

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
American Federation of State, County and)	
Municipal Employees, District Council 20,)	
Local 2401, AFL-CIO)	
)	PERB Case No. 04-CU-01
Petitioner,)	
)	Opinion No. 1357
and)	
)	
District of Columbia)	
Office of Contracting and Procurement,)	
)	
Agency.)	
_____)	

DECISION AND ORDER

I. Statement of the Case

On October 3, 2003, the American Federation of State, County and Municipal Employees, District Council 20, Local 2401, AFL-CIO ("AFSCME") and the Office of Labor Relations and Collective Bargaining ("OLRCB") (on behalf of the District of Columbia Office of Contracting and Procurement) filed a Joint Petition for Compensation Unit Determination ("Petition") with the Board. AFSCME and the District of Columbia Office of Contracting and Procurement ("Office of Contracting and Procurement") sought a unit determination of professional and non-professional employees employed by the Office of Contracting and Procurement for the purpose of negotiations for compensation.

On February 13, 2004, Notices regarding the Petition were issued for posting at the Office of Contracting and Procurement. The Notice solicited comments concerning the

appropriate compensation unit placement for this unit of employees.¹ The Notice required that comments be filed in the Board's office no later than March 15, 2004. The Office of Contracting and Procurement confirmed that the Notices had been posted.

The Board issued an Order that granted the Parties' Joint Petition for a Compensation Unit Determination. *American Federation of State, County and Municipal Employees, District Council 20, Local 2401, AFL-CIO and District of Columbia Office of Contracting and Procurement*, Slip Op. No. 746, PERB Case No. 04-CU-01 (April 30, 2004).

II. Discussion

AFSCME and OLRCB sought a determination concerning the appropriate unit for the purpose of negotiations for compensation for all professional and non-professional employees employed by the Office of Contracting and Procurement. Specifically, the Parties sought a determination concerning the appropriate compensation unit for the following group of employees:

All professional and non-professional employees employed by the District of Columbia Office of Contracting and Procurement; excluding all management officials, supervisors, confidential employees, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

In their submission, AFSCME and OLRCB indicated that the appropriate compensation unit placement was in Compensation Unit 1.² No other comments were received.

Traditionally, the Board has authorized and established compensation units pursuant to the standard noted under D.C. Code § 1-617.16(b) (2001 ed.), which provides as follows:

In determining an appropriate bargaining unit for negotiations concerning compensation, the Board shall authorize broad units of occupational groups so as to minimize the number of different pay systems or schemes. The Board may authorize bargaining by multiple employers or employee groups as may be appropriate.

"The Board has departed from strict adherence to this criteria where the employing

¹ Labor organizations are initially certified by the Board under the Comprehensive Merit Personnel Act (CMPA) to represent units of employees that have been determined to be appropriate for the purpose of non-compensation terms-and-conditions bargaining. Once this determination is made, the Board then determines the compensation unit in which these employees should be placed. Unlike the determination of a terms-and-conditions unit, which is governed by criteria set forth under D.C. Code § 1-617.09 (2001 ed.), unit placement for purpose of authorizing collective bargaining over compensation is governed by D.C. Code § 1-617.16(b) (2001 ed.).

² Compensation Unit 1 consists of all District Service career service professional, technical, administrative, and clerical employees.

agency has independent personnel and compensation bargaining authority, e.g. D.C. General Hospital, D.C. Public Schools, the D.C. Water and Sewer Authority, notwithstanding the existence of occupational groups that the agency may have in common with other agencies and personnel authority.” *Government of the District of Columbia, et. al. and Unions in Compensation Units 1, 2, 13 and 19*, 458 D.C. Reg. 6725, Slip Op. No. 557, PERB Case No. 97-UM-02 and 98-CU-04 (1998). See also *WASA and AFGE, Local 631, et. al.*, 46 D.C. Reg. 122, Slip Op. 510, PERB Case Nos. 96-UM-07, 97-UM-01, 97-UM-03 and 97-CU-01 (1999). “The Board has also made one other exception where the pay scheme of the occupational groups is so unique as to warrant a separate compensation unit determination.” *Id.* (citing *SEIU, Local 722 and DHS/HSB*, 48 D.C. Reg. 8493, Slip Op. No. 383, PERB Case No. 93-R-01 (2001) (Compensation Unit 30 was established for personal care aides employed by the Department of Human Service whose pay schemes resembled independent contractors)). In both instances, the Board authorized compensation units that consisted of a single agency or occupational group.

In the present case, the Office of Contracting and Procurement is an agency under the Mayor’s personnel authority. In addition, all of the professional and non-professional employees employed by the Office of Contracting and Procurement were paid in accordance with the District Service (DS) schedule. Furthermore, these employees shared a pay system with other employees who were in Compensation Unit 1. Therefore, consistent with the Board’s mandate under D.C. Code § 1-617.16(b) (2001 ed.), the professional and non-professional employees employed by the Office of Contracting and Procurement were determined to be placed in Compensation Unit 1.

Furthermore, the Board observed that D.C. Code 1-617.16(b) (2001 ed.) established the following two part test to determine an appropriate compensation unit:

- (1) The employees of the proposed unit comprise broad occupational groups; and
- (2) The proposed unit minimizes the number of different pay systems or schemes.

The first prong of the test was met. AFSCME and OLRCB requested that these employees be placed in a compensation unit comprised of a broad group of employees who come within the personnel authority of the Mayor, possess certain general skills, and who had their compensation set in accordance with the DS Schedule.

The second prong of the test was also fulfilled. A smaller number of compensation bargaining units would ultimately result in a smaller number of pay systems.

Consistent with D.C. Code § 1-617.16(b) (2001 ed.), the employees involved in this case were placed in Compensation Unit 1. The placement of these professional and non-professional employees in Compensation Unit 1 effectuates the policies of the CMPA. Therefore, the unit set forth below was appropriately placed in Compensation Unit 1:

All professional and non-professional employees employed by the District of Columbia Office of Contracting and Procurement; excluding all management officials, supervisors, confidential employees, employees

engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

It is based on the above rationale, that the Board issued its Order. Pursuant to Board Rule 559.1, this Decision is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

February 1, 2013

CERTIFICATE OF SERVICE

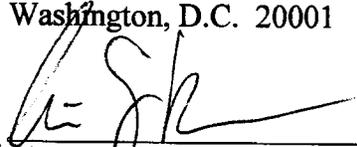
This is to certify that the attached Decision and Order in PERB Case No. 04-CU-01 was transmitted via U.S. Mail to the following parties on February 4, 2013.

Sabrina Brown, President
AFSCME Local 2401
1724 Kalerma Road, N.W.
Suite 200
Washington, D.C. 20009

U.S. MAIL

Natasha Campbell, Director
D.C. Office of Labor Relations and Collective Bargaining
441 4th Street, N.W., Suite 820N
Washington, D.C. 20001

U.S. MAIL



Erica J. Balkum, Esq.
Attorney-Advisor
Public Employee Relations Board
1100 4th Street, S.W.
Suite E630
Washington, DC 20024
Telephone: (202) 727-1822
Facsimile: (202) 727-9116