

FACTFINDING REPORT AND RECOMMENDATIONS

In the Matter of Factfinding:)	
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METROPOLITAN WATER DISTRICT OF)	PERB IMPASSE
SOUTHERN CALIFORNIA)	No. LA-IM-106-M
)	General Employee Unit (Unit 02)
Employer,)	
)	DATE ISSUED:
and)	
)	November 28, 2012
AFSCME, LOCAL 1902)	
)	
Union.)	

Factfinding Panel:

Impartial Chairperson:

_____ **Walter F. Daugherty**
 Arbitrator/Factfinder

Employer Member:

Daniel C. Cassidy
 Attorney at Law
 Liebert Cassidy Whitmore

Union Member:

Walter Cochran-Bond
 Attorney at Law
 Cochran-Bond Law Offices

Appearances:

For the Employer:

Henry Torres, Jr.
 Chief Deputy General Counsel
 Metropolitan Water District of
 Southern California

For the Union:

Anthony R. Segall
 Attorney at Law
 -and-
Eli Naduris-Weissman
 Attorney at Law
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BACKGROUND AND PROCEDURAL HISTORY

AFSCME Local 1902 (“Union”) is the certified exclusive representative for employees in the General Employee Unit (Unit 02) employed by the Metropolitan Water District of Southern California (“District” or “Employer”). This Unit totals some 1,300 employees in more than 100 job classifications including clerical, skilled trades, professional, and administrative support employees.

Some five years ago the parties commenced a Joint Classification and Compensation Study. Since this study began, more than 200 new job descriptions have been agreed upon by the parties. The parties have been engaged in bargaining over the salaries for these new classifications since October 2011. In their negotiations, the parties have used comparative salary data gathered from surveys of nine comparator agencies and agreed that for classifications where there were less than three matching comparator agencies the data was invalid. These negotiations also produced agreements on the implementation of a two-tier salary system – the Schedule B salary ranges – with lower pay rates for new hires in approximately 35 classifications. However, the salary ranges for some 16 of these classifications remain unresolved. Schedule B salary ranges were established for new classifications, classifications “carved out” of existing classifications, and current classifications. Incumbent employees will not have their pay reduced upon the implementation of the Schedule B salary rates. According to the District, the salary increases negotiated in connection with the Joint Classification and Compensation Study total some \$1.6 million per year.

On June 5, 2012, the Union declared an impasse that was referred to a jointly selected mediator to provide assistance in resolving the dispute. A request for factfinding was afterwards

filed by the Union but held in abeyance pending further mediation. During the August 21, 2012 mediation session, the District presented its last, best, and final offer. On August 23, 2012, the Union submitted its counterproposal, which was rejected by the District.

On September 4, 2012, the Public Employment Relations Board (“PERB”) was notified of the Union’s intent to reactivate its request for factfinding. By letter dated September 12, 2012 from the PERB, the undersigned was notified of his selection by the parties to serve as the Chairperson of the Factfinding Panel pursuant to Government Code Section 3505.4. Daniel C. Cassidy was designated as the Employer’s Panel Member and the Union selected Walter Cochran-Bond as its Panel Member. The nine items identified in the Union’s August 21, 2012 mediation proposal and rejected by the District comprise the issues referred to the Factfinding Panel.

At the request of the Chairperson, both parties waived the statutory time limits for the hearing and the completion of the factfinding process. Factfinding hearings were held on October 3, 4, and November 8, 2012 at which both parties appeared and were afforded full opportunity to present evidence and offer argument. The presentations of the parties’ respective proposals were presented in a “point – counterpoint” fashion, with each party having the opportunity to present and explain its proposals and respond to the other party’s proposals. The hearing was not transcribed and post-hearing briefs were not filed. The Factfinding Panel (“Panel”) met in executive sessions on October 4 and November 8, 2012 following the parties’ presentations. On November 15, 2012, the Chairperson by e-mail forwarded copies of the Report and Recommendations to the Panel Members for review. The Panel Members informed the Chairperson that they were each in full concurrence with the Report and Recommendations.

ISSUES AND RECOMMENDATIONS

As previously noted, the positions of the parties with respect to the nine issues before the Panel were presented in a “point – counterpoint” fashion, with each issue addressed sequentially. This format will be followed here, with a brief summary of each disputed issue and the Panel’s rationale and recommendation following.

Issue 1 – Senior Planner Scheduler Slotting

The parties disagree regarding the assignment of eleven employees currently classified as Engineering Technician II’s to the newly created Planner Scheduler and Senior Planner Scheduler classifications. Five of these employees are assigned to the District treatment plants, while the other six such employees are assigned to various other District facilities.

The parties have characterized this issue as a “slotting” dispute, with the Union concerned that the Senior Planner position will remain an unfilled classification while the District expressed reservations that a commitment to fill a specific number of Senior Planner positions undermines its right to decide staffing levels. The District, however, represented that it intended to slot some employees into the Senior Planner classification and will do so based on comparison of the duties performed by the current employees with the Senior Planner job description.

In addressing this dispute, the Panel first notes that the District has indicated its intention that at some point it will assign employees to Senior Planner positions. The Panel notes further that guidance in this matter is afforded by the very agreement that the parties themselves reached in January 2008 regarding O & M Salaries and the slotting of certain employees covered by the

agreement.¹ The manner in which the parties resolved the issue of slotting comprises a reasonable basis on which to resolve the dispute presented here. As such, and in consideration of the District's statement that it intends to fill some positions at the senior level, it is recommended that within 120 days of adoption of this agreement the District shall identify those employees who should be classified as Senior Planner Schedulers and slot them in that classification accordingly. Any employee who is so slotted in the Senior Planner Scheduler classification shall be considered to have held the classification as of the effective date of the adoption of the agreement regarding the classification plan. This conclusion is not to be construed as a recommendation setting or establishing minimum staffing levels for the classifications in question for future District operations.

Issue 2 – Instrumentation and Control Technician Job Family Salary Levels

This dispute focuses on the salary levels for the Instrumentation and Control Technician I, Instrumentation and Control Technician II, and Instrumentation and Control Technician III classifications. These new classifications reflect reclassifications of certain positions currently classified as Assistant Electronic Technicians and Electronic Technician I's and II's. The District has proposed salaries at the levels of labor grades 31, 36, and 41 for the Instrumentation and Control Technician I, Instrumentation and Control Technician II, and Instrumentation and Control Technician III classifications, respectively. The Union, citing the pertinent market data

¹In pertinent part, this agreement provided that “[w]ithin the first 120 days following execution of this agreement, one (1) Treatment Plant Specialist for Mechanical, and one (1) Treatment Plant Specialist for Electrical shall be slotted at each of the five treatment plants. . . .Also within the first 120 days following executive of this agreement, two (2) Conveyance & Distribution Specialists shall be slotted for each of the two C & D regions. . . . All slotting shall be contingent on there being individuals who meet the Minimum Requirements for this job, and who have been performing the duties.”

salary survey information, requests that the labor grades for the II and III positions each be increased by one grade over the District's proposal and that the I position should be equally raised to maintain a consistent salary progression within the job series.² In response, the District states that its newly adopted methodology regarding the application of market salary data, the absence of any recruitment and retention problems, and the internal salary relations with the O & M Technician Specialist classification fully support its salary proposal at issue.

The Panel's review of the pertinent market salary data for the Instrumentation and Control Technician II and III classifications, particularly the II position, supports the Union's proposal that the salary for these classifications should each be set one labor grade higher than the District's salary proposal. It is therefore recommended that the salaries for the Instrumentation and Control Technician II and Instrumentation and Control Technician III classifications be set at labor grades 37 and 41, respectively. To maintain consistency in the salary intervals between classifications in the job series, it is further recommended that the Instrumentation and Control Technician I classification salary be set at labor grade 33.

Issue 3 – Instrumentation and Control Technician Specialist Assignments

This issue focuses on the slotting of employees in the newly created Instrumentation and Control Technician Specialist classification. The Union seeks to have one Instrumentation and Control Technician Specialist assigned to each of the District's five treatment plants, which would comprise the total population of the classification. According to the District, no discussions took place in negotiations regarding the locations that would be filled. It also has concerns that acceptance of the Union's proposal would be tantamount to agreeing to minimum

²Each labor grade increase is equivalent to a 2.75 percent salary increase.

staffing levels. At the factfinding hearing, the District represented that its intention was to have one Instrumentation and Control Technician Specialist at each of the five treatment plant locations.

As with Issue 1 discussed above, guidance is afforded the Panel by the terms the parties negotiated in the January 2008 O & M Salaries agreement. The resolution reached regarding slotting issues in that agreement serves as a workable template for the situation presented in Issue 3. Therefore, and noting again the District's stated intention to allocate one Instrumentation and Control Technician Specialist to each of the five locations in question, the Panel recommends that provided there are individual employees who meet the minimum requirements for the Instrumentation and Control Technician Specialist job, the District shall so slot any such qualified employees to the locations in question within 120 days of the adoption of this agreement. Any employee who is so slotted in the Instrumentation and Control Technician Specialist classification shall be considered to have held the classification as of the effective date of the adoption of the agreement regarding the classification plan. Similarly to Issue 1, this conclusion is not to be construed as a recommendation setting or establishing minimum staffing levels for the classification in question for future District operations.

Issue 4 – Schedule B/Landscape Maintenance Technician Job Family

At the outset, it is to be noted that Issues 4, 5, and 6 have as a common denominator the Union's position that Schedule B rates should not be implemented for these classifications because there is no valid market data warranting the implementation of the reduced salary levels proposed by the District. In such regard, and as noted above, the parties have agreed that for

classifications where there were less than three matching comparator agencies the data was invalid. This is the case with all the classifications under consideration in Issues 4, 5, and 6.

Issue 4 concerns the appropriate labor grades to be assigned to the new classifications of Landscape Maintenance Technician I, Landscape Maintenance Technician II, and Senior Landscape Maintenance Technician. Incumbents currently performing the duties encompassed in the new job series are classified as Engineering Technician II's, labor grade 41. The District has proposed labor grades 28, 34, and 39 for the Landscape Technicians I, II, and Senior, respectively, whereas the Union's proposal is to maintain the current pay structure for the Engineering Technician I, II, and III classifications for these new classes. Under the Union's proposal, the Landscape Technicians I, II, and Senior would be compensated at labor grades 36, 41, and 46, respectively.

As previously discussed, no valid market data is available for the Landscape Maintenance Technician job family. The absence of this data, however, does not preclude the use of internal comparisons as an aide in determining the proper compensation level for these contested classifications. In such regard, the historical "bundling" of diverse jobs into the Engineering Technician job family is noted. In identifying those Engineering Technician positions that had specialized and unique duties and responsibilities, valid market data was available for the Construction Inspector and the redefined Engineering Technician job families. Review of the respective job descriptions for the Construction Inspector II and the redefined Engineering Technician II suggests that these classifications are most comparable to the Landscape Technician II classification. The valid market data for these classifications showed that they were substantially above market salary levels, which was recognized by the parties' agreement to

create lower labor grade Schedule B salary levels for the new Construction Inspector job series and the redefined Engineering Technician job series.

The Panel's comparison of the respective classification specifications persuades that the duties, responsibilities, and the consequences of error are no less for the Landscape Maintenance Technician II classification than those of the comparable classifications in the Construction Inspector and Engineering Technician job families.³ Further, the Landscape Maintenance Technician II classification requires a "Qualified Applicator's Certificate or License."⁴ In the District's classification schema, most classifications that require a certification are compensated at labor grade 39 or higher. For these reasons, it is the Panel's recommendation that the Landscape Maintenance Technician II Schedule B salary level be set at labor grade 39. To maintain the historical differentials in the job series, it is further recommended that the Landscape Maintenance Technician I and Senior Landscape Maintenance Technician salary levels be set at labor grades 34 and 44, respectively.

Issue 5 – Schedule B/Lodging Assistant Job Family

The Lodging Assistant I and Lodging Assistant II classifications appear to represent the recognition of unique and readily identifiable tasks and duties now assigned to employees in the Maintenance Worker II and III classifications, labor grades 27 and 31, respectively. The District has proposed Schedule B labor grades 23 and 27, respectively, for the Lodging Assistant I and

³For purposes of this analysis, the Landscape Maintenance Technician II classification was used as the benchmark position.

⁴Although the classification description states that employees in the Landscape Maintenance Technician II class "may be required" to obtain the listed certifications, the Union presented evidence that when the current incumbent was hired, the qualified applicator's license was required.

Lodging Assistant II classifications. Since no valid market salary data exists to warrant the implementation of the Schedule B pay scale for future hires, the Union opposes any Schedule B salary for these two classifications.

Again, while no relevant valid market data has been identified, internal salary comparisons afford some guidance in fashioning a proposed recommendation to resolve the dispute presented in Issue 5. The scope of job duties and responsibilities enumerated in the Facilities Maintenance Assistant classification, labor grade 27, appears closely aligned with the duties and responsibilities contemplated in the Lodging Assistant I job description.⁵ In such regard, the Lodging Assistant I's are required not only to perform similar light and/or routine maintenance work to that done by the Facilities Maintenance Assistants but are also responsible for assigning rooms and providing support for inspection trips and tours of the facility by the Board of Directors and member agencies. Further, the educational requirements, the physical demands, and license requirements identified in the job descriptions for these two classifications are virtually identical. As such, and again noting that the job duties and responsibilities of the Facilities Maintenance Assistant and Lodging Assistant I classifications are similar in complexity, skill, and experience requirements, the Panel finds no compelling reason to compensate the Lodging Assistant I classification four labor grades lower than the Facilities Maintenance Assistant position. It is therefore recommended that no Schedule B salary scale be implemented for the Lodging Assistant I classification and that instead the salary for this classification be set at labor grade 27.

⁵Both classifications are identified as "intermediate level" positions in their respective classification descriptions.

With respect to the Lodging Assistant II classification, review of the respective classification descriptions shows that the duties of the Lodging Assistant II classification are less complex than those assigned to the Facilities Maintenance Mechanic classification, labor grade 35. However, the Lodging Assistant II is the journey level position in the job series and the duties and responsibilities are of a higher and more complex level than those of the Lodging Assistant I. Because of the distinctions in the enumerated duties of the two Lodging Assistant classifications and to maintain the historical differential of the current classification structure, it is recommended that no Schedule B be implemented for the Lodging Assistant II classification and that this position be compensated at labor grade 31.

Issue 6 – Schedule B/Water Sampling Field Technician Classification

This dispute focuses on whether a Schedule B salary scale should be implemented for the Water Sampling Field Technician classification. The District's Schedule B proposal sets the salary for this classification at labor grade 28. The Union proposes that absent any valid market salary data the implementation of the Schedule B salary scale is unwarranted. It proposes instead that the salary for this new classification be set at labor grade 31, the salary level of the Maintenance Worker III classification which is the position held by the six incumbents now assigned this work.

The District asserts that the duties and responsibilities assigned to the Water Sampling Field Technician classification fall between those of the Laboratory Assistant II, labor grade 27, and the Laboratory Technologist I, labor grade 31, classifications. According to the Union, these duties and responsibilities lie between the Laboratory Assistant II and the Laboratory Technologist II, labor grade 34, classifications. Regardless of the analytical framework

employed, comparison of the description of the work performed by the Water Sampling Field Technician with that assigned to the other laboratory personnel demonstrates that the work done by the Water Sampling Field Technician is less complex and requires less independent judgement and discretion in its performance. Further, the plain reading of the Water Sampling Field Technician job description states that either a California Water Treatment or Water Distribution “may be required” and no evidence was found that either Certification has always been required by the District. In any event, the Panel believes that the more significant factor in determining the appropriate salary level for this classification is the internal job comparisons as previously discussed. On this record, the Panel is not prepared to reject the District’s proposal that the schedule B salary level for the Water Sampling Field Technician should be set at labor grade 28. Thus, it is recommended that the Schedule B wage scale should be adopted for the Water Sampling Field Technician classification at labor grade 28.

Issue 7 – Schedule B/Survey and Mapping Technician III and IV

This dispute concerns the Schedule B labor grades to be implemented for the Survey and Mapping Technician III and Survey Mapping Technician IV classifications. Employees currently assigned the job duties of these new classifications are classified as Engineering Technician III’s and Senior Engineering Technicians.

The parties have agreed to Schedule B labor grades of 32 and 36 for the Survey and Mapping Technician I and Survey and Mapping Technician II classifications, respectively. The District has proposed labor grades 39 and 42, respectively, for the Survey and Mapping Technician III and Survey and Mapping Technician IV classifications. The Union’s proposal provides for one additional labor grade, to labor grade 40, for the Survey and Mapping

Technician III and two additional labor grades, to labor grade 44, for the Survey and Mapping Technician IV.

The Union's position with respect to these two classifications is more in line with the relevant market salary data than the District's proposal. While noting the District's desire to compensate the Senior Engineering Technician at eight labor grades higher than the Survey and Mapping Technician IV, the market salary data does not support this salary differential of some 22 percent. It is also noted that the salaries proposed by the Union serve to maintain the appropriate and significant four labor grade progression between each classification in the job family. For these reasons, the Panel recommends that the salary for the Survey and Mapping Technician III classification be set at labor grade 40 and that the salary for the Survey and Mapping Technician IV classification be set at labor grade 44 as proposed by the Union.

Issue 8 – Schedule B/Information Technology Communication Technician I and III

At issue is the Schedule B salary levels for two classifications in the newly created Information Technology Communication Technician job series. The parties have agreed to salaries for the Information Technology Communication Technician II and Senior Information Technology Communication Technician classifications, setting salaries at labor grade 38 and labor grade 45, respectively. These new labor grades constitute a three labor grade reduction in the salaries received by the employees currently performing the work of this new job series. The District has proposed that the Information Technology Communication Technician I salary be set at labor grade 32 and that the salary for the Information Technology Communication Technician III be set at labor grade 42. The Union proposes that these salaries each be increased by one labor grade.

As noted, the Union has agreed to three labor grade reductions in the Schedule B salary scale for the Information Technology Communication Technician II's and the Senior position. No compelling information was found supporting the District's proposed four labor grade reduction for the Information Technology Communication Technician I, the entry level position. Moreover, the market data tends to support the Union's proposal that the salary should be set at labor grade 33. The Panel therefore recommends that the Schedule B salary level for the Information Technology Communication Technician I be set at labor grade 33. Regarding the Union's proposal to increase the salary for the Information Technology Communication Technician III classification to labor grade 43, implementation of this salary level would decrease the differential between that position and the agreed upon salary for the Senior position to two labor grades. The Panel concurs with the District's position that such wage compaction is unwarranted and should be avoided in setting salary levels for classifications in a job family. As such, it is recommended that the Schedule B salary level for the Information Technology Communication Technician III classification be set at labor grade 42 as proposed by the District.

Issue 9 – Schedule B/Laboratory Information Systems Specialist Job Family

The parties disagree as to the Schedule B salary levels for the new classifications of Laboratory Information Systems Specialist I ("LIMS"), Laboratory Information Systems Specialist II, and Senior Laboratory Information Systems Specialist. The District has proposed labor grades 35, 40, and 45 for the LIMS I, LIMS II, and Senior LIMS classifications, respectively. The Union's position is that salaries for the LIMS job series should be on parity with similar information technology classifications, particularly the Information Technology Enterprise Application Analyst job family. This job family has four classifications, ranging

through the I, II, III, and Senior levels with respective labor grades of 35, 40, 45, 50. The Union proposes labor grades 40, 45, and 50 for the LIMS I, LIMS II, and Senior LIMS classifications.⁶

In addition to the above-noted job families, the parties agreed to establish a new family, the Information Technology Support Analyst group. The parties further agreed to labor grades 30, 35, 39, and 43, respectively, for the Information Technology Support Analyst I, Information Technology Support Analyst II, Information Technology Support Analyst III, and Senior Information Technology Support Analyst classifications.⁷ The District has characterized this job family as the “feeder” classification series from which incumbents would promote to the higher level and more advanced information technology job families including the Information Technology Enterprise Application Analyst classifications.

The Panel has reviewed and considered the presentations made during the last factfinding session regarding both the similarities and differences in the work performed by the LIMS classifications and the other IT classifications, including the Information Technology Enterprise Application Analyst job family. This review has also extended to the scope and responsibilities of the work assigned to the Information Technology Support Analyst classifications. This review persuades that the requisite programming skills and responsibilities of the LIMS classifications are more comparable to those performed by the Information Technology Support Analyst classifications than those performed by the Information Technology Enterprise Application

⁶The progression through the four Information Technology Enterprise Application Analyst job classifications is identified as entry level, intermediate level, journey level, and advanced journey level. The LIMS job family begins at the intermediate level, there is no entry level position.

⁷The four classifications in this job family also range from entry level through advanced journey level.

Analyst classifications and the other IT job series compensated at the same labor grades as the “Enterprise Application” classifications. However, the LIMS classifications are unique in that the incumbents have historically had a chemical engineering background and the classifications require an understanding and knowledge of water chemistry not required by the other IT job families. When weighed collectively, the IT skill set level coupled with the required knowledge of water chemistry supports a greater salary differential for the LIMS classifications as compared to the “feeder” classifications than provided by the District’s salary proposal. The Panel therefore recommends that the Schedule B salary levels for the Laboratory Information Systems Specialist I, Laboratory Information Systems Specialist II, and Senior Laboratory Information Systems Specialist be set at labor grades 37, 42, and 47, respectively.

Respectfully submitted,

Walter F. Daugherty
Factfinding Panel Chairperson

Daniel C. Cassidy
Employer Panel Member

Walter Cochran-Bond
Union Panel Member

Dated: November 28, 2012
Los Angeles, California