of the NCMAPC Labor-Management Committee for a full hearing of the **written record only**. All decisions rendered by the Wage Appeals Subcommittee shall be final and binding, except in the case of a deadlock vote, and shall not be subject to any appeal.

In rendering a decision, the subcommittee will make determinations effective on or after the date in which the wage appeal was filed. Wages paid on a project prior to the appeal are not subject to adjustment unless doing so is required to comply with applicable laws and regulations.

In addition, it is expected and understood that the parties involved in a proceeding will comply with any determination rendered under the wage appeal procedure. While any determination rendered at this step of the wage appeal procedure is essentially an arbitration decision enforceable in Federal District Court, any party unwilling to comply with said determination may forfeit its ability to work under the terms of the National Construction and Maintenance Agreement in the future.

NCMAPC WAGE APPEAL FORM FACT SHEET*

(Page must be completed for submission to the National Construction and Maintenance Agreement Policy Committee)

Party filing wage appeal:

_____ **vs.** _____

Pertinent Information

Owner name: **Owner Plant including City, State:**

_____

Date wage rate was disputed:

_____

Applicable local collective bargaining agreement and wage rate allegedly violated (be specific):

_____

_____

Applicable NCMAPC Policy Decision (if any):

_____

_____

Statement of facts:

_____

_____

_____

_____

_____

Remedy sought:

_____

_____

_____

_____

Please indicate that a copy of the local agreement(s) is attached: ☐ Yes

Individual submitting: _____ **Title:** _____

Organization: _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

Phone: _____ **E-mail:** _____

*Copies of the Wage Appeal Form Fact Sheet may be obtained from the respective participating International Unions or www.NCMApc.org.

(Attach Supporting Documentation)

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