

Federal Prevailing Rate Advisory Committee 654th FPRAC

Janice R. Lachance, Chair, Presiding

Thursday, September 19, 2024

Virtual Meeting via Microsoft Teams
Office of Personnel Management
Washington, D.C. 20415

Attendance

Members/Alternates:

Management Members:

Mark Allen, OPM
Christopher Lynch, DoD
Kimberly Eidson, Air Force
Brandon Anderson, Navy
Ann Vicks, VA

Labor Members:

Paul O'Connor, MTD
Jacqueline Simon, AFGE
Travis Reuther, AFGE
Carisa Lang, NAGE
Felicia Neale, ACT

Staff Specialists and Visitors:

Jeanne Jacobson, Designated Federal Officer, OPM
Ana Paunoiu, OPM
Sharon Kwon, OPM
Eric Clayton, DoD
Karl Fendt, DoD
Erica Abiera, DoD
Mandy Laughlin, Army
Sheila Willis, VA
Cynthia Bell, VA
Ralph Reels, VA
Mechelle Muthuveeran, Department of the Interior

Recording Secretary:

Samantha Bono, OPM

[Transcript prepared from digital audio produced by FPRAC.]

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I. Opening Announcements and Introductions

a. Introductions

b. Announcements

- Update on the Federal Prevailing Rate Advisory Committee December 21, 2023, Recommendation to Amend Section 532.211 of Title 5 of the Code of Federal Regulations

Chair Lachance: I think we should probably get started. I want to respect everybody's time. It's ten o'clock. I'm sure people will continue to sign on, but hopefully, we have the folks that we need. It is September 19th. It's 10 a.m. and this is the 654th meeting of the Federal Prevailing Rate Advisory Committee. Our meeting is being held virtually today, and it is going to be recorded as usual. A verbatim transcript will be provided to all the members of the committee for your review at the next meeting.

As you probably know by now, my name is Janice Lachance, and I am honored to chair this committee.

Let's start with introductions and taking a roll here so we've got everybody on record. I'm going to start with our members from Labor. Metal Trades.

Mr. O'Connor: Paul O'Connor is here.

Chair Lachance: Great. AFGE.

Mr. Reuther: Yes, Travis Reuther is here, and Jacque Simon, I believe, is in the waiting room.

Chair Lachance: Oh, okay. We'll make sure she gets in, Travis. Thank you.

NAGE?

Ms. Lang: Carisa is here. My last name has changed. We can note that. I got

married and finally changed my name. My new last name is Lang.

Chair Lachance: Lang, okay. Congratulations.

Ms. Lang: Thank you.

Chair Lachance: We'd like to see pictures.

Ms. Lang: Yeah.

Chair Lachance: Let's see. ACT.

Ms. Neal: Good morning. Felicia Neal is here for ACT.

Chair Lachance: Great. Thank you, Felicia.

All right. Let's go to the agencies. OPM?

Mr. Allen: This is Mark Allen for the OPM staff.

Chair Lachance: DoD?

Mr. Lynch: Christopher Lynch for DoD.

Chair Lachance: Great. And I thought I saw Karl.

Mr. Fendt: Yep. Hi. I'm here, and Miss Abiera from the wage staff is with me.

Chair Lachance: Great, thank you. Air Force?

Ms. Eidson: Yes. Hi. This is Kimberly Eidson from the Air Force.

Chair Lachance: Great. Thanks very much. Navy?

Mr. Anderson: Brandon Anderson on for Navy.

Chair Lachance: Great, thank you. And the VA.

Ms. Willis: Good morning, everyone. This is Sheila Willis for VA. Also have Ms., Ann Vicks who has joined us as well, and then we have two staff members, Ms. Cynthia Bell and Mr. Ralph Reels.

Chair Lachance: Thank you. Thank you all for being here.

And I see Jeanne Jacobson is here. She is our Designated Federal Official under the Federal Advisory Committee Act. Jeanne, thank you. This was short notice. Appreciate your availability.

And the staff who are attending, could you please introduce yourselves? I'm going to start with a guest that we have in person here. It's so much fun to have someone in person.

Ms. K: Hi, everyone. My name is Sharon Kwon. I'm with the Congressional Legislative and Intergovernmental Affairs Team here at OPM.

Chair Lachance: Great. Other staff who are online?

Ms. Paunoiu: Good morning. This is Ana Paunoiu, OPM.

Ms. Bono: Hi. This is Samantha Bono, OPM.

Chair Lachance: I guess we've covered everyone else.

Go ahead.

Ms. Simon: I don't know, Janice—this is Jacque Simon. I don't know if you—

Chair Lachance: Good.

Ms. Simon: —took the role of the Labor people. I had a real hard time getting in, but anyway, I'm here.

Chair Lachance: Glad you're here. We had a—Jacque, we had a bit of a challenge here with the technology, so that could have contributed to it. But Travis said you were in the waiting room, so we knew you would get here eventually.

We do have a few people who registered as guests. Can those people introduce themselves if they are on the call?

Ms. Muthuveeran: Good morning, this is Mechelle Muthuveeran, Department of

the Interior.

Chair Lachance: Great. Thank you, Mechelle. Anyone else?

Mr. Lynch: Janice, this is Chris. I just want to introduce Eric Clayton. He's our second alternate for the Department of Defense. So just in case either Zev or I can't make it, you'll get to hear from Eric.

Chair Lachance: Thank you very much. Welcome, Eric. We'll look forward to working with you.

The next agenda item is announcements, and we do have an update about the recommendation that this committee made in December that OPM change the regulatory criteria for defining and maintaining FWS wage areas, and Mark can give us the latest on that. Mark?

Mr. Allen: Thank you. The latest on that is it's still currently with the Office of Information and Regulatory Affairs for a regular review. The unified agenda for OPM's regulations indicated that the expectation would be that the proposed regulation would be issued in September, and I haven't heard anything different in that regard, so suspecting something to come out later this month.

Chair Lachance: Are there any questions or discussion about that?

Mr. O'Connor: This is Paul O'Connor. Didn't we also recommend that Congress eliminate the annual pay cap?

Chair Lachance: Yes, we did vote to support that. I don't—

Mr. O'Connor: Where does that stand?

Chair Lachance: I don't believe there's any movement on that at this time. I'm happy to be corrected if somebody knows something different. I don't know if the

unions, Jacque or Travis, if you all heard anything. We have—

Ms. Simon: No, but I have a question for Mark. This is Jacque.

Chair Lachance: Sure.

Ms. Simon: So have you had feedback from OIRA? What's going on? We would love some details.

Mr. Allen: I'm not at liberty to share details because it's a process between OPM and OIRA, but it's standard practice for there to be feedback we receive from OIRA. Usually, more than one round of feedback OIRA will send to us. So we're still in that process right now.

Ms. Simon: So you're in that process. Nevertheless, you expect in the next week to publish the proposed rule?

Mr. Allen: Well, what I said, Jacque, was that I haven't heard that there's any change in the plan to issue a proposed regulation within September.

Ms. Simon: So while we've got—how many? One—we've got six more business days in September.

Mr. Allen: Right.

Ms. Simon: And you really think it's going to happen by September 27th or the 30th even? I guess we have seven more days.

Mr. Allen: Well, it's certainly something that's within the control of OIRA, and then it would be sent to the Federal Register. So what I'm saying is that OPM's plan has not changed, but once OPM sends a regulation for clearance within administration, it enters that process where it has to be cleared first before it would go to the Federal Register, and then that—

Ms. Simon: Well, Mark, it's just irresistible. Is this a concept of a plan or a real plan that's going to happen?

Mr. Allen: Actually, I used that term this morning. But it's a standard practice, Jacque. I know there's an intense interest for the proposed regulation to be published, but it simply hasn't cleared yet.

Chair Lachance: But OPM has—, correct me if I'm wrong, Mark, OPM has not been informed that it will go past September.

Mr. Allen: That's right.

Ms. Simon: Would you ordinarily be informed if it were going to be delayed past the date that was part of your plan?

Mr. Allen: Yeah, but I don't know when that would actually take place.

Ms. Simon: Have you ever had an experience like this before that would lead you to guess one way or another?

Janice, have you?

Chair Lachance: My experience has been that OIRA funnels questions back to OPM and that they get answered expeditiously, and that until someone says it's not going to happen, we keep working toward the deadline that's been established.

Ms. Simon: All right. Thanks.

Chair Lachance: OPM, anymore? So things are different than when I was Director, so—but—

Ms. Simon: I understand that. I just wondered, you know, would it be, like, standard, surprise no one if on the 30th of September, OIRA said, "Well, let's shoot for December. We still have a lot of work to do."

Chair Lachance: Anything's possible, Jacque.

Ms. Simon: Okay.

Chair Lachance: My perception is anything's possible, and I think everyone at OPM I know is responding very, very quickly to the concerns and questions that have been raised. There are a lot of them, and I know everyone is working really hard to get the information back to people. So until we know it won't happen, we're going to work in a way that gets us to where the regulation needs to be, and right now that's September—[audio drop]—differently, that's what everyone's working toward, at least at OPM, that I can see and observe.

Ms. Simon: Okay, thank you.

Chair Lachance: Sure.

Mr. O'Connor: Just out of curiosity is there any adverse impact if they don't do it in September and we wait till next fiscal year?

Chair Lachance: I don't know that the fiscal year matters so much.

Mr. Allen: No, the fiscal year doesn't have any relevance to what we would be proposing.

Chair Lachance: It just delays the whole process.

Mr. O'Connor: All right. So back to the congressional cap, we didn't recommend that. We support that. Is that a different thing? You said support, not recommend.

Chair Lachance: I might have been sloppy with my language. I believe we recommended to the Director that she pursue the removal of the cap.

Mr. Allen: Correct.

Mr. O'Connor: And what is that process?

Mr. Allen: So all legislation or changes in legislation would be run through OMB, and I've seen the draft appropriations bills. I haven't seen in any of those that there's been any change in the provision that would provide for the cap and the floor increase for FY 2025. So, at this point, it doesn't look like there's going to be anything changed for FY 2025, but the appropriations bills have not been enacted yet. So we'll see what comes out of them eventually.

We're likely to be under a Continuing Resolution for an undetermined amount of time, but right now I haven't seen any changes in the draft appropriations legislation.

Mr. O'Connor: Okay. All right.

Chair Lachance: Anything else on that?

[No audible response.]

II. Review of the Minutes of the 653rd Meeting

Chair Lachance: Okay. Let's move to review the transcript of the last public meeting. That was held on July 18th of this year. Are there any changes any of you want to bring to our attention? And if not, is there any objection to adopting the transcript of the last meeting?

[No audible response.]

Chair Lachance: Hearing no objections, the transcript is adopted. Thank you for taking a look at it.

III. Old Business

- a. Letter from the American Federation of Government Employees, Dated March 22, 2022, Requesting FPRAC Review a Proposal to Limit all Non-Rest of U.S.

General Schedule Locality Pay Areas to no more than one Federal Wage System Wage Area and a Proposal to Redefine Monroe County, PA, from the Scranton-Wilkes-Barre, PA, Wage Area to the New York, NY, Wage Area, 637-AFGE-1

- b. Letter from the National Association of Government Employees, Dated September 25, 2019, Requesting FPRAC Reexamine the Placement of Wage Grade Employees Working in the Salinas-Monterey, CA, Wage Area, 628-NAGE-1

Chair Lachance: Under Old Business, we have kept things listed under Old Business just to make sure we don't forget about them and forget about their importance, but rather than reading through them, can we instead discuss the items that are part of our new business for this month's meeting?

[No audible response.]

Chair Lachance: I'm going to take silence as a yes.

IV. New Business

- a. Alaska Set-Aside Area Differential Schedules, 654-MGT-1

Chair Lachance: Under New Business, we have 654-MGT-1, the Alaska Set-Aside Area Differential Schedule for the U.S. Fish and Wildlife Service. Mark, can you introduce this item?

Mr. Allen: Sure. I'd like to thank Mechelle for joining us again from the Department of the Interior.

This is a Department of the Interior request to add several locations for the U.S. Fish and Wildlife Service that are in remote areas of Alaska. In these locations, there

are between two to four people who work under the Federal Wage System. The Department of the Interior sent OPM a detailed letter stating what they were asking for and explaining why these locations should be added to what really amount to special wage schedules.

In Alaska, there's a regular wage schedule, but there are also three other wage schedules that have a differential applied to them, depending on how remote a location is. And some of these locations are not even on the road grid for Alaska. In those circumstances, most of them would be placed on the 12 percent differential schedule. One place would be placed on the 8 percent differential schedule, and another would be placed on the 4 percent differential schedule.

This special schedule, a special differential schedule practice, originated with the Department of Defense, but over the years, some agencies have requested that the differential schedules be applied to do locations to address recruitment or retention problems. So that's what we're going through with this request.

What's being requested is adding Bethel, Alaska; Cold Bay, Alaska; Dillingham, Alaska; Galena, Alaska; King Salmon, Alaska; and Kotzebue, Alaska, to the 12 percent differential schedule. Bethel, Alaska, would be added to the 8 percent differential schedule, and Tok, Alaska, would be added to the 4 percent differential schedule.

The difference between the application of the three different wage schedules is detailed in the request that the Department of the Interior sent to us, but mainly what we're looking at here is aligning these locations with schedules that are already applied to other agencies, and these are almost all locations where the Department of Defense also has people in the general vicinity.

There are already existing Department of the Interior locations that are not Fish and Wildlife Service to which the special differential schedule practices apply. If the committee agrees to recommend that these changes be made, OPM would send a letter back to the Chief Human Capital Officer at the Department of the Interior. The wage schedules would be applied pretty quickly.

Chair Lachance: Any questions? Any comments?

Mr. O'Connor: Is this—are these considered special pay rates and filed under those regulations?

Mr. Allen: This is not actually regulated. It's still a set-aside pay practice that's documented in the Federal Wage System Operating Manual in Appendix V, but it's a pay practice that is not a special rate. It's a special wage schedule practice, but it's only done under the operating manual, essentially. It was never placed in regulation.

We've made many changes to these over the years and just informed the agencies to which they would apply that they've been added to the set-aside pay practice. They're kind of in between a special rate and a special wage schedule. It's really a legacy practice that the committee has not wanted to recommend doing anything different with, other than extending the differential schedules to new locations as agencies come to us and they request additional coverage for recruitment or retention purposes.

Chair Lachance: Any other questions or comments?

[No audible response.]

Chair Lachance: Okay. Could we make—could someone make a motion to approve extending the Alaska remote area differential set-asides wage schedule to the

areas outlined in 654-MGT-1?

Ms. Simon: I move to adopt.

Mr. Allen: And I'll second. Thanks, Jacque.

Chair Lachance: Thank you.

All in favor say aye.

[Chorus of ayes.]

Chair Lachance: I should have asked who's opposed. Anyone opposed?

[No audible response.]

Chair Lachance: Any abstentions?

[No audible response.]

Chair Lachance: That's great news. This passes unanimously.

And, Mark, do you want to talk about next steps.

Mr. Allen: So the next steps for this would be Brenda Roberts will send a letter back to the Department of the Interior. It's just to document the FPRAC discussions and recommendation, and that could happen as soon as whenever she gets back from her meeting. Ana is on top of it. She already has the letter drafted.

Chair Lachance: Not that we assume that you're going to just approve everything like this.

Mr. Allen: Yeah.

Chair Lachance: But it's nice to be ready and to move quickly.

Mr. Allen: She had more than a concept for her plan, a real plan.

Chair Lachance: We try to have real plans. That's great.

Is there anything else that anybody wants to raise at this meeting? Otherwise, we

are ready for adjournment. This was all the business that we had to do, and of course, we wanted to bring you up-to-date on what was going on with the regulation. Any other discussion? Any other items?

Mr. Allen: Regarding the regulation, we usually hear from the Federal Register about when the regulations could be published and advanced. So what we do with changes in locality, area, boundaries, we'll get the committee members word in advance when we hear that the regulations going to be published so nobody's caught by surprise.

Chair Lachance: That's great. Thank you.

Mr. Allen: And if it's not published by the end of September, we'll also let you know.

Chair Lachance: Okay. Is there a motion to adjourn if there's nothing else?

Ms. Simon: I move to adjourn.

Chair Lachance: Thank you, Jacque. I assume someone will second it. Is there anyone opposed to the meeting being adjourned?

Mr. Allen: I'll second it.

Chair Lachance: Okay. Thank you all very much.

[End of recorded session.]