

NIH Labor-Management Partnership Council Meeting Minutes Monday, December 18, 2002

Attendees: Dr. Zerhouni, Chick Leasure, Alberta Bourn, Ed Burns, John Czajkowski, Phil Lenowitz, Sandra Miller, Tim Tosten, David Ramos, Chris Steyer, Steve Ficca, Hank Primas, Kenny Jaholske, Howard Hochman, Charles Palmer, Linda Tarlow, Tim Wheelles, Tom Fitzpatrick, Leonard Taylor, Richard Laubach, Walter Jones, Clyde Bartz, Arturo Giron, Tony Clifford, Rita Sweeney, Paul Donaldson, Joe D'Ambrosio and Barry Kevin.

Facilitator: Fern Kaufman.

Old Business: Minutes of the November 25, 2002 meeting were reviewed and approved.

New Business

Discussion with the Director: Dr. Elias Zerhouni, Director NIH. Mr. Fred Walker, Acting Director of the Office of Human Resources, introduced the Dr. Zerhouni. Fred requested that any questions be kept at a higher level since the Director doesn't have familiarity with the details of many of these issues.

Dr. Zerhouni opened by saying that he was glad to be here and that he is hoping to have a dialog on the important issues. While not familiar until recently with the Partnership Council, he did wonder about how relations between the unions and management were maintained. He holds the belief that Human Capital management is more important than managing other assets such as facilities and computers. At NIH thousands of people are serving a noble purpose and he feels it is important we maintain accountability to the taxpayer and that our actions are transparent. As the Director he is not and cannot be knowledgeable about everything that is going on at the NIH, but meetings like this help him gain valuable insight.

The floor was opened and Mr. Richard Laubach of AFGE posed the first question, concerning the implementation of OMB Circular A-76 regulations. He is under the impression that agencies undergoing re-organization are exempt from the A-76 study requirements and that perhaps the President is ordering an action that is in conflict with the FAIR Act. Tim Wheelles from the Office of Management Assessment stated that while it may appear that the FAIR Act and the OMB Circular A-76 are in conflict, we at NIH are coordinating our efforts through the Department to conduct our studies while implementing Department mandated re-organization efforts in accordance with all applicable regulations.

Mr. Laubach raised the question of a future Reduction-In-Force (RIF) at NIH. As an example he cited the difficulty in placing the 10 employees from the Stonestreet printing facility. What happens when the numbers of employees gets much larger? How will a RIF be organized when the A-76 studies are focused on a function and not a trade? Mr. Leasure stated that talk of a RIF at this point is counter-productive. Mr. Laubach asserted that his questions are actually forward-looking, as this process will become more difficult on all concerned. Mr. Ed Burns raised the issue of the stress level on the employees and how this is to be dealt with. What are the plans at this point and what is

being done for a “soft landing” (resumes, placement assistance, etc.)? Dr. Zerhouni said NIH is committed to assisting all employees. Mr. Walker described a contract proposal being prepared in his office for a career placement center that is to be established to assist affected employees. Emphasis at the center will be on resumes, skill enhancement, and placement inside and outside the NIH. The placement center will be in existence for the duration of the administrative restructuring and A-76 processes. Mr. Burns would like this information published and widely disseminated; he believes this will lower the stress level among employees. Mr. Leonard Taylor discussed the first wave of these workers that are landing at ORS. To deal with this, ORS will be conducting 3 stand-up meetings and will be sending out a global email to advertise this effort. The 3 meeting topics will be:

- Competitive Sourcing Studies.
- Career Support: The Career Resources Services (CRS). Of the 10 printing plant employees only 3 have not yet been placed and training/re-training has been very successful.
- Life Management Issues: The Employee Assistance Program (EAP) will conduct seminars on stress management and provide one-on-one counseling.

With the institution of this plan ORS will have already put in place what the union has asked for.

Mr. Laubach inquired why the printing plant positions were not designated as Career Opportunities Training Agreement (COTA) instead of priority placement and whether this will eventually result in a disparity between how ICs treat their employees? Mr. Taylor stated that one recommendation is to let the IC solve the problem first. COTA position have been available in the Shops Section of Public Works as a result of working with AFGE, and that the Division of Engineering Services will have competition for COTA positions in the future. Mr. Laubach noted the concern that any program in an IC leaves control of that program with IC management. Also, that ORS placement is not scalable since the numbers will be getting larger and most of the workers will be coming from ORS, making placement increasingly difficult. Mr. Walker said the NIH policy is to let the IC attempt to place the employee. If that isn't successful then NIH will use their resources to train and/or place the employee. Placement will be broad with both informal and formal means being used. Mr. Laubach again asked about COTA and why it is not being used more extensively? Mr. Walker stated that priority placement makes COTA unnecessary. COTA is formal and competitive and priority placement, which is informal, can achieve the desired results just as effectively, but sooner. Mr. Laubach voice his organization's desire to see that quality training is conducted, not just cursory computer training, minimum assessments and minimum qualifications. Mr. Walker was emphatic that all employees must and will be fully qualified, per OPM standards, and that any evaluation must be certified. Mr. Leasure said he recognizes that A-76 and its ramifications are a big issue for all. At this time, management has no idea how many employees will actually be affected.

Mr. Burns of AFGE introduced the topic of security and the police force. His concern is the safety and security of NIH employees. He recalled a recent event where he found the discarded clothes from construction workers in a storage room, which indicated to him that construction workers or someone dressed as construction workers may have gained unauthorized access to the Clinical Center. It appears that the security guards did

not prevent their access. This demonstrates to him that we need to beef-up the NIH police force. Dr. Zerhouni recognized that this is a problem at NIH and a problem that is impacting the whole National Capital region. Two issues at NIH are having a greater impact: 1. As a result of the terrorist attacks of 9/11 we have a heightened state of security to maintain. 2. The campus is in evolution due to large construction projects. Mr. Burns said he was thinking more along the lines of a national recruiting effort. Possibly conducting salary comparisons and then advertising our salary in geographic areas with significantly lower salaries. Mr. Steve Ficca acknowledged the police force problem, but recruiting has been successful, it is retention that is the problem. Since 9/11/01 NIH has hired 37 officers and 35 have left for other law enforcement positions. Several initiatives are underway that will make a position as a NIH police officer more attractive. Law Enforcement Officer (LEO) status has been requested from the department and is moving forward. LEO status will result in higher pay. A letter has been sent requesting authority to deputize NIH police officers as special federal marshals for jurisdictional purposes. An increase in the current retention bonus is being examined. Mr. Ficca mentioned that all contractors, prior to receiving a NIH security badge, do undergo a background investigation. Also, recently installed equipment enables the security office to get results on fingerprint checks back in 4 days; a great improvement over the previous method that took much longer. Dr. Zerhouni stated that he would like to see "crime trend" information for the NIH campus, saying he would like to get a sense of the trends. Mr. Arturo Giron said he thought the trends were fine, and that the real issue is access. While access is not as tight as it should be, improvements are in progress including the new construction of a perimeter fence and a new security contract that will increase the number of guards. Concerning the police officers, improved pay and benefits will aid retention. The median age of the police force has been rising recently, with the younger officers leaving. NIH management has been working with the U.S. Office of Personnel Management to index NIH's officer pay with that of the U.S. Park Police, and that effort continues.

Mr. Paul Donaldson of the IAFF raised the issue of how the firefighters will be impacted, specifically their special retirement benefits and those who benefit from working more than 40 hours per week. Will those workers have some protections like pay retention or DoD's "Save Pay" program? Mr. Walker referred to the contract proposal for an NIH placement center, which he said would have a provision for placement of NIH firefighter personnel in federal positions. As far as pay retention is concerned, there are two circumstances where "Save Pay" or pay retention would be applicable; when a RIF is in place or when a position is determined by OPM to be misclassified and the position is down-graded. Neither of those situations are present.

Dr. Zerhouni was required to depart due to another commitment, but he said he was very much please with the exchanges he has seen. Clearly the participants feel strongly about these issues, and that demonstrates to him the depth of their commitments to NIH. Mr. Ed Burns asked whether the union leaders would have more access to him in the future. Dr. Zerhouni said he would do his best.

The conversation continued. Mr. Donaldson asked why OMB specifically targeted the firefighting function. Mr. Ficca said both the firefighting and law enforcement functions were originally targeted, but that they backed-off of the law enforcement function. The firefighting function has been kept as one to be studied. Mr.

Ficca noted the evolving mission of the NIH firefighters. In the months ahead, the NIH fire department will take on more responsibilities related to the construction of high-containment facilities and additional duties related to a Department initiative to train civilian first-responders. Mr. Donaldson asked whether the fire fighters would be able to attend the workgroups who will be preparing the Statement of Work and the Reviews of the fire fighting function? Mr. Giron said yes, they would be involved in both. Mr. Tom Fitzpatrick struck a note of caution, saying that firewalls must be established early in the process for everyone's protection. The right of first refusal must be preserved. The union is prevented from presenting the union's position; and it must be kept in mind that the universe of firefighters is very small and even the appearance of any conflict of interest must be avoided. Mr. Ken Jaholske asked about changes to OMB Circular A-76, and whether they were posted in the Federal Register. Mr. Wheelles noted that a link to the changes documented in the Federal Register would be placed on the NIH A-76 web page. Mr. Laubach noted that the agency no longer provides paper copies of the Federal Register, which he agreed to, and now he wonders whether we have hurt ourselves by minimizing the actual reviews that are taking place because training on how to research the Register electronically has not been provided. Concerning the upcoming joint A-76 training, Mr. Laubach wondered how a multi-day training curriculum could be condensed down to a 1-day session. Mr. Wheelles explained that the NIH has limited resources and the aim of the joint training session is to make the attendees generally knowledgeable about the A-76 process. The multi-day courses are aimed at "A-76 practitioners".

Speaking of NIH resources, Mr. Burns asked about unrestricted union access to the global email system. AFGE would like to let everyone know that they have an A-76 expert. Other non-governmental organizations, such as BIG, GLAD, etc. are allowed to use the email system, why can't the union? Mr. Wheelles, who is a member of the global email committee, said the List Serve Group guidance delineates who may use and how they may use the system. He said the groups mentioned have requested to send out global emails and have been turned-down. Mr. Walker said the union should not have access to all employees, only the ones they are authorized to represent. Other groups do not get to advertise, via email, meetings they intend to hold about management programs. The content of the email is what is in question, not the position of the person who wants to send the email. Mr. Laubach asked why, if the union can post anything it wants on any bulletin board in any NIH building, it can not send out a global email which is more efficient? Mr. Leasure responded that what make email efficient is the limited volume and the perception that management endorses the content. No one at NIH has carte blanche to send out global emails.

Updating and Signing a New Partnership Agreement: During a discussion of this topic at the November meeting Richard Laubach of AFGE recommended that Randy Schools, the Recreation & Welfare (R&W) manager, be a candidate to represent all NIH employees not represented by a union. Mr. Tim Tosten, the program manager that administers Mr. Schools' agreement as R&W President, reported that Mr. Schools' function is limited strictly to R&W activities. Mr. Laubach inquired as to the number of R&W members. No one knew the answer. He also stated that he thought Mr. Schools might be a good representative. Mr. Taylor said he has thought about this issue and has a suggestion that the Council could consider at a later meeting. The suggestion is that one person from

each IC could attend, however, that may be hard to handle. Mr. Leasure commented that this is a Labor-Management Council, not for R&W and other such entities. The Council has a very specific purpose, which is to discuss labor-management issues. Richard Laubach said the original Executive Order had a mandate that included all employees as well. Mr. Phil Lenowitz referenced his experience with the Veterans Administration, where they did allow other employees and what resulted was a diminished effectiveness of the Council. The discussion of this issue will continue at the next Partnership Council meeting.

Misc.

- Mr. Leonard Taylor made an announcement that ORS has made a decision concerning the A-76 process for the Public Works Branch. An all-inclusive full review will be conducted. The effort will begin with a performance-based statement to form an organization for the future. They believe this effort is in the best interest of NIH. Mr. Laubach stated that AFGE is pleased with this outcome.

- Mr. Ed Burns inquired about Question #7 from the minutes of last month's meeting:

Is NIH or the Commercial Activities Steering Committee proposing to comment on changes in the A-76 rules, currently in the 30-day public comment phase, in the Federal Register?

Has NIH made a submission? Mr. Wheelles stated that NIH has made a submission to HHS with the Department making a consolidated submission to OMB. He did not know if the NIH comments were ultimately submitted to the Federal Register. Mr. Burns asked if the unions could obtain a copy of the NIH input. Mr. Wheelles said yes, and that he would forward a copy to all concerned.

- Mr. Burns also asked about the upcoming Joint Union/Labor Relations/Personnel A-76 training session scheduled for January. The date is still tentative, possibly the 7th or the 16th. Mr. Burns asked that if the training session is held after the 15th, the date of the next Partnership Council meeting, could the meeting be re-scheduled. Mr. Kevin told him the appropriate schedule change could and would be accommodated.