

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

576th FPRAC

SHELDON FRIEDMAN, Chairperson, Presiding

Thursday, July 19, 2012

ROOM 5526

Office of Personnel Management
Washington, D.C. 20415

ATTENDANCE:

Members/Alternates:

Management Members:Mark Allen, OPM
Seth Shulman, DOD
Carlos Saavedra, NAVY
Darlene Freeman, AFLabor Members:J. David Cox, AFGE
Jacque Simon, AFGE
Sarah Suszczyk, NAGE
Steven Fisher, ACT

Staff Specialists and Visitors:

Jerry Mikowicz, Designated Federal Official, OPM
Madeline Gonzalez, OPM
Mike Eicher, OPM
Terri Avondet, OPM
Lindsey O'Keefe, OPM
Chris Wallace, OPM
Jim Brady, DOD
Karl Fendt, DOD
Bill Becht, DOD
Travis Reuther, AFGE
Stephanie Boyd, VA

Recording Secretaries: Mike Eicher and Terri Avondet

[Transcript prepared from digital audio produced by FPRAC.]

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P R O C E E D I N G

CHAIRMAN FRIEDMAN: Good morning, everyone. Welcome to this 576th meeting of the Federal Prevailing Rate Advisory Committee. My name is Sheldon Friedman. I am the Chairman, and as we normally do, why don't we go around and introduce ourselves. David, starting with you.

MR. COX: J. David Cox, National Secretary-Treasurer for the American Federation of Government Employees.

MS. SIMON: Jacque Simon, AFGE.

MS. SUSZCYK: Sarah Suszczyk, NAGE.

MS. FISHER: Steve Fisher, ACT.

MR. ALLEN: Mark Allen with OPM.

MR. SHULMAN: Seth Shulman, Department of Defense.

MR. SAAVEDRA: Carlos Saavedra, Department of the Navy.

CHAIRMAN FRIEDMAN: And if folks around the sides would also introduce themselves, please?

MS. GONZALEZ: Madeline Gonzalez with OPM.

MR. MIKOWICZ: Jerry Mikowicz, the Designated Federal Official for this meeting, OPM.

MS. BOYD: Stephanie Boyd, VA.

MR. BRADY: Jim Brady, DoD.

MR. FENDT: Karl Fendt, DoD.

MR. BECHT: Bill Becht, DoD.

MR. EICHER: Mike Eicher, OPM.

MS. AVONDET: Terri Avondet, OPM.

MR. WALLACE: Chris Wallace, OPM.

MS. O'KEEFE: Lindsey O'Keefe, OPM.

MR. REUTHER: Travis Reuther, AFGE.

CHAIRMAN FRIEDMAN: Thank you and welcome.

I'll make a couple of quick announcements. You have in your folders a CD-ROM containing about 400 letters from FWS employees at Tobyhanna Army Depot in Pennsylvania. So some people, I hope, will want to take a look at them.

Also included in your folders is my response to a May letter that I received from Colonel James Ross regarding the situation of FWS workers at the New Boston Air Force Station in New Hampshire. The incoming letter was distributed at our last meeting.

Any other announcements?

[No audible response.]

CHAIRMAN FRIEDMAN: Did you want to make an announcement?

MR. SHULMAN: Yes. At the last meeting, there was a

question raised in regard to the future size of the Federal Wage System workforce. I mean, obviously, it's not the single occupational series, so we tend not to look at employment forecasting in a particular pay system.

The Department of Defense has a Strategic Human Capital Office, which does take a look at workforce size and the forecasting of it, and it looks at the occupational series or occupational series group. So, if you have a particular occupational series that also happens to be covered by the FWS, that's how they tend to look at what the employment needs of the Department are going to be over time.

As a result of a comment being made in the last meeting, I approached that office and asked if they had been intending to take a look at the occupations that are covered by the FWS. They happen not to be, but we have an opportunity at the departmental level to initiate a study with regard to all positions covered by the FWS and see what employment may look like 10 years out.

I assume that everyone in this room is fairly interested in that. We are, too, for a variety of reasons, as you might imagine, for budgeting purposes. We're going to initiate a proposal. The study probably will be carried out by

RAND, which carries out a lot of our studies. They're obviously not affiliated with or part of the government. So we're going to propose jointly out of my shop and out of the Strategic Human Capital Office a fairly comprehensive look at what the trends are going to be in positions covered by the FWS.

Now, this is going to be primarily a Department of Defense study, because that's who would pay for the study, but we will see if we can extrapolate for the rest of the Federal Government as well, and we will invite comment from interested parties with regard to what the study parameters are going to be when we get that far. It's not going to be quick. It probably will take a couple of months to draft it up, but I'm happy to share it with this group and certainly with OPM, which will be an interested party.

MR. ALLEN: Yes. I think the percentage of the Federal Wage System workforce employed by DoD and its components is still around 72 percent.

MR. SHULMAN: Right.

MR. ALLEN: There are other agencies that employ FWS workers. VA is one of the major employers. The Department of Justice, Bureau of Prisons is another one.

CHAIRMAN FRIEDMAN: Well, thank you, Seth. I'm sure

that's going to be interesting and useful information for all of us. Any questions about that?

[No audible response.]

CHAIRMAN FRIEDMAN: And I just want to note for the record that the Air Force is in the house. Would you introduce yourself for the recorder, please?

MS. FREEMAN: Darlene Freeman.

CHAIRMAN FRIEDMAN: Thank you, and welcome.

So people have the transcript of the last meeting? Are there any other changes beyond those that people have already told Madeline about?

[No audible response.]

CHAIRMAN FRIEDMAN: If not, is there any objection to adopting the transcript of that meeting?

[No audible response.]

CHAIRMAN FRIEDMAN: Hearing no objection, the transcript is adopted. Thank you.

We have a number of Old Business Items. Most of them, we have moved over to our working group, but if there's any on that list, A through G, that anyone wants to talk about right now, we can certainly do that. Are there any people who have a burning desire to address them here today?

MS. SIMON: I have a question; I guess it really has to do with something you raised in the opening announcements. Are you aware of whether the Director has had an opportunity to read some of the letters or any of the letters from the Tobyhanna employees?

CHAIRMAN FRIEDMAN: I know that his Deputy Chief of Staff, Justin Johnson, has read quite a few of them and told me that he was picking out some for the Director to read. Whether the Director actually read -- I think the answer is yes, but I don't know of my own knowledge, but we can find out.

Do you know, Jerry?

MR. MIKOWICZ: I believe what you just described is accurate, but I don't know specifically.

MS. SIMON: So you do think that in some formal way, at least a sampling of the letters was transmitted to the Director? Obviously, we can't tell whether he's ever actually read them.

MR. MIKOWICZ: I think they were summarized.

MS. SIMON: But they were put in front of him?

MR. MIKOWICZ: A summary of them.

MS. SIMON: A summary, okay.

MR. MIKOWICZ: A summary. So I don't know

specifically if he had the actual letters.

MS. SIMON: And how about letters like the one from Colonel Ross? Are those transmitted to the Director?

CHAIRMAN FRIEDMAN: I don't know specifically whether that one would have been. I mean, it came in to me, so --

MS. SIMON: Yeah.

CHAIRMAN FRIEDMAN: Probably, he would not have seen that one.

MR. ALLEN: The Director has signed a number of letters that are similar to this one, so, yes, he has seen similar letters to this, but I'm pretty sure he would not have signed off on the letter to Colonel Ross on this subject himself.

MS. SIMON: Can we formally ask that letters such as this be transmitted to the Director?

CHAIRMAN FRIEDMAN: I don't see why not.

MS. SIMON: Okay.

CHAIRMAN FRIEDMAN: Easy to do. Okay.

Anything else on any of these Old Business Items?

[No audible response.]

CHAIRMAN FRIEDMAN: If not, why don't we move to New Business.

I would suggest we flip the order and start with Item (b), 576-MGT-1, definition of Cape Girardeau-Jackson, MO-IL Metropolitan Statistical Area and Perry County, MO.

Mark, would you please summarize that one for us?

MR. ALLEN: Yes, Mr. Chairman.

This is another in our line of reviews of counties throughout the United States that are part of Metropolitan Statistical Areas and the Metropolitan Statistical Areas are split by wage area boundaries. Under OPM's regulations, unless there's some unusual circumstance, an MSA is not supposed to be split.

The Management members have taken a look at the Cape Girardeau-Jackson, MO-IL MSA, and based on our review of it, we recommend that Bollinger and Cape Girardeau Counties be redefined to the St. Louis area of application.

We provided the usual background information in the package, nine employees of the Department of the Army represented by ACT would be moved from the Southern Missouri Wage Area to the St. Louis Wage Area under this proposal.

CHAIRMAN FRIEDMAN: Any discussion or questions?

MR. FISHER: Mr. Chairman, we'd like to caucus.

CHAIRMAN FRIEDMAN: Of course. We have the Small

Pendleton Room available for caucuses today.

[Caucus taken by Labor members.]

CHAIRMAN FRIEDMAN: The Labor folks have returned from their caucus, and we're back in session.

We were discussing 576-MGT-1. Any discussion?

MR. COX: Mr. Chairman, I think we are pretty much in agreement on that one.

We also wanted to know if you were planning to bring back any of these on the old business.

CHAIRMAN FRIEDMAN: Do you mean today?

MR. COX: Yes.

CHAIRMAN FRIEDMAN: We could if you want to.

MR. COX: I actually believe number (g), 575-MGT-2, Youngstown-Warren-Boardman, that we are pretty much in agreement and consensus on that one too.

CHAIRMAN FRIEDMAN: Okay. Well, I think we have to do them one at a time. Were there others?

MR. COX: Well, we would also -- if the Hickory-Lenoir-Morgantown -- as the resident North Carolinian on this group, I probably know more about that area there. I think we may be in some disagreement as to how that one is proposed, but we'd like to at least have some conversation. I believe it's

proposed to move two counties from the Charlotte wage area to the Asheville wage area, but, in reality, we believe the entire MSA would fit more appropriately in the Charlotte area.

Reading the write-up, distance was not an issue. The commutes were the same, things of that nature. There was not a lot of statistical significance in it, even geographically. And I personally know the way the Interstates run in that area, there are tons of people in those counties that work in Charlotte every day, and many of them go to Salisbury to the VA Medical Center to work every day.

CHAIRMAN FRIEDMAN: Okay. Well, I'll tell you what, I think we do need to do them one at a time.

MR. COX: That's fine.

CHAIRMAN FRIEDMAN: Since we kind of started with the Cape Girardeau-Jackson, MO-IL MSA and Perry County, 576-MGT-1, why don't we start with that? Any discussion of that? Questions?

MR. COX: I think we're in agreement.

CHAIRMAN FRIEDMAN: Consensus? Okay. So we've adopted 576-MGT-1. Thank you.

Let's go in kind of reverse order, Youngstown-Warren-Boardman, OH-PA, 575-MGT-2. Do we need a refresher on what

we're talking about doing here?

MS. SIMON: We're okay with it.

CHAIRMAN FRIEDMAN: You're okay with that? So there's consensus to adopt that. So we've adopted 575-MGT-2.

It sounds like on 575-MGT-1, there is not consensus. We had earlier moved that to the working group.

MS. SIMON: Well, we just wanted a counter proposal.

CHAIRMAN FRIEDMAN: Okay.

MR. COX: If you look at it, currently, Alexander and Catawba Counties are in the Charlotte wage area. Burke and Caldwell Counties are in the Asheville wage area. If you look at the data that's provided, the commuting patterns are pretty much the same. In reality, the dollars and cents figures, which we all tend to look at, whether we say we do or not, I think it's like just 40 or less cents an hour. It is a very nominal amount of money, and even actually on a few of the scales, the way they cross over, it's probably no change. But, obviously, Charlotte is the larger metropolitan area. Everything hubs around Charlotte. All of these counties pretty much go that way. You have Interstate 77, Interstate 40, and Interstate 85, and that's how you travel through North Carolina. Asheville is much farther to the west.

MR. ALLEN: As part of our working group, at our last working group meeting, we as a group decided to take a look county by county within each MSA, look at the regulatory criteria for each county. So what I would recommend is we continue to discuss this one --

MR. COX: That's fine.

MR. ALLEN: -- in the working group and take a look at each individual country and see if that shows us a different picture compared with the current analysis, which just looks at the core county for the MSA and looks at the regulatory criteria in that regard.

CHAIRMAN FRIEDMAN: Just to be clear, you are offering a counter proposal to move the entire MSA into the Charlotte wage area?

MR. COX: Correct. We are.

CHAIRMAN FRIEDMAN: I assume there's not consensus to do that.

MR. ALLEN: We'd at least want to discuss it amongst ourselves first.

CHAIRMAN FRIEDMAN: Yeah. So shall we leave it in the working group for the time being?

MR. COX: That's fine. Actually, in North Carolina,

you used to survey textile plants and things like that, and not all of them exist anymore. They're all gone. That's the sad part.

CHAIRMAN FRIEDMAN: Yeah.

MR. COX: In most of those areas, there is really no one to survey anymore. Kind of a sad state of affairs.

CHAIRMAN FRIEDMAN: All right. So, shortly after this meeting, we're going to have a working group meeting where I think our main agenda item is this whole MSA issue. The current regulation does not allow split MSAs except in very unusual circumstances - we might want to consider alternatives for that current regulation.

So that brings up Item (a) under New Business which is the 575-AFGE 1 --

CHAIRMAN FRIEDMAN: -- proposal that FPRAC should review, the Federal Wage System appropriated fund and non-appropriated fund Operating Manuals, which I think is a very good suggestion. Did you folks want to speak on that a little bit? We were thinking that might be something that could be taken up initially in the working group as well.

MS. SIMON: Yeah. I think that -- you know, we've

discussed this informally. I get a lot of inquiries from our locals having to do with the legal status of the Operating Manual. It seems to be the case that it's followed in some places and not followed in others. Some of our locals have thought about incorporating it into their collective bargaining agreements, because it does seem to be ignored, to the detriment of employees in numerous circumstances.

You know, some of the provisions of the Operating Manual, where very important issues are addressed, should possibly have FPRAC consideration to sort of elevate them to the status of regulation, because the Operating Manual seems to have this extremely vague legal status.

CHAIRMAN FRIEDMAN: Is there also any issue of whether the Operating Manuals are up to date and complete or not?

MS. SIMON: I think that they might not be, and, in particular, what I'm thinking about are circumstances in prisons. I think that in the time since the Operating Manual has been prepared, inmates are performing a lot of the work previously performed by Federal employees, and the Federal employees in the prisons are effectively supervising inmates performing all of this work. It's kind of murky when they try to make reference to the operating manual for how it would be

applied to corrections officers who are supervising inmates performing some of this work.

CHAIRMAN FRIEDMAN: Any discussion on this side of the table?

MR. ALLEN: I can speak to that. The OPM Operating Manual is for the Federal Wage System, which covered the appropriated fund employees in one manual and non-appropriated fund employees in a separate manual. The precursor to these Operating Manuals was the Federal Personnel Manual (FPM), Supplements 532-1 and 532-2. FPRAC recommended back in the mid-1990s when the Federal Personnel Manual was abolished that OPM keep the information that was contained in those two FPM supplements as Operating Manuals. They don't have the same sort of legal status as the old Federal Personnel Manual did, but they are OPM's guidance on how things should operate.

A lot of the things contained in the Operating Manuals were put into regulation. A number of the detailed descriptions of policies that were in the FPM are not in the current regulations because we were limited in how much language we could put into regulation back when we were putting things into regulation to cover the Federal Wage System.

The Operating Manuals are not necessarily static

documents. If FPRAC decides to make recommendations to change or update some of the language in the operating manuals, OPM can do that, but, on the other hand, it might make more sense, depending on what we are looking at, just to make it a regulation.

MS. SIMON: That's why we raised it.

MR. SHULMAN: I do have a question.

CHAIRMAN FRIEDMAN: Sure.

MR. SHULMAN: I'm just curious. When you said earlier in some places, stuff is not being followed, and other places it is, can you -- I'm just curious. Can you give us some examples of what's going on?

MS. SIMON: What comes to mind in particular, again, most of my examples are regarding the Bureau of Prisons. An individual warden has a tremendous amount of discretion about whether or not somebody is eligible for hazard pay, depending on the warden's opinion of the circumstances that might warrant or not warrant hazard pay.

There's pay for exposure to very cold environments. Again, there are inconsistencies among prisons about whether or not somebody who's exposed to a meat locker for a whole shift, entitles somebody to cold circumstances or cold environment pay.

Sometimes it's not applied.

There are other situations where people are loading and unloading munitions, which probably occurs in DoD, too, but I hear about it in the prisons. That's considered a hazard in some locations, other locations it is not. So some people are getting hazard pay; other people are not.

MR. SAAVEDRA: So has it been looked at as to whether or not the problem is not in compliance with regulation? What does the regulation say in regard to those categories?

MS. SIMON: I think the details of the circumstances that warrant this premium pay are laid out in the operating manual and laid out in less detail in the regulation, and, of course, our collective bargaining agreements incorporate law and regulation, but they don't incorporate the operating manual. Anyway, that's an example that comes to mind.

CHAIRMAN FRIEDMAN: So working in a prison doesn't entitle you to hazard pay?

MS. SIMON: You get 20-year retirement, and if you're a blue collar, you get wage supervisor pay as some compensation for the hazards of prison employment, but, of course, it's inadequate, given the genuine hazards. Plus, there's overcrowding, which makes it even worse. We should all be

thankful we don't --

MR. COX: Work in a prison.

MS. SIMON: -- work in a prison.

CHAIRMAN FRIEDMAN: I'm sorry. You were saying something?

MR. ALLEN: I think it's a good idea to take a look at that issue in the working group. Let's take a look at the -- we can compare the information that's contained in the CFR regarding EDP.

MS. SIMON: Well, I don't want to have it be exclusively hazard pay or premium pay. I think there are other issues as well.

CHAIRMAN FRIEDMAN: If I could just note quickly. So another thing I found interesting about this idea of looking at the manuals is that a lot of this stuff that I put in this kind of laundry list for the working group are actually things that would be addressed as we go through the manuals. All survey issues and so forth would be things that we would come to in the manuals.

Anyway, so unless there's some objection, why don't we initially at least start looking at these manuals in our working group.

[No audible response.]

CHAIRMAN FRIEDMAN: And I don't hear an objection, so that's what we'll do, right? Okay.

And then is there any other New Business that we need to address today?

[No audible response.]

CHAIRMAN FRIEDMAN: And if not, is there any objection to adjourning?

[No audible response.]

CHAIRMAN FRIEDMAN: I don't hear an objection, so we're adjourned, and we will convene in about 10 minutes in the Small Pendleton Room for our working group. Thank you all.