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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,)	
Complainant,)	PERB Case No. 02-CU-01
)	Opinion No. 694
v.)	
)	
District of Columbia Office of the)	
Corporation Counsel,)	
Respondent.)	
)	

DECISION AND ORDER ON COMPENSATION UNIT DETERMINATION

On June 26, 2001, the Public Employee Relations Board (Board), in Slip Opinion No. 657, certified the American Federation of Government Employees (AFGE), Local 1403, as the exclusive representative of the following unit:

All attorneys employed by the Office of the Corporation Counsel excluding 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.

(“ Legal Services Establishment Act”), regardless of where in the District government they are employed. Furthermore, OLRCB claims that one of the basis for this argument is the uniqueness of this compensation unit.² Finally, OLRCB argues that the unit they are proposing is a “ broad occupational group” which will minimize the number of pay systems for attorneys employed pursuant to the Legal Services Establishment Act. In view of above, OLRCB contends 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.

Subsequent to OLRCB’s filing, AFGE, Local 1403, submitted a supplemental pleading in which it concurred with OLRCB’s comments.

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 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.

Furthermore, we have 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 establishing a new separate compensation unit, since AFGE, Local 1403, seeks creation of a new compensation unit comprised of a group of attorneys who possess certain general skills, are in classification DS-0905 and in grades 11-15. In

²OLRCB claims that the Legal Services Establishment Act was enacted to create a cadre of attorneys that are highly qualified and responsive to the needs of the subordinate agencies of the District. Furthermore, OLRCB asserts that the attorneys employed under the Legal Services Establishment Act have different procedures for hiring, termination, supervision, transfer and disciplinary actions, than other employees within the District government.

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On May 28, 2002, AFGE, Local 1403, filed a "Petition for a Compensation Unit Determination" ("Petition"). AFGE is seeking a determination of an appropriate unit for the purpose of negotiations for compensation, for the unit of attorneys employed by the Office of the Corporation Counsel. Notices concerning the Petition were issued in July 2002, for conspicuous posting at the Office of the Corporation Counsel. 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 July 31, 2002. The Office of the Corporation Counsel confirmed that the Notices had been posted. Also, the Office of Labor Relations and Collective Bargaining (OLRCB) submitted comments on behalf of the Office of the Corporation Counsel.

AFGE's petition is before the Board for disposition.

AFGE is seeking a determination of an appropriate unit for the purpose of negotiations for compensation, for a unit of attorneys employed by the District of Columbia Office of the Corporation Counsel. The compensation unit proposed by AFGE is as follows:

All attorneys employed by the Office of the Corporation Counsel who currently have their compensation set in accordance with the District Service (DS) Schedule, Series 905 and the DS Special Rate Schedule established pursuant to the Legal Services Establishment Act of 1998; but excluding 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.

OLRCB submitted comments on behalf of the Office of the Corporation Counsel. In their comments, OLRCB asserts that the appropriate unit for compensation negotiation should not be limited to the unit in the Office of the Corporation Counsel, which is represented by AFGE. Instead, OLRCB contends that the appropriate compensation unit should be a broad occupational group encompassing all attorneys employed pursuant to the Legal Services Establishment Act of 1998

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 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.).

addition, these employees are paid pursuant to a unique compensation system.

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 establishing a new separate compensation unit effectuates the policies of the Comprehensive Merit Personnel Act of 1978. Therefore, we conclude that 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. 657, is also authorized as a separate unit for the purpose of negotiations concerning compensation as follows:

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.

October 30, 2002