

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

585th FPRAC

SHELDON FRIEDMAN, Chairperson, Presiding

Thursday, June 20, 2013

Room 5526
Office of Personnel Management
Washington, D.C. 20415**ATTENDANCE:****Members/Alternates:**Management Members:Mark Allen, OPM
Seth Shulman, DoD
Bob Kerr, Air Force (via telephone)
Pamela Sokol, ArmyLabor Members:Bill Fenaughty, MTD
Jacque Simon, AFGE
Robert Shore, NAGE
Steven Fisher, ACT**Staff Specialists and Visitors:**Jeanne Jacobson, Designated Federal Officer, OPM
Madeline Gonzalez, OPM
Mike Eicher, OPM
Jim Brady, DoD
Bill Becht, DoD
Darlene Freeman, Navy
Nicole Lightman, AFGE**Recording Secretary:** Mike Eicher

[Transcript prepared from digital audio produced by FPRAC.]

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P R O C E E D I N G

CHAIRMAN FRIEDMAN: Well, good morning, everyone, and welcome to this, our 585th meeting of the Federal Prevailing Rate Advisory Committee. My name is Sheldon Friedman, Chair of the Committee, and why don't we go around and introduce ourselves? Let's start with you today, Bill.

MR. FENAUGHTY: Bill Fenaughty from MTD and NFFE.

MR. FISHER: Steve Fisher with ACT.

MR. ALLEN: Mark Allen with OPM.

MS. SOKOL: Pamela Sokol, Department of the Army.

CHAIRMAN FRIEDMAN: And if others in the room could introduce themselves?

MS. JACOBSON: I'm Jeanne Jacobson, OPM Designated Federal Officer.

MS. FREEMAN: Darlene Freeman, Department of the Navy.

MR. EICHER: Mike Eicher, OPM.

MS. GONZALEZ: Madeline Gonzalez with OPM.

CHAIRMAN FRIEDMAN: And we don't have anyone on the phone, do we?

MR. KERR: Yes, we do. This is Bob Kerr, Air

Force.

CHAIRMAN FRIEDMAN: Oh. Thank you.

Okay. Anyone else on the phone?

[No audible response.]

CHAIRMAN FRIEDMAN: No. All right.

We might have a few more folks come in. I hope we do, but meanwhile, one announcement. It's been requested by one of the Committee members that it's time to update our book of Wage Area Maps, so that project, it will take a while, but it's something we're going to be undertaking.

Anything you want to say about that, Mark?

MR. ALLEN: The Wage Area Maps that we previously had, and that was a binder, are mostly accurate in that very few wage area boundaries have changed, but --

[Discussion off the record.]

CHAIRMAN FRIEDMAN: If our newly arrived members could introduce themselves, that would be good for our recorder.

MR. SHULMAN: Hi. Seth Shulman, Department of Defense.

CHAIRMAN FRIEDMAN: And Jacque, et cetera?

MS. SIMON: Jacque Simon, AFGE.

MS. LIGHTMAN: Nicole Lightman, AFGE.

MR. SHORE: Robert Shore, NAGE.

CHAIRMAN FRIEDMAN: Thank you all.

Jim?

MR. BRADY: Jim Brady, DoD.

MR. BECHT: Bill Becht, DoD.

CHAIRMAN FRIEDMAN: Thank you. Okay. This feels better now.

Well, we were just getting through announcements and talking about the project to update the Wage Area Maps.

Mark, you were saying about them?

MR. ALLEN: I was saying that the maps are mostly correct in that most wage area boundaries haven't changed, but we do have changes in metropolitan areas that we need to include in the maps, so we're going to have to redo most of them.

We can still use most of the current maps to identify wage area boundaries by county and state, but don't rely on the metropolitan areas. Many of those have changed. Some counties were dropped out. Some counties

have been added to the metropolitan areas.

We will get those to you as soon as we can, but as the Chairman said, it takes a while to do that kind of thing.

CHAIRMAN FRIEDMAN: I have a question for members of the Committee about this. Is there any additional information that wouldn't be too burdensome to include that would be useful on these maps, footnotes, explanations? Sometimes pieces of counties are somewhat inexplicably attached to other wage areas.

Anyway, if you have ideas about ways of making the maps more useful without a lot of additional work, please let us know.

I had a question for Mark: Is there any reason not to put the maps on our webpage?

MR. ALLEN: That might present a difficulty. We'd have to look into it. There are requirements for people with disabilities. You can't just have a visual for a map. If the map is as complicated as one of our Wage Area Maps is, you have to explain everything in text, so that somebody with visual impairment can see.

We have thought about that in the past, but it's

just something we haven't checked on lately.

CHAIRMAN FRIEDMAN: I think it would be useful if we could do it, and then that way also, if it's a matter of updating one or two maps, it's easy to do without redoing the whole book.

MR. ALLEN: Another thing we could do is provide the maps on a CD for the members, a USB flash drive or something that could be updated.

CHAIRMAN FRIEDMAN: Okay.

Any other announcements?

[No audible response.]

CHAIRMAN FRIEDMAN: If not, we can move on to the minutes of our last month's meeting. Are there any corrections that people want to bring to our attention, beyond those that we have already heard from you about?

[No audible response.]

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

[No audible response.]

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

We have a lot of Old Business items, (a) through

(i). Are there any items people would like to bring up today for further discussion?

[No audible response.]

CHAIRMAN FRIEDMAN: Okay. We can let them sit in Old Business.

We do have one New Business item, 585-OPM-1, Department of Interior Special Vessel Schedules.

Before I turn to Mark on that one, I should say by way of background, we were contacted some months ago by the captain of the vessel in question, the *USS Ranger III*. It ferries passengers and freight between Houghton, Michigan, and Isle Royale National Park. It's a vessel operated by the National Park Service, and there's a longstanding concern that was called to our attention by the captain of that vessel about the pay of the crew. That's what's addressed in this particular document.

I should say that the captain would like to have the opportunity to come talk to us, to make a presentation. Since we only got very short notice of the introduction of this matter, what I would hope is that we not act on it today, especially since this is a rather detailed package, and you probably haven't had much chance to study it yet.

But at least you can start to look at it, and if he in fact does want to come speak to us, we want to give him that opportunity. We don't know for sure if he'll want to or be able to, but we want to give him that opportunity.

By way of background, I would also note that he has filed a lawsuit in this matter, and I don't know, Madeline, if it's a public document. If it is, perhaps you can share it with members of the Committee.

MS. GONZALEZ: Sure.

CHAIRMAN FRIEDMAN: If it isn't a public document, then we can't share it with you. I presume it's public, but I don't really know.

MS. GONZALEZ: I presume too, but I will double-check.

CHAIRMAN FRIEDMAN: Yeah, please double-check, and if you can share it, then people will have that as part of their background information as well.

Is there anything you want to add at this point, Mark, on this?

MR. ALLEN: No. I agree with you, Mr. Chairman, that it's a good idea to withhold making a recommendation on this one at the meeting today.

In addition to the captain of the vessel, the Department of the Interior has also expressed an interest in attending the meeting, answer any questions that might come up. There's been a pretty detailed package that's been provided to everybody, but it might not answer all the questions that everybody might have about the issue.

CHAIRMAN FRIEDMAN: Well, that would be an interesting meeting when we have the captain and DOI here.

MS. SIMON: Is it possible to summarize what their situation is and what they're asking for, or is it too complicated?

MR. ALLEN: It's actually a fairly simple issue with a complicated background.

MS. SIMON: Okay.

MR. ALLEN: Our memo summarizes that. Even though we're not going to reach the point where we need to make a recommendation today, I can go through the Management recommendation for this.

MS. SIMON: There is a Management recommendation for this?

MR. ALLEN: Actually, we don't recommend anything in this specifically.

We scheduled this for discussion at the Department of the Interior's request. At the very end, you will see OPM requests that Mr. Chairman schedule this for discussion at FPRAC's next meeting. We don't actually have a Management position formally on this one. We are seeking the Committee's advice on the best solution to what's been raised as a problem by the Department of the Interior.

Of course, the Department of the Interior is not a member of FPRAC.

MR. FENAUGHTY: Mark, would it be accurate to say they want to go from a special set-aside pay system now to the standard FWS five-step system?

MR. ALLEN: Not quite. I'll go through what the situation is.

The Department of the Interior has a ship that goes from the Upper Peninsula of Michigan across to the Isle Royale National Park, which is an island that's in Lake Superior. It's about 70 miles one-way from the home port of the vessel out to the Isle Royale National Park.

There are around 10 employees who work on the vessel, and they are paid from a set-aside schedule. They are under the Federal Wage System, but basically because

they're not under our classification system in the Federal Wage System, they are ungraded. They do have position descriptions, of course, but they don't have specific grade levels under the Federal Wage System classification system.

For that reason, they are WB employees, which is usually Wage Board.

Historically, rates for these employees have been based on selected rates from Federal Wage System regular schedule for the Northwestern Michigan wage area. The Department of the Interior requests that the employees who crew the vessel be placed on a five-step special schedule that would remain a set-aside schedule because it would not come under the regular Federal Wage System for classification purposes.

The five-step set-aside special schedule is different from what they have now, of course. They have one rate, which is equivalent to the Step 3 rate of the equivalent grade level that the Department of the Interior determined for them.

In addition to having a five-step set-aside special schedule, the employees would no longer be linked up with the Northwestern Michigan wage schedule. They

would be linked up with the Detroit, Michigan, wage schedule, and the reason for that is there are a couple of other vessels that operate in the Great Lakes area, and both of those are paid from the Detroit wage schedule. So for the sake of equity, the Department of the Interior is requesting the Detroit wage schedule be used instead of the Northwestern Michigan wage schedule.

There's a whole lot of background to this proposal. I draw your attention to page 2, and this is the issue of why the vessel crew members have not been paid under 5 USC 5348, which is referred to as the "civilian mariners pay law." That law excepts the pay of officers and members of crews of vessels for coverage under the Federal Wage System, but the Department of the Interior has taken a look at that section of the law and has determined that inadequate industry practices exists in that area so they cannot set pay for the crew of the Ranger III under 5 USC 5348. So the only other alternative for the employees is to have them under an arrangement under the Federal Wage System.

Further information on that decision is on page 3 of the Department of the Interior's attachment that they

sent to us, in which they did an analysis of the way the Ranger III operates and the way the other agencies use the maritime pay authority.

MS. SIMON: Excuse me. Are they represented by any union?

MR. ALLEN: I don't believe that the captain would be because he's a supervisory employee. I don't know about the rest of the crew.

CHAIRMAN FRIEDMAN: Any other questions or discussion for now on this? Are people agreeable to deferring the decision-making until we have the captain, if he wants to be here, as well as the Department of the Interior?

MS. SIMON: That's fine.

CHAIRMAN FRIEDMAN: Okay. Any other New Business items?

[No audible response.]

CHAIRMAN FRIEDMAN: Okay. Well, if there's no objection, we could adjourn.

[No audible response.]

CHAIRMAN FRIEDMAN: Hearing no objection --

MR. FENAUGHTY: I just have a question.

CHAIRMAN FRIEDMAN: Oh, yes, go ahead.

MR. FENAUGHTY: I haven't been to a couple of these meetings. I've been in other places, but when are we going to get any of this Old Business done before it becomes ancient business?

CHAIRMAN FRIEDMAN: Well, that's a good question. I would like to see us clear that up. Are there any particular ones that you think we could address today? I'm glad to revisit that.

MR. FENAUGHTY: Seems like the Lee County, Virginia, thing has been around for a while, and the (c) Special Wage Schedule Pay Practices for Federal Wage System Lock and Dam Employees, those are the two that really --

CHAIRMAN FRIEDMAN: Yeah.

MR. FENAUGHTY: And I think (e) is pretty old too.

CHAIRMAN FRIEDMAN: Oh, yeah.

MR. ALLEN: I mentioned at the last meeting that the information on some of these Old Business items is stale because we now have new Metropolitan Statistical Area and new commuting statistics. So we could do an update on those.

We had referred other old business items to our working group, and the working group has not made recommendations out to the full Committee on those.

MS. SIMON: Mark, when we were looking at some of this data for Federal Salary Council, I don't think there was any change in the commuting data that would affect Lee County, Virginia.

MR. ALLEN: No, we did not look at Lee County, Virginia. I think we looked at Lee County, North Carolina.

MS. SIMON: I know. I know we didn't specifically look at Lee County, Virginia. I'm just saying I don't think anything changed with Lee County, Virginia.

MR. ALLEN: I doubt that it would because it's such a pretty rural area. I don't remember it being included in a metropolitan area.

Commuting patterns are unlikely also to show any difference, but we don't know that for sure until we take a look at the new ones. We might be surprised.

MS. SIMON: Yeah.

CHAIRMAN FRIEDMAN: I welcome us cleaning up our list of Old Business, so maybe we should figure out an orderly way to do that. I'm happy to continue the

discussion here right now about it if you want.

MS. SIMON: Well, the issue with Lee County is there is a prison there that wanted us to investigate the possibility of moving them to a different wage area, and at least as of the prior analysis, there was no rationale, given our current rules, for moving them.

CHAIRMAN FRIEDMAN: There was a recommendation from Management to essentially leave them where they are.

I think the Department of Justice had actually requested that they be moved.

Anyway, so I guess the question is whether there's a consensus to adopt the Management recommendation not to move.

MS. SIMON: Well, we were just saying that there is new commuting data that might or might not alter their status.

CHAIRMAN FRIEDMAN: Ah, I see.

MR. ALLEN: Before we do, we need to take a new look at the new data that we have available to us.

Let's go through the list of items I think that would apply to. It would be (a) Review of Lee County, Virginia; (d) Definition of South Bend-Mishawaka MSA; (e)

Monroe County, Pennsylvania, an AFGE letter requesting an FPRAC review; (f) Definition of Hickory-Lenoir-Morganton, North Carolina; and then (i) Review of the Augusta and Portland, Maine, wage areas.

CHAIRMAN FRIEDMAN: So it seems like that group of Old Business items would be a good starting point for looking at the impact of the new MSA data.

MR. ALLEN: I don't think I missed any in this.

CHAIRMAN FRIEDMAN: So I guess you will let us know or we will see by way of new documents, New Business items, when the analysis has been done.

MR. FENAUGHTY: The new data is what, Mark?

MS. SIMON: New commuting data. It is like the data we just looked at, at the Federal Salary Council.

CHAIRMAN FRIEDMAN: And there are also MSA definition changes, right?

MR. ALLEN: Yes. These came out a few months ago.

CHAIRMAN FRIEDMAN: Okay. Then on Item (c), I think it's just a question -- procedurally this ought to come out of the working group, but the question is whether to affirm the current pay practice or not. Is there a

consensus to affirm it? We had a presentation from the Army Corps of Engineers, and we had some discussion in that working group meeting. I think perhaps that would be one that we could get some closure on.

All right. Well, why don't we work on it, figure out a way to take care of this Old Business.

Any other matter to come before us this morning?

MR. SHORE: Yeah. I just had a question, if there was any update regarding the recommendation on the Federal Wage System to Director Berry.

CHAIRMAN FRIEDMAN: I don't have any update. Is there any other information people want to present?

MR. ALLEN: There has been no decision rendered on that recommendation yet.

MR. SHORE: I assume there is no time frame to -- I guess I have some members who have been asking and writing, and I think actually they have written the Chairman before asking the same question, I guess back in 2012. They continue to follow up, so I thought I would do the same.

CHAIRMAN FRIEDMAN: Sure. Yeah, we've rendered our decision and passed it up the chain of command, so I

don't know more than that at this point.

Okay. Well, if there's nothing else -- I don't want to cut anybody off here, but if there's nothing else, we could adjourn. Is there a consensus to do that?

MS. SIMON: Yes.

CHAIRMAN FRIEDMAN: Okay. I'm supposed to say, Is there any objection to adjourn?

[No audible response.]

CHAIRMAN FRIEDMAN: I don't hear any objection, so we're adjourned. See you all next month.