

THE FEDERAL SALARY COUNCIL

Minutes of October 12, 2006

MEETING NO. 06-01

The Federal Salary Council (FSC) held its first meeting of 2006 on Thursday, October 12, 2006. Jerome D. Mikowicz, Acting Deputy Associate Director for Pay and Performance Policy at the Office of Personnel Management (OPM), was the Designated Federal Official. Ms. Terri Lacy, Chair, began the meeting at 10:04 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); Colleen M. Kelley (President, National Treasury Employees Union (NTEU)); and Frank Ferris (Vice President, NTEU).

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

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

Ms. Lacy greeted the Council members and audience, congratulated as new members Mr. Ferris and Mr. Nesterczuk, who were sworn in as Council members on September 18, 2006, and introduced Mr. Mikowicz as the Designated Federal Official.

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 3, 2005.) She noted that the Council members had an opportunity to review and comment on the minutes, which she had approved, and that Council members were provided with a copy of the minutes in their meeting folders. (Council document FSC-06-01-01).

The next item on the agenda was a BLS update on improvements in BLS salary surveys and survey geographic redesign. Ms. Lacy thanked BLS for all its hard work in support of the Council and for attending the meeting to provide the update. She introduced and welcomed Mary McCarthy, Assistant Commissioner, Office of Compensation Levels and Trends, BLS.

BLS Presentation

Ms. McCarthy thanked Ms. Lacy and referred the Council members to document FSC-06-01-02, which discusses National Compensation Survey (NCS) program improvements and changes. She said her presentation would highlight the detailed report.

Ms. McCarthy provided a status report on the five planned improvements in the NCS program, as summarized below:

- 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 2006 NCS data deliveries included four-factor leveling for 40 percent of non-supervisory jobs, but because NCS sample replacement is 20 percent per year, full implementation will take 3 more years.

Ms. McCarthy then discussed the next topic in the report, the NCS area redesign (use of Office of Management and Budget (OMB) metropolitan area definitions as defined by OMB based on the 2000 Census). The transition to the new area sample will take several years to implement. A new Government sample will be collected by July 2007, and a new private industry sample will be phased in over five years, beginning in July 2008. Ms. McCarthy assured the Council that the area redesign will include robust samples in the three new locality pay areas (Buffalo, Phoenix, and Raleigh), as well as in Austin, Louisville, and Memphis (three areas the Council has been monitoring because limited BLS data indicated these areas might have relatively high pay).

Ms. McCarthy summarized the report's discussion of small establishments in NCS data. She said that beginning with survey results published in September 2006, BLS is including data for establishments with one employee or more. (Previously, the NCS data included only establishments with 50 workers or more.) She said that BLS is prepared to provide deliveries of NCS data in 2007 both including and excluding data from small establishments for comparison purposes so that the Council can consider whether data from small establishments should be used in the locality pay program.

Ms. McCarthy then turned to the next topic in the report, research BLS is doing into the possibility of producing estimates for major subdivisions of OMB-defined metropolitan areas (splitting areas to provide data the Council could use to compare pay between areas within a survey area). Ms. McCarthy said that BLS is looking into the possibility of producing estimates for the main subdivisions of the Los Angeles-Long Beach-Riverside, CA Consolidated Statistical Area (CSA), but that since the sample sizes for each subdivision are smaller than for the entire CSA, some detail may be lost. The report explains that another problem is that populations of the subdivisions of metropolitan areas tend not to be equally distributed among the subdivisions, so very little data may be available for the smallest subdivisions. For example, nearly three fourths of the population of the Los Angeles CSA is located in just one of the three metropolitan statistical areas (MSAs) that comprise the CSA.

The report also discusses, and Ms. McCarthy summarized, use of Occupational Employment Statistics (OES) data to compare wage levels within a CSA. While published OES data do not provide comparison of wages by work level, the OES data do permit comparison of overall wage levels between subdivisions of a CSA. The detailed report includes an overall average hourly wage for the CSA and three overall average hourly wages for each of the MSAs that comprise the CSA.

Ms. McCarthy summarized the last section of the detailed report, NCS-OES program integration. BLS is studying the possibility of merging the NCS and OES programs. BLS Commissioner Utgoff approved a general approach for program integration, and research on merging the two programs is underway. BLS hopes to continue to meet the critical needs of its customers while producing only one set of wage outputs from the merged surveys and possibly reducing burden on those establishments that provide data to both surveys.

Ms. McCarthy asked if there were questions. Mr. Nesterczuk asked what kind of occupational comparisons can be made with OES data. Ms. McCarthy said that the OES program did not permit comparing occupations by work level at present, and this limitation must be taken into account if the two programs are merged.

Since there were no additional questions, Ms. Lacy said the Council would now hear testimony from groups about locality pay areas. She asked that, except for congressional staff, presentations be limited to 5 minutes, and that areas with multiple speakers split their 5 minutes among their speakers.

Berkshire County, MA

Ms. Lacy welcomed two congressional staff members who came to speak on behalf of Berkshire County, MA: Ms. Lisa Wiehl from Representative Olver's office and Mr. John Durkalski from Senator Kennedy's office.

Ms. Wiehl read a statement by Representative Olver (Council document FSC-06-01-09), which said that—

- Berkshire is the only county in Massachusetts that does not receive locality pay. (Note: Berkshire County is in the "Rest of U.S." (RUS) locality pay area, which currently receives a locality payment of 12.52 percent, and Dukes and Nantucket Counties, MA, are also in the RUS locality pay area.)
- Berkshire is bordered by counties that are in higher-paying locality pay areas, which is causing recruitment and retention problems.
- Because General Schedule employees in Berkshire receive lower pay than those in nearby areas with higher locality pay, positions remain vacant for long periods, and highly qualified workers are leaving for higher locality pay.

- Representative Olver supports the proposal by the Federal Executive Association of Western Massachusetts (FEAWM) (see Council document FSC-06-01-05) to modify the Council's criteria for evaluating areas currently in the RUS locality pay area for possible inclusion in an adjacent locality pay area, so that Berkshire County would qualify to be included in the Hartford locality pay area. If this proposal is adopted, recruitment and retention problems in Berkshire County will decrease.

Mr. Durkalski read a statement by Senator Kennedy. The key points of the statement included the following:

- Senator Kennedy supports the FEAWM proposal regarding Berkshire County,
- Adopting the FEAWM proposal would enable Federal agencies in Berkshire County to provide better public service,
- Lower locality pay in Berkshire County has increased recruitment and retention problems for the county,
- Adopting the FEAWM proposal would alleviate “low morale and strained employment situations.”

Ms. Lacy thanked the congressional staff members for their presentations and said that Mr. Patrick DeFalco from the Social Security Administration and Mr. Bruce Sylvia from the Department of Veteran’s Affairs would also speak on behalf of Berkshire County.

Mr. Sylvia spoke first, and his presentation included the following points:

- In 2003, the Council recommended new criteria for evaluating areas currently in the RUS locality pay area for possible inclusion in adjacent locality pay areas; these criteria qualified three counties in Massachusetts (Franklin, Hampden, and Hampshire) to be added to the Hartford locality pay area, which alleviated recruitment and retention problems in those counties.
- While the new criteria provided relief, they also left Berkshire County in the RUS locality pay area.
- As a result of Berkshire County remaining in the RUS locality pay area, Berkshire County is now experiencing recruitment and retention problems.
- The Council should adopt the following or similar language as part of its criteria: *“For counties that are not part of a multi-county CSA or MSA and are adjacent to two or more locality pay areas: To be included in an adjacent locality pay area (within the same state), an adjacent county currently in the RUS locality pay area must have at least 100 employees.”*

Mr. Sylvia asked if there were any questions, and there were none. He thanked the Council for its time and provided a written copy of his testimony (Council document FSC-06-01-10).

Mr. Patrick DeFalco, an Assistant manager for the Social Security Administration (SSA), also spoke on behalf of Berkshire County. Key points of his presentation include the following:

- Mr. DeFalco said he left Berkshire County for a job in Holyoke, MA, “due in large part to the absence of locality pay in Berkshire County.”
- The vacancy his departure created was unfilled for many months, only to be filled by a candidate with “absolutely no field office management experience, which has significantly affected service to the public.”
- SSA is not alone in its recruitment and retention struggles; Federal agencies throughout Berkshire County are experiencing such problems, which are a result of Berkshire County receiving no more than the RUS locality rate. (Mr. DeFalco provided several examples).
- In revising its criteria, the Council has demonstrated “flexibility in recognizing unique situations” (e.g., the prison in Butner, NC), which it should do again to alleviate recruitment and retention problems in Berkshire County.

Mr. DeFalco offered to answer any questions the Council might have. There were none. He provided the Council with a written copy of his testimony (Council document FSC-06-01-11).

Ms. Lacy introduced the next speaker, Kathrene Hansen, Executive Director of the Greater Los Angeles Federal Executive Board (GLFEB).

Los Angeles Locality Pay Area

Ms. Hansen greeted the Council Members and audience and said that she would limit her statement to 5 minutes but requested that her entire statement and supporting documentation be entered into the record of the meeting. (See FSC-06-01-04 for the document containing Ms. Hansen’s statement and supporting materials, including “Proposal to Separate the Los Angeles-Riverside-Long Beach Locality Pay Area Into Two Separate Locality Pay Areas.”)

Ms. Hansen began by thanking Mr. Allan Hearne, Team Leader for the locality pay program, for providing information she requested as part of her preparation of her presentation (Council Document FSC-06-01-12).

Ms. Hansen's presentation was a restatement and follow-up of the presentation and proposal made in Council Meeting 05-01 by George Dutile of the GLFEB. Key points of Ms. Hansen's presentation included the following:

- Per capita income and wages in the "inland empire" (Riverside and San Bernardino Counties, CA) are well below state and national averages.
- The population of the inland empire has significant proportions of young people and immigrants, who tend to have relatively low wages.
- Locality pay is working from a national perspective; however, in high cost areas such as Los Angeles employee movement from lower- to higher-paying localities is a problem for agencies.
- The "inland empire" is largely desert and rural, while the coastal counties of the Los Angeles locality pay area are heavily populated and urbanized and are "home to our nation's most critical ports, business and economic centers."
- The unemployment rate in coastal counties of the Los Angeles locality pay area is lower than that of the inland empire.
- The coastal counties of Los Angeles locality pay area have a better educated population than the inland counties.
- The coastal counties of Los Angeles locality pay area have more employees in management, professional and related occupations than the inland counties.
- As a result of demographic and economic changes over the years, the coastal and inland counties have become very different demographically and economically, so different that it now makes sense to separate them into two separate locality pay areas.
- Recruitment and retention problems in the Los Angeles locality pay area have become very serious.
- The GLFEB proposal has the support of Representative Henry Waxman and Representative Linda Sanchez (see support letters attached to Council document FSC-06-01-04.)

Ms. Hansen thanked the Council and asked if there were questions. Since there were none, Ms. Lacy turned to the next item on the meeting agenda, the presentation of the Working Group Report.

Report of the Working Group

Mr. Nesterczuk read major sections of the Working Group Report (Council document FSC-06-01-03). The issues, recommendations of the Working Group, and final recommendations to the Pay Agent 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	Recommendation
Should Indianapolis continue to be a separate locality pay area but averaged with RUS while the Council monitors additional surveys in the future?	Working Group recommends retaining the Indianapolis locality pay area for 2008 and combining the pay gap for Indianapolis and RUS in a cost neutral fashion, as done in the past for other locations that dipped below RUS, and the Council should continue to monitor Indianapolis next year.	Unanimously adopted the recommendation for submission to the Pay Agent.
What locality rates should the Council recommend for 2008? Those shown in Attachment 2 of the Working Group Report?	The Working Group recommends the rates shown in Attachment 2 of its report.	Unanimously adopted the recommendation for submission to the Pay Agent.
Should Louisville be made a separate locality pay area in 2008? <i>Or</i> Should the Council continue to monitor pay gaps in Austin, Louisville, and Memphis?	The Working Group recommends that Louisville not be made a separate locality pay area at this time but that the Council continue to review all three locations as the surveys are expanded.	Unanimously adopted the recommendation for submission to the Pay Agent.
What should the Council recommend about using data from establishments with fewer than 50 employees?	Since no final decision is needed this year, the Working Group recommends that the Council and the Pay Agent request that BLS provide data both ways (with and without firms with fewer than 50 employees) next year, and that the Council make a formal recommendation on this matter after reviewing the data.	Unanimously adopted the recommendation for submission to the Pay Agent.

Issue	Recommendation of the Working Group	Recommendation
Holding New Orleans, Los Angeles, Yolo, and Berkshire County, MA, 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 in terms of the locality pay program about New Orleans and other areas affected by hurricane Katrina?	The Working Group recommends that the Council take no action on New Orleans or other areas affected by Katrina and let agencies deal with OPM on this matter.	Unanimously adopted the recommendation for submission to the Pay Agent.
Should the Council recommend that the Los Angeles locality pay area be split?	The Working Group recommends that the Council not adopt the proposal to split the Los Angeles locality pay area.	Unanimously adopted the recommendation for submission to the Pay Agent.
What should the Council recommend about moving Yolo County, CA, from the Sacramento locality pay area to the San Jose-San Francisco locality pay area?	The Working Group recommends that the Council not pursue the idea to move Yolo County, CA, to the San Jose-San Francisco locality pay area.	Unanimously adopted the recommendation for submission to the Pay Agent.
What should the Council recommend about the request to include Berkshire, MA, in the Hartford locality pay area?	The Working Group recommends that Berkshire County, MA, not be moved to the Hartford locality pay area.	Unanimously adopted the recommendation for submission to the Pay Agent.
What locality pay areas should the Council recommend for 2008?	The Working Group recommends continuation of the 32 existing locality pay areas in 2008.	Unanimously adopted the recommendation for submission to the Pay Agent.

Issue	Recommendation of the Working Group	Recommendation
Does the Council support the recommended method for allocating locality pay and rates for 2007 as shown in attachment 3 or 4?	The Working Group suggests the Council consider an alternative approach this year for allocating locality pay to begin realigning locality pay rates with the current pay gaps. The proposed allocation method is outlined in Attachment 3 if 0.5 percent of payroll is used for locality pay raises in 2007. A similar computation could be made if 1.0 percent of payroll is allocated for locality pay which is shown in Attachment 4 .	Six members voted that the Council recommend that locality pay be allocated based on the size of the pay gap in each area and that each locality pay area receive some portion of the increase but that the distribution of locality pay be left for the President to decide. One member abstained.

Regarding presentations concerning locality pay area boundaries, Ms. Kelley said that the stories in the proposals were not lost on her, but that the Council has to consider many factors in deciding what recommendations to make to the Pay Agent. She said the Council is often called upon to try to fix larger compensation issues by recommending modifications to locality pay area boundaries. She said that in general the Council must stick with objective criteria, but it should also be open to reevaluating them if evidence warrants revision.

Mr. Brown commented that decisions the Council makes are often difficult and are never merely “rubber stamped.” He said that members sometimes disagree with Council decisions, and that petitioners should not give up, and that “sometimes rules change.” He added that sometimes Council members can be as frustrated as the people making presentations regarding locality pay area boundaries.

Mr. Maestas said he agreed with Mr. Brown, but that the Council must make recommendations within the limits of the law.

Ms. Lacy said that the Council and its staff spend a great deal of time and effort to consider petitions to modify locality pay area boundaries, and that the Council continually reevaluates its criteria with respect to locality pay area boundaries.

Mr. Ferris commented that the Council and individuals who had spoken about locality pay area boundaries should not lose sight of the fact that flexibilities do exist that might alleviate some of the recruitment and retention problems described in the presentations, such as commuting subsidies, recruitment bonuses, retention allowances, and awards. If agencies start using such flexibilities, that would show a “higher level of commitment” to solving the problems described in the presentations. He said that a question for the

Council to consider in evaluating the proposals to modify locality pay area boundaries is, “Do we change the salary system, or should agencies start exercising flexibilities to remedy the recruitment and retention problems?”

Mr. Brown said that, with regard to the Mr. Sylvia’s presentation on behalf of Federal employees in Berkshire, MA, that the testimony by Mr. Sylvia and others from the FEAWM “carried a lot of weight,” that representatives from the FEAWM had been very diligent in the past in petitioning on behalf of employees in Massachusetts, and that “the people in Massachusetts should be grateful.”

Ms. Lacy agreed, and said the same can be said of Ms. Hansen, who had traveled a great distance to make her presentation.

During discussion of what the Council should recommend regarding the distribution of locality payments for 2007, Ms. Lacy asked OPM staff to explain the approach the Working Group had recommended. Mr. Hearne explained that the proposed allocation method (which is intended to address the substantial variation between areas of the size in the remaining pay gap) would give larger increases to areas with larger remaining pay gaps. (Note: The proposed method would also allocate some locality pay adjustment for each area, including those areas with the smallest remaining pay gaps.)

Ms. Kelley expressed concern about the allocation method recommended by the Working Group. She wondered if a departure from the previously recommended method was advisable while “waiting for the last piece of BLS changes” to NCS data, and whether making such a change now would be premature. She said she wanted to make sure the Council has thoroughly considered the impact of such a change and added that it is unfortunate that the probable amount to be distributed is the lowest it has been for many years.

Mr. Nesterczuk said he had carefully considered the impact of such a change, especially in context of the goals of the Federal Employees Pay Comparability Act of 1990. He said that, given that continued implementation of NCS program changes may aggravate the current distribution problem, perhaps now is the time to begin addressing the problem.

Mr. Brown said that the Working Group’s allocation approach was “trying to correct a problem when the overall raise is minuscule,” but that “what’s proposed by Congress is what we have to deal with.”

Ms. Kelley pointed out that implementation of NCS changes had resulted in significantly larger reported pay gaps, that further implementation might result in even larger pay gaps, and that there is still the issue of treatment of data from small firms. She said that options for a recommendation would include adopting the Working Group recommendation as is, adopting it specifically as a stand-alone method for this year and reconsider the issue next year, or leave the distribution to the President with the recommendation that each area get some increase in locality pay.

Ms. Lacy asked that the Council vote on whether to recommend the Working Group proposal, revised with language emphasizing that the allocation method is only for the current year and will be reevaluated next year. The Council voted five votes to two against the motion.

Ms. Lacy asked for an alternative recommendation. Ms. Kelley suggested leaving the distribution to the President with the recommendation that each area get some increase in locality pay area. Six of the seven Council members present voted in favor of that motion, with one abstaining.

Ms. Lacy asked that OPM staff draft a memorandum to the Pay Agent with the Council's recommendations. She asked if there were any public comment. Receiving none, she adjourned the meeting at 11:22 a.m.

CERTIFIED

SIGNED
Terri Lacy
Chair