

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

578th FPRAC

SHELDON FRIEDMAN, Chairperson, Presiding

Thursday, September 13, 2012

ROOM 5526
Office of Personnel Management
Washington, D.C. 20415**ATTENDANCE:****Members/Alternates:**Management Members:Mark Allen, OPM
Seth Shulman, DoD
Tammy Vankeuren, AFLabor Members:Bill Fenaughty, MTD
Jacque Simon, AFGE
Sarah Suszczyk, NAGE
Steve Landis, ACT**Staff Specialists and Visitors:**Jerry Mikowicz, Designated Federal Official, OPM
Madeline Gonzalez, OPM
Mike Eicher, OPM
Terri Avondet, OPM
Lindsey O'Keefe, OPM
Valerie Cash, OPM
Chris Medley, OPM
Jim Brady, DoD
Hank Rovin, DoD
Charles Griffin, CIA
Tanya Green, CIA
Dennis Phelps, MTD**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, and welcome to the 578th meeting of the Federal Prevailing Rate Advisory Committee. My name is Sheldon Friedman, Chair of the Committee, and as we usually do, why don't we go around the room and introduce ourselves.

Bill, let's start with you today.

MR. FENAUGHTY: Bill Fenaughty from Metal Trades and NFFE.

MS. SIMON: Jacque Simon, American Federation of Government Employees.

MS. SUSZCZYK: Sarah Suszczyk, National Association of Government Employees.

MR. LANDIS: Steven Landis, Association of Civilian Technicians.

MR. ALLEN: Mark Allen with OPM.

MR. SHULMAN: Seth Shuman, Department of Defense.

MS. VANKEUREN: Tammy Vankeuren, Air Force.

CHAIRMAN FRIEDMAN: And will the people around the sides of the room also state your names and affiliations?

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

MS. GONZALEZ: Madeline Gonzalez with OPM.

MR. MEDLEY: Chris Medley, OPM.

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

MR. BRADY: Jim Brady, Department of Defense.

MR. ROVAN: Hank Rován, DoD.

MS. CASH: Valerie Cash, Pay and Leave, OPM.

MR. EICHER: Mike Eicher, OPM.

MS. AVONDET: Terri Avondet, OPM.

MR. GRIFFIN: Chuck with CIA.

MS. GREEN: Tanya with CIA.

MR. PHELPS: Dennis Phelps with Metal Trades and IBEW.

CHAIRMAN FRIEDMAN: Okay. Thank you, and good morning again.

So we have a few announcements to start with. Our building, as people may or may not know, is undergoing some much-needed modernization, and that's going to discombobulate us for a few months, because it's proceeding floor by floor, and the fifth floor where we always meet is next up. It's being done a floor at a time, and so, therefore, this room where we always meet is not going to be available for several months. We're not quite sure how long, two to three, I believe, and we have to go to an alternative space.

We will notify you where we will be meeting in exile, so to speak.

This will also affect our transcription. We are practicing today a replacement method for the transcription that we will use during our absence from this room, and we will know whether it works after this meeting is over. We hope it does.

I guess we need a motion to modify our rules or suspend them temporarily during the modernization, since our rules require us to meet in this room technically. This is what I have been told.

MS. SIMON: All right. I move that we --

CHAIRMAN FRIEDMAN: I'm only following orders here.

MS. SIMON: I move that we commit ourselves to meet elsewhere during the renovation.

CHAIRMAN FRIEDMAN: Okay. Second?

MR. ALLEN: Seconded.

CHAIRMAN FRIEDMAN: Okay. All in favor, signify, say "aye."

[Chorus of ayes.]

CHAIRMAN FRIEDMAN: Any opposed?

[No audible response.]

MS. SIMON: How do you like that consensus?

CHAIRMAN FRIEDMAN: Wow! It's excellent.

[Laughter.]

CHAIRMAN FRIEDMAN: This is a harbinger, I think, of things to come.

I don't know that we need anything comparable on the transcription. I guess we are just going to have to try to make do, really. We don't have any alternative, so I don't think we need to address rule changes on that, and we hope that we will be back here sooner rather than later.

Okay. We have also a letter from Representative Barletta in Pennsylvania to Director Berry supporting -- well, inquiring about a constituent's inquiry to him. The constituent is an FWS worker at Tobyhanna.

I also asked that the link to the Congressional Research Service report comparing Federal and private sector compensation be circulated to you. This is yet another study. I'm not sure who requested it. It compares Federal -- or actually looks at the various studies out there, comparing Federal and non-Federal pay. No big surprise, we find that the studies that use human capital methods, such as the ones from AEI, Heritage, Congressional Budget Office, et cetera, differ very much, one from the other, since they're all over the map,

and also differ from the job-to-job comparisons that are used not only by the Federal Government but also all the private sector employers in the world that we know of, and which are the basis of both the General Schedule and FWS. So no surprise, different methods and different data yield different results, and basically, that's what the report lays out.

I know we have taken yet another misleading hit today from the Heritage Foundation on the issue of paid time off. It's remarkable to me that they didn't address the issue of job tenure differences, which are so different between the Federal Government and private sector. If you actually look at paid time off eligibility, workers with comparable levels of tenure working at large enterprises, they're not very different between the private sector and the Federal Government. End of my pontification on that subject.

Have people had a chance to look at the minutes from our last meeting, the 577th?

[No audible response.]

CHAIRMAN FRIEDMAN: Are there any further changes?

[No audible response.]

CHAIRMAN FRIEDMAN: If not, is there any objection to adopting those?

[No audible response.]

CHAIRMAN FRIEDMAN: Hearing no objection, those minutes are adopted.

Under Old Business, there's one item from our last meeting that I think we can dispose of quickly, now that we have some better attendance today, and that is item (i), the Definition of Rochester, Minnesota, MSA, 577-MGT-1.

Have people now had a chance to review that?

MR. ALLEN: Actually, Mr. Chairman, I would note that we have a lack of a quorum today on the Management side.

CHAIRMAN FRIEDMAN: Oh, really?

MR. ALLEN: We only have three Management members present.

CHAIRMAN FRIEDMAN: But Management proposed this. So isn't it safe to assume Management supports this?

MR. ALLEN: What we have done in the past is if we have consensus on something, we will just follow it up with one of the absent Management members by phone and announce consensus at the next meeting.

CHAIRMAN FRIEDMAN: Okay. I was hoping we could take care of it today. Then I guess the ball is in Labor's court on this one.

MR. ALLEN: I would note that this proposal affects no Federal Wage System employees. The FPRAC Management members recommend that Wabasha County be redefined from the Southwestern Wisconsin area of application to the Minneapolis-St. Paul area of application. Redefining Wabasha County to the Minneapolis-St. Paul area of application would place the entire Rochester, MN MSA in the Minneapolis-St. Paul wage area.

CHAIRMAN FRIEDMAN: Okay. So subject to polling your absent members, we have concurrence on this one.

LABOR MEMBERS: Yes.

CHAIRMAN FRIEDMAN: Okay. Any other Old Business items people care to discuss in here? Most of these, we've kicked to our working group.

MR. LANDIS: Actually, I have a few questions. They are not listed on here under Old Business, but I think they're old business for the group.

The report that was passed in March, I think last meeting it was said that OPM and OMB were working on the rules and regulations for implementation of the wage area changes. Does that mean that it's been approved by the Director, or is it part of the process of it getting approved?

CHAIRMAN FRIEDMAN: My understanding -- and, Jerry,

feel free to supplement, or correct me -- is that the Director is still considering the draft of a regulation that OPM staff prepared for his review. Is that accurate?

MR. MIKOWICZ: Yes, that's correct. And until the Director actually transmits the proposed regulation to OMB, it's not really approved. So it's still under review at OPM.

CHAIRMAN FRIEDMAN: Okay.

MR. LANDIS: But it seems like they are working in that direction now. They're not going to -- okay.

Well, another thing we said last time, I guess it's kind of been mentioned. If it did take effect and was approved, that that change would take effect as of, what, January 1st when the current Federal pay freeze came to an end. Is that -- was that true? Am I understanding that correctly?

CHAIRMAN FRIEDMAN: I would defer to Jerry on that one too.

MR. MIKOWICZ: The regulatory process generally takes about a year, and it can vary, but what we would need to do is have proposed regulations and final regulations. If the FPRAC recommendation had been approved in the March and April time frame, there would have been time to do a proposed regulation, publish it, get comments, and publish the final regulation.

Looking at the calendar, we're now in September, and if there were to be -- let's say the regulation was published by the end of this month as a proposed regulation, we have to have a comment period generally, let's say 60 days. Then we would have to analyze the comments received and go through the process of clearance again through OPM and OMB, and that includes interagency clearance.

So the way the Administrative Procedure Act works, we have to go through this two-stage round before a regulation becomes final. It would not be possible to have final regulations effective by January 1, 2013.

MR. LANDIS: Okay.

MR. MIKOWICZ: Technically, the pay freeze does end at that date, but as you know, there is other legislation involved.

MR. LANDIS: That was going to be my next question.

MR. MIKOWICZ: Right. That's anticipated.

So there are other proposals that would extend the pay freeze along with the Continuing Resolution, but again, those are proposals, and we don't know actually what Congress and the President will do.

MR. LANDIS: Okay. Thank you.

Also, then more specifically, the question about the

situation of Joint Base McGuire-Dix-Lakehurst. I know there's like 500 to 600 ACT and AFGE employees there. On October 1st, 2009, McGuire Air Force Base and Fort Dix and Lakehurst Naval Air Station were all combined into one base. Obviously, we all know that.

All the employees were told by Congressman Adler at the time that all Federal employees on that base would now be at one base and would all be moved to the New York pay scale. Is that a true statement? Was that what was supposed to happen, or did that sort of not --

CHAIRMAN FRIEDMAN: All I can speak to is how the Federal Wage System operates, and actually, there's nothing automatic in our current rules. It would require some action both by this Committee and then following up on that by the Director.

MR. LANDIS: Okay. So, at that time, none of that stuff had happened?

CHAIRMAN FRIEDMAN: I think what did happen -- and again, I don't know that it was automatic either for the white collar folks. It did require a Federal Salary Council action.

MS. SIMON: We have a rule that deals with it.

CHAIRMAN FRIEDMAN: Is it automatic for GS?

MR. ALLEN: No, it is not automatic. On behalf of the President's Pay Agent, OPM issued regulations. I believe we did an interim regulation on that one that covered the GS employees, because there was a preexisting policy in place that if a single installation was split between two locality pay areas, then employees would be reassigned to the higher paying locality pay area.

CHAIRMAN FRIEDMAN: It did happen immediately for the GS--

MR. LANDIS: Yes, it did. So I guess that policy is not for FWS employees.

CHAIRMAN FRIEDMAN: It's an obvious disparity and, frankly, an obvious inequity. We're trying very belatedly to deal with it here. Right?

MR. LANDIS: Yeah. I understand the report that was passed in March doesn't deal specifically with that. It deals with that amongst, you know, obviously many other areas.

CHAIRMAN FRIEDMAN: Right.

MR. LANDIS: But the problem is that it's been almost 3 years now, and you have not only FWS employees on one end of the base being paid from a different wage area as FWS employees on the other end, you have GS employees and FWS employees

working in the same building, sometimes at the next desk, that are being paid in different wage areas. And I know it's a serious morale problem they're having up there. I'm just wondering why, you know, something can't be done to rectify this after nearly 3 years.

I mean, some of these people have lost nearly \$10,000 in pay.

MS. SIMON: Steve, it's a problem in New Jersey. It's a problem in Pennsylvania, and it's a problem in a lot of places. And it's something we've worked very, very hard to rectify, but we've got some serious obstacles.

MR. LANDIS: Okay.

CHAIRMAN FRIEDMAN: Anything else on this question or topic? I think this Committee has carried this issue about as far as we can. So we'll wait to see what's going to happen.

MR. LANDIS: Okay. Thank you.

CHAIRMAN FRIEDMAN: Any other Old Business items that people want to talk about before we move on?

[No audible response.]

CHAIRMAN FRIEDMAN: Our first New Business item is 578-MGT-1, the review of the Augusta and Portland, Maine, FWS wage areas.

Mark, would you please summarize that for us?

MR. ALLEN: Yes, Mr. Chairman.

We have reached a point with the Portland, Maine, wage area now where the employment level has fallen so low that DoD is no longer able to conduct local wage surveys in the Portland wage area. So the Management members of FPRAC are recommending that the wage area be abolished.

The closest wage area to Portland is Augusta, and Augusta currently has 162 FWS employees.

We are recommending in this proposal that some of the counties in the Portland, Maine, wage area continue to be surveyed. One of the main reasons for that is there is a very large private sector employer in the Portland wage area from which we're obtaining good wage data that could be used in the combined Portland-Augusta wage area.

MS. SIMON: Why are you proposing that it go to Augusta rather than to Portsmouth, New Hampshire?

MR. ALLEN: We have an FPRAC recommendation that would result in the Portsmouth wage area being abolished. So we are following that principle.

The Boston wage area would be further away than Augusta would. I do have one change to point out to everybody.

It is on page 4. We had originally proposed that the next full-scale survey cycle for the Augusta wage area be May of 2013. However, we received further information from DoD that they need to keep the survey cycle of the even-numbered fiscal years for Augusta because of other multiple wage surveys they have in process that month. So we need to make a correction on page 4 to say May 2014 instead of May 2013. That would be the next full-scale -- it would be the full-scale survey for Augusta, and that would change the effective date for the Augusta wage schedule from July 2013 to July 2014.

MR. FENAUGHTY: Mark, why don't you just keep it the way it is until you decide what you are going to do with the Portsmouth wage area?

MR. ALLEN: Unfortunately, there is no capability to continue doing local wage surveys in the Portland wage area, because the employment level there is falling too low, and there's no centralized single large military installation or VA Medical Center that's remaining in the Portland wage area.

There are 66 employees in the Portland wage area. I think that number is probably going down, and they're scattered all over the place.

MR. PHELPS: I think Bill's question may have

something to note, move the abolished Portland wage area counties to the Portsmouth area since there hasn't been a decision to abolish Portsmouth yet. Portsmouth is still a viable wage area at this point, which may be closer than Augusta. If it is determined to move the abolished Portland wage area counties to Portsmouth or do away with Portsmouth and move Portsmouth to Boston, we could always come back and revisit and move Portland to Augusta if that's the case, but why would you not conduct analysis to determine it? We don't know if Portsmouth is definitely going to be abolished or not yet.

MR. ALLEN: We have not included analysis for Portsmouth in this package. What I would suggest, if it's okay with the other Management members, is that we apply the regulatory criteria to the counties currently in the Portland wage area to determine their proper definition, either Augusta or Portsmouth.

We will need to move fairly quickly on this one, because there's a local wage survey that's coming up next year for the Portland wage area, but we'll get the supplemental analysis done and hopefully we'll come back at the next meeting with another set of data for us to look at.

CHAIRMAN FRIEDMAN: Unless there are further questions

on this one, we will just table it, if that's the right word, until next month.

Which brings up the proposal to update the North American Industry Classification System, classification changes based on OMB's 2012 update. I counted 14 separate changes.

MR. ALLEN: This looks a lot more intimidating than it really is.

The Federal Wage System uses North American Industry Classification codes for determining what industries should be surveyed. Periodically, OMB issues new codes. They seem to be on a 5-year cycle now. They used to do it every 10 years when it was the Standard Industrial Classification system.

We are basically just playing catch-up with minor changes in industry descriptions, and rather than go through all of these, I'll just give you one example down at the bottom of page 3. The 2007 NAICS Code 334411 dealt with electron tube manufacturing. Electron tubes are going out of industry now. They're still used in some products, but what the NAICS provision did was merge that in with other electronic and program manufacturing under NAICS Code 334419.

What I would suggest, since this is the first time Labor members have seen this package, is to take a look through

it, and if you have any questions, we'd be happy to answer them, but I think the changes are pretty self-explanatory.

What we are endeavoring to do with this is basically keep the same industries included in Federal Wage System surveys that we have now.

CHAIRMAN FRIEDMAN: So I guess unless there's some urgent desire to adopt this now, we can defer this one as well?

[No audible response.]

CHAIRMAN FRIEDMAN: Okay. Well, any other New Business?

[No audible response.]

CHAIRMAN FRIEDMAN: We will have a working group meeting in about 10 minutes, although I understand it might be somewhat sparsely attended.

And unless there is some objection, we can adjourn.

[No audible response.]

CHAIRMAN FRIEDMAN: Hearing none, we are adjourned.
Thank you all. See you next month.