Mitigation Advisory Committee Meeting Minutes
October 26, 2007

Attendees:
Dean Carlson, Senate Ways & Means
Grant Dull, Lynnwood Public Facilities District
Jim Justin, Association of Washington Cities
Neil Kruse, City of Kirkland
David Moseley, The Royer Group
Julie Murray, Washington State Association of Counties
Bob Nachlinger, City of Kent
Rick Peterson, House Finance
Gary Prince, King County Department of Transportation
Jim Schmidt, Office of Financial Management
Jim Turpie, Community Transit
Iwen Wang, City of Federal Way

Department of Revenue Staff: Lorrie Brown, Kim Davis, Miki Gearhart, Don Gutmann, Tim Jennrich, Rebecca Johnston, James Petit, Valerie Torres, Mary Welsh

Net loss adjustment process (handout)
DOR explained the net loss adjustment process. Starting July 1, 2008, DOR will begin determining net losses. The Department's quarterly analysis could be adjusted and information from this committee could be provided to the Department. In addition, local taxing jurisdictions could give additional information.

Public Facilities District (PFD) rate adjustment process (handout)
DOR explained the PFD rate adjustment. DOR determines if net loss (FY 2008) base. PFD can make rate adjustment. When is it permitted? Data compared on fiscal year basis. PFD notifies DOR that rate adjustment needed.

This is a significant percentage -- it could be well over 5 percent. Concern about delay – creates cash flow concern. Is it limited to annual adjustment? Do we have any room to allow quarterly adjustment if quarterly data shows nearing/over the threshold?

Pay debt service twice a year (June and December) – first half year could be a lag.

PFD only raises rate once a year. If based on quarter, then raised the rate 0.001 percent and later qualified for the 0.003 percent increase.

Does rate adjustment end after first three years? Could continue with rate increase after this time period.

Issues from the September meeting

- **Predecessor/Successor Issue (Issue 04-01)**

DOR provided handout with accounts collecting retail sales tax that closed in 2006. There were 12,859 closed firms in the identified NAICS group (those that do deliveries). This is 2.37 percent of tax paid. Some accounts closed and then opened new accounts. DOR mentioned that there are large firms changing ownership and these need to be linked so base and measurement years are not affected. Most of the dollars are in the top 100 firms.

Discussion regarding whether it would help to look at magnitude of delivery plus magnitude of tax. DOR will pull data by location codes for next meeting. This should help with geographical relation.

DOR stated this handout does not cover all NAICS identified in the sourcing studies. This is because some of the NAICS did not include businesses that were all providing delivery services.

- **How should we deal with annual taxpayers? (Issue 01-03)**

The annual taxpayers are small firms. They account for less than 2 percent of total taxes per year. Accounts with less than $1,050 per year in tax due are assigned an annual frequency.

Committee discussed whether worth the resources. DOR discussed how the six months of missing data would be grown. Businesses must be open for both years in the comparison used to extrapolate the data. DOR will bring data by location code on annual accounts to next meeting.

Decision: Committee voted and decided to go ahead with the extrapolation from the six months of data to an entire year. After data by location code is reviewed at next meeting, committee will vote again.

- **Which NAICS should be included in the mitigation analysis? (Issue 01-01)**

This is the list from the original sourcing study. DOR stated NAICS could be removed from this list after further analysis.

A suggestion was given that after we have data we look at NAICS that may have large changes in location codes. In addition, the committee discussed that B&O cities are going to see a preview of this issue. We may see some industry trends by June 2008.

Decision: Committee is okay with this NAICS list. Additional analysis may be needed once data comes in to see if there are any additional NAICS. Cities can look for this, too.

Process for adjustments after the mitigation base is set

- **Adjustment Process – After mitigation is fixed (Issue 02-05)**

DOR does anticipate a number of taxpayers to be late to change to destination sourcing.

Committee discussed that it is difficult to know what is going to happen prior to the change. There was discussion about a threshold. Jurisdictions would bring forward findings and DOR would do the same.

Decision: Adjustments after mitigation is fixed should be brought to the annual committee meeting. Before mitigation is fixed, every effort should be made to take care of adjustments. The committee agreed on the threshold concept. The threshold should be both a dollar amount and a percentage. Discussion of how this would work was tabled. Committee members should send any threshold ideas to Kim Davis or Miki Gearhart.

- **Will adjustments impact other jurisdictions? (Issue 02-03)**

DOR explained the impact to other jurisdictions when an adjustment is completed.

Decision: The committee agreed that adjustments should be made to all impacted jurisdictions. If mitigation funds run out because of this, the committee agreed to prorate mitigation payments.

- **Adjustments going backward as well as forward (Issue 02-04)**

DOR explained how jurisdictions would be affected. Bob Nachlinger thinks that adjustments need to go backward to make jurisdictions whole. Rick Peterson said that the law implies that adjustments should only go forward.

Decision: Committee agreed adjustments would be only forward looking after mitigation is fixed. However, there was a minority opinion: Bob Nachlinger believes that the adjustments should go backward as well as forward.

- **Adjustments during the first year of mitigation (Issue 02-06)**

DOR explained that they would be making adjustments during the first year of mitigation.

Committee would like data to be as correct as it can be for the comparison. Also, discussed waiting to fix mitigation until the fifth quarter (i.e., wait to fix FY 2009 data until the first quarter of FY 2010).

Decision: The Committee agreed that the reason for adjustment is not important. Committee agreed that any errors that DOR finds should be fixed. Errors found by jurisdictions need to be verified; therefore, we need to set a threshold for these. All adjustments will come to the committee. There is worth in delaying the fix of mitigation until the fifth quarter. Bring proposal to next meeting.

To Do List:

- Closed businesses by location codes - Don Gutmann (November meeting)
- Annual accounts by location codes – Don Gutmann (November meeting)
- Proposal for adjustments during the first year of mitigation to include the fifth quarter - ?
- Greg will check with other states that changed to destination sourcing about compliance and how long it took before things settled down.