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

In the Matter of:)	
)	
American Federation of Government Employees,)	
Local 1403, AFL-CIO,)	
)	
Labor Organization,)	PERB Case No. 05-CU-02
)	Opinion No. 806
)	
and)	
)	
)	
District of Columbia Government,)	
)	
Respondent.)	
)	
)	

DECISION AND ORDER ON COMPENSATION UNIT DETERMINATION

I. Statement of the Case:

In Slip Op. No. 743, the Public Employee Relations Board ("Board"), determined that a city-wide unit consisting of all subordinate agency attorneys, was an appropriate unit.¹ As a result, the

¹ In Slip Op. No. 743 (PERB Case No. 02-RC-06) the Board noted that the multi agency unit consists of "all attorneys within the Legal Service who come within the personnel authority of the Mayor . . . excluding attorneys employed exclusively by [either] the Office of the Corporation Counsel. [or by the Public Service Commission]...[However, the city-wide multi agency unit would include attorneys at the following subordinate agencies:],...Department of Consumer and Regulatory Affairs; the Office of Cable Television and Telecommunications; Department of Corrections; Department of Health; Department of Employment Services; Department of Public Works; Department of Insurance and Securities Regulation; Department of Human Services; Office of Contracts and Procurement; Office of Banking and Financial Institutions; Office of the Chief Medical Examiner; Alcoholic Beverage Regulation Administration, and the Department of Parks and Recreation." Slip Op. at n. 2. All of the attorneys in this city-wide unit are assigned to

Board directed that an election be held. Subsequently, on April 19, 2005 the Board certified the American Federation of Government Employees ("AFGE"), Local 1403, as the exclusive representative for the following unit:

All attorneys within the Legal Service who come within the personnel authority of the Mayor of the District of Columbia, excluding attorneys employed exclusively by the Office of the Attorney General for the District of Columbia (formerly the Office of the Corporation Counsel), 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.

On April 25, 2005, AFGE, Local 1403 and the Office of Labor Relations and Collective Bargaining ("OLRCB"), filed a "Joint Petition for Compensation Unit Determination" ("Petition").² AFGE and OLRCB are seeking a determination of the appropriate unit for the purpose of negotiations for compensation, for the city-wide unit of subordinate agency attorneys. Notices concerning the Petition were issued in June 2005. These Notices were posted at the various agencies where these attorneys are employed. The Notices solicited comments concerning the appropriate compensation unit placement for this unit of employees. The Notices required that comments be filed in the Board's office no later than July 25, 2005. OLRCB confirmed that the Notices had been posted.

The parties' Petition is before the Board for disposition.

the General Counsels' offices of the various subordinate agencies; however, these still report to the Office of the Attorney General (formally the Office of the Corporation Counsel).

² 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 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.).

II. Discussion

AFGE and OLRCB are seeking a determination of an appropriate unit for the purpose of negotiations for compensation, for a city-wide unit of subordinate agency attorneys.

In their Petition, both AFGE and OLRCB assert that the appropriate placement for compensation negotiations for this unit of employees is Compensation Unit No. 33.³ Specifically, the parties contend that the appropriate compensation unit should be a broad occupational group encompassing all attorneys employed pursuant to the Legal Services Establishment Act of 1998 ("Legal Services Establishment Act"), regardless of where in the District government they are employed. Furthermore, they claim that one of the bases for this argument is the uniqueness of this compensation unit. Finally, OLRCB and AFGE argue that Compensation Unit 33 is a "broad occupational group" and by placing the city-wide unit of subordinate agency attorneys in this unit, it will minimize the number of the pay systems for attorneys employed pursuant to the Legal Services Establishment Act. In view of above, OLRCB and AFGE propose that the following unit is the most appropriate unit for the purpose of negotiations for compensation pursuant to D.C. Code § 1-617.16 (2001 ed.):

All attorneys within the legal service who come within the personnel authority of the Mayor of the District of Columbia and who are currently represented by labor organizations certified as exclusive bargaining agents for non-compensation bargaining by the Public Employee Relations Board.

The standard under D.C. Code § 1-617.16(b) (2001 ed.) for determining the appropriate compensation unit expresses a strong preference for "broad units of occupational groups". Specifically, D.C. Code § 1-617.16 (b) (2001 ed.) provides in pertinent part as follows.

³ The description for Compensation Unit No. 33 is as follows:

All attorneys within the legal service who come within the personnel authority of the Mayor of the District of Columbia and who are currently represented by labor organizations certified as exclusive bargaining agents for non-compensation bargaining by the Public Employee Relations Board. Slip Op. No. 694, (2002) PERB Case No. 02-CU-01.

In determining appropriate bargaining units 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.

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

- I. The employees of the proposed unit comprise broad occupational groups; and
- II. The proposed unit minimizes the number of different pay systems or schemes.

We believe that the first prong of the test is met by the proposed compensation unit, since AFGE, Local 1403, is seeking that the city-wide unit of subordinate agency attorneys be placed in an existing compensation unit comprised of a group of attorneys employed by the office of the Attorney General who possess certain general skills, are in classification DS-0905 and in grades 11-15. In addition, these attorneys are paid pursuant to the same unique compensation system that is used to pay the other attorneys who are currently in Compensation Unit No. 33.

The second prong of the test is also fulfilled. Simply put, a smaller number of compensation bargaining units would ultimately result in a smaller number of pay systems.

For the above-noted reasons, we find that placing the city-wide unit of all subordinate agency attorneys in Compensation Unit No. 33 effectuates the policies of the Comprehensive Merit Personnel Act of 1978. Therefore, we conclude that placing these employees in the unit set forth below is appropriate for collective bargaining over compensation:

All attorneys within the legal service who come within the personnel authority of the Mayor of the District of Columbia and who are currently represented by labor organizations certified as exclusive bargaining agents for non-compensation bargaining by the Public Employee Relations Board.

ORDER

IT IS HEREBY ORDERED THAT:

The unit of attorneys found appropriate for terms-and-conditions bargaining in Slip Opinion No. 743, is also authorized to be placed in the existing Compensation Unit No. 33 for the purpose of negotiations concerning compensation as follows:

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Compensation Unit No. 33

All attorneys within the legal service who come within the personnel authority of the Mayor of the District of Columbia and who are currently represented by labor organizations certified as exclusive bargaining agents for non-compensation bargaining by the Public Employee Relations Board.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

August 12, 2005

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD**

In the matter of:)	
)	
American Federation of Government)	
Employees, Local 1403, AFL-CIO,)	
)	
Labor Organization,)	PERB Case No. 05-CU-02
)	Opinion No. 806
and)	
)	
District of Columbia Government,)	
)	
Agency.)	
)	

AMENDED AUTHORIZATION¹

Pursuant to the District of Columbia Merit Personnel Act of 1978, as codified in D.C. Code Sections 1-605.02 (2001 ed.) and 1-617.16 (b) (2001 ed.), the Public Employee Relations Board (Board) has determined that the Compensation Unit described below, which the Board has determined appropriate in Slip Opinion No. 694 issued October 30, 2002, shall be amended to include the city-wide unit of all subordinate agency attorneys. The city-wide unit of subordinate agency attorneys was found appropriate by the Board for non-compensation bargaining in Slip Opinion No. 743 issued on August 12, 2005. In light of the above, the two units found appropriate for non-compensation in Slip Opinion Numbers 694 and 743, shall therefore constitute a unit for the purpose of compensation bargaining:

¹ As amended, Compensation Unit 33 consists of "all attorneys within the Legal Service who come within the personnel authority of the Mayor" including attorneys employed exclusively by the Office of the Attorney General (formally the Office of the Corporation Counsel). In addition, the unit includes attorneys at the following subordinate agencies: Department of Consumer and Regulatory Affairs; the Office of Cable Television and Telecommunications; Department of Corrections; Department of Health; Department of Employment Services; Department of Public Works; Department of Insurance and Securities Regulation; Department of Human Services; Office of Contracts and Procurement; Office of Banking and Financial Institutions; Office of the Chief Medical Examiner; Alcoholic Beverage Regulation Administration, and the Department of Parks and Recreation. However, the attorneys employed by the Public Service Commission are excluded from this Compensation Unit.

Authorization

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Compensation Unit No. 33:

All attorneys within the legal service who come within the personnel authority of the Mayor of the District of Columbia and who are currently represented by labor organizations certified as exclusive bargaining agents for non-compensation bargaining by the Public Employee Relations Board.

BY AUTHORITY OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.


Julio A. Castillo
Executive Director

August 12, 2005

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order on Compensation Unit Determination in PERB Case No. 05-CU-02 was transmitted via Facsimile and/or U.S. Mail to the following parties on this the 12th day on August 2005.

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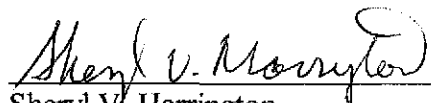
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