

THE FEDERAL SALARY COUNCIL

Minutes of October 3, 2007

MEETING NO. 07-01

The Federal Salary Council (FSC) held its first meeting of 2007 on Wednesday, October 3, 2007. Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems at the Office of Personnel Management (OPM), was the Designated Federal Official. Ms. Terri Lacy, Chair, began the meeting at 10:03 a.m.

The following members attended: Terri Lacy, Chair (Partner, Andrews Kurth L.L.P.); George Nesterczuk, Vice Chair (Nesterczuk and Associates, Management Consultants); Rudy J. Maestas (Bureau Chief, Wage and Hour Bureau, New Mexico Department of Labor); Thomas Bastas (President, Association of Civilian Technicians); Richard Brown (President, National Federation of Federal Employees); J. David Cox (National Secretary-Treasurer of the American Federation of Government Employees (AFGE); Colleen M. Kelley (President, National Treasury Employees Union (NTEU)); and James Pasco (Executive Director, Fraternal Order of Police). Mr. Frank Ferris (NTEU) was unable to attend.

In addition to OPM staff, more than 20 members of the public attended the meeting, including two representatives from the Bureau of Labor Statistics (BLS), five representatives from the media, and congressional staff from the offices of Senator Edward Kennedy (D-MA), Representative Michael R. McNulty (D-NY), and Representative John Olver (D-MA).

The following is a summary of the Council's discussions:

Ms. Lacy greeted the Council members and audience. She congratulated Mr. J. David Cox, who just before the meeting had been sworn in as a new Council member. She asked the Council Members to introduce themselves.

After the introductions, Ms. Lacy turned to the next item on the Council's agenda, approval of minutes for the previous Council meeting (meeting number 06-01, October 12, 2006.) She noted that the Council members had an opportunity to review and comment on the minutes, which she had approved, and that a copy of the minutes was in each member's meeting folder. (Minutes from the 2006 meeting are in Council document FSC-07-01-01).

Next on the agenda was a BLS update on improvements and changes in BLS salary surveys. Ms. Lacy thanked BLS for attending the meeting to provide the update. She introduced and welcomed Phil Doyle, Chief, Division of Compensation Data Analysis and Planning, BLS.

Mr. Doyle said the Council could refer to Council Document FSC-07-01-02 for a detailed update on improvements and changes in the National Compensation Survey (NCS) program and that his remarks would be brief. He said his theme would be "change" and

how better to meet the needs of the Council and the President's Pay Agent. He discussed the extent of implementation of the five planned improvements in the NCS program, which is as follows:

- Improvements in the crosswalk between Federal and non-Federal jobs: implemented in 2002.
- Excluding jobs above GS-15: implemented in 2002.
- Modeled estimates for missing data: implemented in 2002.
- Improving grade leveling of supervisory jobs: implemented with 2006 NCS data deliveries to OPM.
- Improvements in grade leveling of non-supervisory jobs (four-factor leveling system): August 2007 NCS data deliveries included four-factor leveling for 60 percent of non-supervisory jobs, but because NCS sample replacement is 20 percent per year, full implementation will take 2 more years.

Mr. Doyle briefly discussed the NCS Area Redesign implementation, and said the area redesign would better reflect the U.S. economy and continue to meet the needs of the Council and Pay Agent. He said that under the area redesign, BLS will ensure that areas of particular interest to the Pay Agent have robust samples, including Raleigh, Austin, Louisville, and Memphis.

In covering the proposal to use NCS data to establish locality rates of pay for Anchorage, AK, and Honolulu, HI, Mr. Doyle cautioned the Council that BLS would be strained, given current sample sizes and resources, if asked to fully implement full-scale NCS surveys in those areas. (Council document FSC-07-01-02 says that the Anchorage area is rotating out of the NCS survey design, that restoring a survey of Anchorage or expanding the sample allocation in either Anchorage or Honolulu would require additional resources or diversion of resources from other areas of interest, as would adding the other nonforeign areas of interest, since Puerto Rico, Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands are not included in the current NCS area design.)

Mr. Doyle said that at the Council's request, BLS provided two sets of NCS data this year, one set including establishments employing fewer than 50 workers and another set excluding such establishments. Mr. Doyle said that if the Council needed both sets of data again next year, BLS would provide them.

Mr. Doyle briefly discussed NCS-Occupational Employment Statistics (OES) Survey integration. He said that BLS hoped to better meet customer needs by merging the two surveys and that the resulting product would combine the strengths of the two programs: the greater detail of NCS surveys and the larger sample size of OES surveys. He also said that merging the two programs would reduce respondent burden.

Once Mr. Doyle finished his presentation, Ms. Lacy asked the Council members if they had any questions.

Ms. Kelley said that as the Council considered requests from more and more areas for higher locality pay, it had discussed the possibility of considering other data sources for use in the locality pay program. She asked Mr. Doyle if OES data include work levels. Mr. Doyle said that OES data do not include work levels, though the OES program does include wage interval data. Ms. Kelley then asked Mr. Doyle if this meant that until the NCS and OES programs are merged, OES data would not be usable for the locality pay program, and Mr. Doyle confirmed that the data would not include work levels and thus not be usable given the locality pay program's current requirements.

Since there were no additional questions for BLS, Ms. Lacy said the Council would now hear testimony from groups about locality pay areas. She asked that presentations be limited to 10 minutes, and that areas with multiple speakers split that time limit among their speakers.

Albany, NY

Ms. Lacy welcomed Amy Jackson-Grove, Assistant Director of Administration at the Federal Executive Association of Northeastern New York (FEANNY).

Ms. Jackson-Grove thanked the Council for the opportunity to make her presentation. She gave OPM staff a document with the text of her presentation, which is briefly summarized here.

Ms. Jackson-Grove said she works for the Federal Highway Administration in Albany, NY and is the chairperson of a "Locality Pay Team" sponsored by the FEANNY. She referred to FEANNY's written proposal, Council document FSC-07-01-03.

Ms. Jackson-Grove said that while anecdotes might be dismissed as individual cases that do not represent an overall situation, anecdotes can also be very useful. She then described her own situation as a Federal employee who recently accepted a promotion position and transferred from a GS-13 position in the Hartford locality pay area to a GS-14 position in the "Rest of U.S." locality pay area. She said that, though most living costs in the Albany area are comparable to those in the Hartford area, her take-home pay, after deduction of New York state taxes, had increased by only \$104 per year. She said that while her own family could afford to "accept the financial impact" of moving to the Albany area and receiving a pay increase of only \$104 per year, many other families cannot.

Ms. Jackson-Grove said that the examples of low response rates to vacancy announcements for Federal jobs cited in the FEANNY's proposal demonstrate that the idea of leaving an area with higher locality pay to accept a position in an area with lower locality pay "is just not appealing to many qualified applicants." She said that other factors that make recruiting difficult for Federal agencies in the Albany area include a low unemployment rate, competition with Federal employers in the New York locality pay area, and competition with such non-Federal employers as technology companies and state and local government agencies.

Ms. Jackson-Grove said that the FEANNY proposal provides descriptions of recruiting difficulties several Federal agencies have experienced, and she described such difficulties at her own agency.

Ms. Jackson-Grove referred to tables on pages 9 and 10 of the FEANNY proposal that use OES data to make wage comparisons between Albany and seven metropolitan areas that are in locality pay areas other than the “Rest of U.S.” She said the data show that wages in the Albany area were higher in 2006 and 2007 than for the seven areas.

Ms. Jackson-Grove said that in the past the Council has identified “changing wage situations” and has “added new locality rates as they’re needed.” She said the FEANNY believes that establishing a separate locality pay area for Albany could alleviate much of the recruitment and retention difficulties area Federal agencies face.

Ms. Jackson-Grove thanked Representatives Michael R. McNulty and Kirsten A. Gillibrand and Senators Hillary Rodham Clinton and Charles E. Schumer for their support of the proposal. She thanked the Council for hearing her presentation and asked if it had questions.

Mr. Brown commented that he was “born and raised in Schenectady,” knew the area well, and could attest to the high New York State taxes. He agreed that anecdotes can be useful and said he understood Ms. Jackson-Grove’s purpose in using them. He said that Federal employees in Albany shouldn’t have to suffer the consequences of data not being available to establish new locality pay rates for the Albany area.

Mr. Maestas asked if he had heard correctly that Ms. Jackson-Grove’s promotion provided \$104 more per year rather than per pay period, and she said that was correct.

Ms. Lacy thanked Ms. Jackson-Grove for her presentation, and introduced the next speaker, Ms. Lisa Blumenstock from the office of Representative Michael R. McNulty. Ms. Blumenstock introduced herself and presented a letter signed by Representatives Michael R. McNulty and Kirsten A. Gillibrand and Senators Hillary Rodham Clinton and Charles E. Schumer. The letter expressed support of the FEANNY proposal and said that approval of a higher locality pay rate for the Albany area would help Federal agencies better recruit and retain the workforce needed for their missions.

Ms. Lacy thanked Ms. Blumenstock, and said that the Council would now hear presentations concerning locality pay in Berkshire County, MA.

Berkshire County, MA

Mr. Patrick DeFalco of the Federal Executive Association of Western Massachusetts (FEAWM) was the next speaker. He spoke in support of the FEAWM proposal provided to the Council in Council document FSC-07-01-04. He also provided OPM staff with a written copy of his presentation, which is briefly summarized here.

Mr. DeFalco reminded the Council that this was his third time to speak before it concerning locality pay for Federal employees in Berkshire County, and that in his two prior presentations he had described difficulties Federal agencies face when trying to recruit and retain Federal employees without the higher locality rates paid everywhere else in Massachusetts. He said that today his colleague Frederick Baron, Chief Engineer at the Navy Facility in Pittsfield, would testify about how his agency is adversely affected by the locality pay situation in Berkshire County.

Mr. DeFalco said that in his testimony he would propose “a reasonable and equitable rules change that will alleviate the challenges facing Berkshire County.” In his presentation he proposed that the following criteria or similar criteria be adopted “for possible inclusion in adjacent locality pay areas”:

To be included in an adjacent locality pay area (within the same state), the following 3 criteria must be met for this exception: The county must be adjacent, or within 5 miles of being adjacent, to two or more locality pay areas; The county must be the only county with GS employees in the state without locality pay; The county must have at least 85 GS employees.

Mr. DeFalco reminded the Council that it had recommended changes in locality pay area boundaries that alleviated recruitment and retention difficulties for Barnstable, Hampden, Hampshire, and Franklin Counties, MA, and that the Council had also demonstrated flexibility in recognizing such unique situations as “that of the Federal Prison in North Carolina where the grounds encompassed two counties with different pay scales.” He said that FEAWM believes the locality pay situation in Berkshire County is “just such a unique situation.”

Mr. DeFalco said that this year’s proposal addressed the Council’s concern of last year: that the revised criteria FEAWM proposed then would affect three other counties in the country. Mr. DeFalco said that it is not just being adjacent to two higher locality pay areas that makes Berkshire County unique; it is also the fact that the county is the only one in Massachusetts that remains in the “Rest of U.S.” locality pay area. He said the addition of the “only county in the state without locality pay” portion of the proposed criteria would exclude the other three counties that would have been affected had last year’s FEAWM proposal been adopted.

Mr. DeFalco thanked the Council and said he would like to give way to Mr. Baron. The Council turned the floor over to Mr. Baron.

Mr. Baron thanked the Council. He said he was a chief engineer employed by the Department of Navy in Pittsfield, MA. He said the views he would present were his own and not intended to represent those of the Department of Navy.

Mr. Baron said that the Navy Program Management Program Office in Pittsfield has several engineering, information technology, and technical writer positions that have

remained vacant for long periods of time due to a lack of qualified applicants. He said there had been cases where extremely qualified applicants from outside the Pittsfield area had applied for engineering positions but then declined “when salaries and pay scales were discussed” and said that follow-up phone calls to these applicants had clearly identified “a lack of locality pay” as the problem. Mr. Baron then provided other, similar examples of the “Rest of U.S.” locality pay rate paid in Pittsfield as being a hindrance to recruitment of qualified applicants at his Navy field office, and he asked the Council to consider including Berkshire County in the Hartford locality pay area. He said he would be happy to respond to any questions.

Mr. Nesterczuk asked Mr. Baron what the prospects were for his Navy Program Management Office coming under the National Security Personnel System. Mr. Baron said that only four positions would be eligible.

Regarding the applicants for the engineer positions that Mr. Baron said had declined “when salaries and pay scales were discussed,” Mr. Brown said that in his 15 years of experience as a Federal employee, it had been his experience that job announcements always showed salary requirements, and he asked Mr. Baron if that was still the case, and if so, wouldn’t the applicants have known about the rates of pay?

Mr. Baron said that, although the salary ranges do appear on the job announcements, applicants for some reason always assume that their pay will include a higher locality rate than that for “Rest of U.S.” Mr. DeFalco agreed and said that applicants tend to look at job announcements and salaries separately, for whatever reason.

Ms. Lacy thanked Mr. DeFalco and Mr. Baron, and welcomed Lisa Wiehle from the office of Representative John W. Olver.

Ms. Wiehle thanked the Council and presented a statement by Representative Olver. The statement expressed Representative Olver’s support of the FEAWM proposal. The statement also said that locality pay in Berkshire County continues to affect Representative Olver’s constituents and cause him concern about the quality of services his constituents receive as a result of the locality pay situation in Berkshire County, that vacant positions in Berkshire County cannot be filled by qualified candidates, that employees are opting to leave Berkshire County for higher locality pay, that the testimony by Mr. DeFalco and Mr. Baron cites “specific examples of critical shortages of qualified staff in high level Berkshire County positions in the Departments of Social Security and Agriculture, the U.S. Navy and the IRS,” and that Berkshire County is the only county in Massachusetts that does not receive locality pay. (Note: Since 1994, the “Rest of U.S.” locality pay rate has been paid in Berkshire County. In 2007, that locality payment is 12.64 percent. Also, two other Massachusetts counties, Dukes and Nantucket Counties, are in the “Rest of U.S.” locality pay area.)

Ms. Wiehle thanked the Council for the opportunity for her to testify on behalf of Representative Olver and his constituents.

Ms. Lacy turned the floor over to Peter Romer-Friedman from the office of Senator Edward Kennedy.

Mr. Romer-Friedman presented a statement by Senator Kennedy. The statement expressed Senator Kennedy's support of the FEAWM proposal and said that establishing locality pay for Berkshire County is an important concern, "not only because it will mean fair compensation for Federal employees in Berkshire County, but also because it will help our government recruit, hire, and retain highly qualified men and women to deliver vital services to the people of Massachusetts and the nation." The statement also said that Berkshire County is the only county in Massachusetts that does not receive locality pay, provided an example comparing the pay of a social security claims representative in Berkshire County to the pay of one in the Hartford locality pay area, and provided examples of recruitment difficulties in Berkshire County.

Ms. Lacy thanked Ms. Wiehle and Mr. Romer-Friedman for their testimony. The Council had no questions for them.

Ms. Lacy said she wanted to thank all of the individuals who testified before the Council. She asked that everyone please understand that the Council is not unsympathetic to the difficulties described in the testimony.

Ms. Lacy said it was now time to turn to the next item on the agenda, the report of the Council Working Group.

Report of the Working Group

Mr. Nesterczuk read and summarized major sections of the Working Group Report (Council document FSC-07-01-05). The issues, recommendations of the Working Group, and Council action are summarized in the chart below. The Working Group's rationale for each recommendation to the full Council can be found, along with detailed discussion, in the Working Group report.

Issue	Recommendation of the Working Group	Council Action
Which data should the Council use for its recommendations on locality pay for 2009, the "all establishments" data or the data from establishments with 50 or more employees?	Continue to use data from establishments employing 50 or more workers. Review the "all establishments" data again next year.	Adopted the recommendation for submission to the Pay Agent, with one member dissenting.
What locality rates should the Council recommend for 2009? Those shown in Attachment 3?	The Working Group recommends the rates shown in Attachment 3 of its report.	Unanimously adopted the recommendation for submission to the Pay Agent.
Should Louisville, with a pay	No. The difference between the pay	Unanimously adopted

gap 0.33 points above that for the RUS area, be made a separate locality pay area in 2009?	gap for Louisville and the one for the RUS area is too small.	the recommendation for submission to the Pay Agent.
Should the Council continue to monitor pay gaps in Austin, Louisville, and Memphis?	Yes.	Unanimously adopted the recommendation for submission to the Pay Agent.
Holding Albany and Berkshire aside, what should the Council recommend about the other contacts?	The Working Group notes that none of these other locations requesting to be included in an existing pay area pass the applicable criteria for inclusion recommended by the Council and adopted by the Pay Agent, and recommends that the Council not consider making any changes based on these contacts.	Unanimously adopted the recommendation for submission to the Pay Agent.
What should the Council recommend about Albany or adding other locality pay areas?	Working Group regrettably concludes that no locality pay areas should be added at this time.	Adopted the recommendation for submission to the Pay Agent, with one member dissenting.
What should the Council recommend about Berkshire, MA, or changing the area of application criteria?	Working Group recommends that no changes in criteria for areas of application be adopted at this time.	Adopted the recommendation for submission to the Pay Agent, with one member dissenting.
What locality pay areas should the Council recommend for 2009?	Working Group recommends continuation of the 32 locality pay areas existing in 2007/planned for 2008.	Unanimously adopted the recommendation for submission to the Pay Agent.
What should the Council recommend about pay increases in 2008?	Working Group recommends that pay raises be distributed so that areas with the largest pay gaps receive the largest pay increases. Working Group recommends that the details of the pay increase distribution be left to the President.	Unanimously adopted the recommendation for submission to the Pay Agent.

Regarding the question of whether Albany should be made a separate pay area. Mr. Brown said that being from the area, he knew what the FEANNY said regarding Albany was true. Mr. Brown said he would like to see BLS get more resources to do surveys. Mr. Cox said he shared Mr. Brown's concerns. He said the Council is defeating its whole purpose if cannot meet Federal employers' recruitment and retention needs and that not being able to expand or add to the NCS program gave him "great concern."

Ms. Kelley said that, while she believed the Council had no choice but to adopt the Working Group recommendations regarding the Albany area and Berkshire County, if the intention behind the locality pay program is to set pay based on comparability between Federal and non-Federal pay, the Council should consider what might be done about the statutory constraints and criteria that limit expansion of the locality pay program. She said the Council should “explore other ways” of addressing concerns of areas with recruitment and retention problems.

Mr. Nesterczuk commented that having survey data for the Albany area would not necessarily be a “magic bullet,” particularly as long as the area is part of the RUS data and thus would be a “thin sample” to represent non-Federal pay in the Albany area. (BLS surveys of separate locality pay areas generally have larger sample sizes than those comprising RUS.)

Regarding the decision to leave the distribution of locality pay raises in 2008 to the President, Ms. Kelley said she hoped that a formula will be used to distribute pay adjustments equitably. Mr. Brown agreed, and said it was his understanding that, given a 2.5 percent across-the-board increases, everyone in the locality pay program would get something more than the 2.5 percent. Mr. Nesterczuk said that the intention was for the Council to recommend first giving everyone a 2.5 percent increase and then spreading the locality pay increase among locality pay areas so that each area would get some additional increase beyond the 2.5 percent.

Ms. Lacy asked that staff draft Council recommendations to the President’s Pay Agent reflecting the Council’s decisions. She asked if there were comments from the public, and there were none. She adjourned the meeting at 11:29 a.m.

CERTIFIED

SIGNED
Terri Lacy
Chair