AFGE Congressional Testimony

STATEMENT BY

J. DAVID COX, SR.
NATIONAL PRESIDENT
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

BEFORE

SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE
SUBCOMMITTEE ON REGULATORY AFFAIRS AND FEDERAL MANAGEMENT

ON

IMPROVING PAY FLEXIBILITIES IN THE FEDERAL WORKFORCE

October 22, 2015

American Federation of Government Employees, AFL-CIO
80 F Street, NW, Washington, D.C. 20001 ★ (202) 737-8700 ★ www.afge.org

Mr. Chairman and Members of the Committee: My name is J. David Cox, Sr. and I am the National President of the American Federation of Government Employees, AFL-CIO (AFGE). Our union proudly represents approximately 670,000 federal and District of Columbia employees across the nation and around the world. I am pleased to have the opportunity to submit this statement on their behalf. No one cares more about federal workforce issues than AFGE. Our members are the Department of Defense civilians who provide support to our warfighters, the Department of Veterans' Affairs employees who provide both health care and benefits to our nation's veterans, Social Security claims representatives, corrections officers in the Bureau of Prisons, Border Patrol Agents, Transportation Security Officers, FEMA personnel, those who enforce wage and hour, occupational safety, and pension protections laws in the Department of Labor, and many more throughout the Executive Branch.

The oil boom in the Bakken region of North Dakota and eastern Montana has been a "shock" to the economy there. In a very short span of time, demand for all goods and services in the area skyrocketed. Before the boom in 2006, wages in the Bakken region were lower than they were in the rest of Montana and North Dakota. In the last quarter of 2014, average weekly wages in Bakken oil counties were almost double those in the rest of Montana and 40 percent higher than those in the rest of North Dakota. Unemployment has also been much lower in the Bakken oil counties than in non-oil counties of both states. The Bakken region clearly stood out from other states as well as other regions of the United States.

Everyone has heard, anecdotally, about McDonald's offering starting pay of $11 or $12 per hour and charging $1.39 for what elsewhere in America is the "dollar menu."

Everyone has heard about overflowing “man camps” housing oil workers who moved to the region to take advantage of the jobs and wages that overflowed during the boom.

The private sector did its best to accommodate the rapid shifts in demand that characterized the eight years of boom. It’s important to remember that initially, even in the private sector, the market adjustment in the regional labor market was not a rise in wages but rather a rise in the supply of labor. People poured into the region to take advantage of job opportunities created by the oil boom. The supply of housing and other amenities rose immediately, but wages did not because there was no shortage of workers. Only toward the middle and end of the boom did private sector wages – including those at McDonald’s – go up substantially.

The federal government was slower than private employers in adjusting wages. *But the reason for the relative slowness of federal agencies to raise wages had nothing to do with the federal pay system and everything to do with bureaucratic delays and a strong reluctance on the part of the agencies to incur higher costs.*

It took a tremendous amount of urging and lobbying and nudging and pestering and public shaming to persuade the Department of Defense and the Office of Personnel Management (OPM) to exercise their authorities under the law to put in place “special rates” to respond to the higher wages in the region. A year ago, in October 2014, I wrote to Katherine Archuleta, then the Director of OPM, asking her to make good on promises she made during a town hall meeting at Minot Air Force Base weeks earlier. The reason she went to North Dakota was that she was pressed so hard during a hearing of this committee five months earlier.

It is customary for agencies to blame one another for controversial or unpopular actions. With regard to the Bakken region, OPM insisted that they were ready to approve special rates for Bakken in the blink of an eye, if only DoD and the Department of the Interior, the two largest agencies in the region, were to ask formally. DoD blamed budget austerity (the Office of Management and Budget) and OPM's regulatory/bureaucratic complexities for its failure to act.

This blame game is, unfortunately, all too familiar to AFGE. Right now, thousands of the lowest graded jobs in the Department of Veterans' Affairs are being downgraded in a completely arbitrary and probably illegal manner. And although Secretary McDonald has issued a moratorium on downgrades, they continue to occur. The "human resources" specialists in the VA insist that OPM is making them do it. OPM, in turn, pleads innocence. It is a frustrating situation and not unlike the one we dealt with in our efforts to secure higher wages and salaries in the Bakken region.

In March of 2015, OPM approved higher *wage rates* for numerous occupations at Minot Air Force Base, three National Guard bureaus in North Dakota, two Army Corps of Engineers installations in North Dakota, at the Agricultural Research Service in North Dakota, at the Bureau of Reclamation in one county in Montana and one in North Dakota, as well as the National Park Service and the Fish and Wildlife Service in several North Dakota counties. Six weeks later, special *salaries* were approved by OPM and implemented in the Department of the Air Force, the Army National Guard, the Army Corps of Engineers, the Department of the Interior's Bureau of Land Management, the Departments of Agriculture, Homeland Security, and Transportation, the Department of Energy, and the Department of Labor's OSHA.

One legitimate delay occurred after DoD and DoI finally made their request of OPM. OPM asked all the agencies in the Bakken region whether they, too, wanted to establish special rates for the occupations requested by DoD and DoI, or for other occupations, so that there would be consistency within the government.

In all, it takes OPM just eight to twelve weeks to approve and process special rate requests, and that includes the time it takes to ask other agencies (besides the ones doing the initial request) whether they want to be included. In my view, this is a fair turnaround time.

In no way should the history of the effort to secure special rates for the Bakken region be interpreted as a story of inadequate pay flexibilities in the federal pay systems. Within two months of DoD's request, hourly workers in the Bakken region had new special wage rates implemented. Within twelve weeks of DoD and DoI's request, salaried federal workers in certain occupations had new, higher special rates as well.

The Federal Pay Comparability Act (FEPCA), the law that governs the locality pay system for federal white collar employees, is sometimes misunderstood as providing a cost-of-living adjustment and a local labor market adjustment. By habit, many people refer to the nationwide across-the-board adjustment as a "cola." But FEPCA provides pay adjustments solely on the basis of labor market comparability data, not cost of living data from the Consumer Price Index (CPI). FEPCA uses the Employment Cost Index (ECI), a Bureau of Labor Statistics measure of changes in private sector wages and salaries. Thus, in a region like Bakken where measures of the cost of living went way up, the federal pay system was required to restrict itself mostly, but not exclusively, to measures of the cost of *labor*.

Here is how flexible the federal pay systems are when faced with situations like the one that occurred during the Bakken oil boom: the Department of Defense was authorized to implement a ten percent across-the-board “group retention incentive” without OPM approval, but it chose not to do so. With OPM approval, DoD could have provided up to a 50 percent “group retention incentive” but it chose not to do so. The failure to provide these payments to alleviate the economic stress on federal employees in the Bakken region was not due to lack of statutory authority on the part of the agencies or OPM, it was because they chose not to exercise their authority.

What ultimately occurred was the application of special, higher wages and salaries, to specific positions for which agencies faced difficulties in recruitment or retention. Not every federal employee in the region received higher pay. The special rates were not the group incentive payments that are designed to reflect changes in the cost of living. The special salary rates were given to ten percent of the General Schedule workforce, and the occupations targeted were engineers and computer specialists. A little over half of the hourly workforce, those whose occupations are in the skilled trades, received special rates. Federal agencies apparently decided that they were not at risk of losing most of their employees to other employers and were only facing recruitment problems in certain STEM fields. We believe that the agencies should have exercised their authority to provide group incentives. It is clear that austerity was their primary excuse.

Conclusion

There is no question that current law and regulation contain fully adequate flexibilities for responding to special economic situations such as surges in demand and prices. The delayed and limited action on the part of federal agencies in response to the oil boom in the Bakken region was wholly a function of austerity budgets and bureaucratic foot-dragging on the part of agencies. OPM did its part and did so quickly.

The federal pay system's only real problem is the refusal of successive Congresses and successive presidential administrations to provide adequate funding. The federal pay systems, both the Federal Wage System for hourly employees and the General Schedule Locality Pay System for salaried employees, are supposed to be market-sensitive comparability systems. Federal pay is supposed to track pay in the private sector and state and local government for similar jobs.

The period of the Bakken boom coincided with an unprecedented period of attack on federal compensation, in terms of wages and salaries and retirement benefits. Wages and salaries were frozen in 2010, 2011, and 2013. In 2014 and 2015, federal employees received just one percent pay adjustments. During that period, the pay of newly hired employees was cut across-the-board by requiring higher retirement "contributions." Salaries for those hired in 2013 will be 2.3 percent lower than their co-workers hired prior to that year, and salaries for those hired in 2014 or after will be 3.6 percent lower than those hired prior to 2013. The impact of frozen salaries, miniscule raises, retirement cuts, and sequestration furloughs, not to mention unacknowledged cost burdens placed on federal employees from government shutdowns comes to a total of $159 billion.

The bottom line is that the federal pay systems suffer from a lack of funding, not a lack of flexibility. The treatment of federal employees over the past several years has been a disgrace to this nation, an insult to the dedication, skill, and commitment of this highly patriotic workforce, and ultimately, a disservice to the American people who rely on us for high-quality government service. That federal workers continue to serve with such perseverance and devotion is a source of constant pride and amazement to me.