

THE FEDERAL SALARY COUNCIL

Minutes of September 5, 2008

MEETING NO. 08-01

The Federal Salary Council (FSC) held its first meeting of 2008 on Friday, September 5, 2008. 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 10:04 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 (Section Leader, New Mexico Department of Workforce Solutions); Thomas Bastas (President, Association of Civilian Technicians); J. David Cox (National Secretary-Treasurer of the American Federation of Government Employees (AFGE)); Colleen M. Kelley (President, National Treasury Employees Union (NTEU)); and Frank Ferris (Vice President, NTEU). Richard Brown (President, National Federation of Federal Employees (NFFE)) and James Pasco (Executive Director, Fraternal Order of Police) were unable to attend. Randy Erwin, NFFE Legislative Director, substituted for Mr. Brown.

In addition to OPM staff, more than 25 members of the public attended the meeting, including three representatives from the Bureau of Labor Statistics (BLS), three representatives from the media, and congressional staff from the offices of Senator John Cornyn (R-TX) and Representative Kirsten Gillibrand (D-NY).

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

Ms. Lacy greeted the Council members and audience, welcomed everyone to the first Council meeting of 2008, and asked Council members to introduce themselves. She said the meeting would be devoted to reviewing information and hearing testimony about existing locality pay area boundaries and the establishment of new locality pay areas. She said the Council would conduct its other annual business at a second meeting on September 30.¹

Ms. Lacy began the Council's business with administrative matters. She called attention to two Council documents:

1. Council document 08-01-01, the Council's renewed charter, which is effective through 2010. (Since the Council is covered by the Federal Advisory Committee Act, its charter must be renewed every two years.)

¹ On July 24, 2008, the Council published a Federal Register notice announcing two meetings for 2008: a September 5 meeting devoted to reviewing information and hearing testimony about existing locality pay area boundaries and the establishment of new locality pay areas, and a September 30 meeting for its other business, including reviewing the results of pay comparisons and formulating recommendations to the President's Pay Agent on pay comparison methods.

2. Council document 08-01-02, approved minutes from the previous Council meeting (meeting number 07-01, October 3, 2007), which she had certified in 2007 after the Council members had an opportunity to review them.

Ms. Lacy then turned to the next item on the agenda, testimony from employee groups about locality pay area boundaries. She said that a number of individuals had come to speak before the Council about locality pay and recruitment and retention of Federal employees in their area, and that some had traveled far to do so. She said in addition to or in lieu of oral presentations, written materials could be submitted to OPM staff for the record.

Due to the number of speakers in attendance, she asked that presentations be limited to 10 minutes. She said the Council would hear testimony in alphabetical order by area name. (In calling for presentations, she worked from item 3 of the agenda, which lists areas where employees had indicated an interest in making a presentation, and also later asked if anyone wished to speak concerning areas not listed on the agenda). The first area was Albany, NY.

Albany, NY

Ms. Lacy welcomed Amy Jackson-Grove, representing 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 (Council Document FSC-08-01-15), 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-08-01-05.

Ms. Jackson-Grove said in order to illustrate recruitment and retention problems in the Albany area, she would repeat the anecdote she had used at the last Council meeting about her own experience as a Federal employee who in 2005 accepted a promotion and transferred from a GS-13 position in the Hartford locality pay area to a GS-14 position in Albany, NY, which is in the “Rest of U.S.” (RUS) locality pay area. She said that despite the promotion, 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 such a small pay increase of only \$104 per year, many other families cannot.

Ms. Jackson-Grove said 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 the FEANNY proposal's use of data from the BLS Occupational Employment Statistics (OES) program, and she said the data clearly show a significant wage gap for General Schedule (GS) employees in the Albany area. She said that it is difficult to understand why the OES data are "discounted and basically held to be useless," and that the data come from BLS, the same agency that collects data for the National Compensation Survey (NCS) program. She said it is the FEANNY's understanding that sufficient NCS data are not yet available to calculate a pay disparity for the Albany area from data collected for the Rest of U.S. locality pay area survey and that it would take "at least a few more years" to get such data.

Ms. Jackson-Grove said the state of affairs with respect to locality pay in Albany is "very inequitable." She said that years spent waiting for "separate surveys beyond the data already available" from BLS "do nothing to help agencies manage the immediate and ongoing staffing issues" outlined in the FEANNY proposal.

Ms. Lacy thanked Ms. Jackson-Grove for her presentation and asked the Council if it had any questions concerning the presentation.

Mr. Erwin asked if examples of recruitment difficulties in the Albany area were available. Ms. Jackson-Grove said that the Veterans Administration (VA) in Albany has difficulty competing with area hospitals and that in order to solve its recruitment problems the VA had tried increased minimum hiring rates for some GS-12 positions, hiring some new GS-12 employees at GS-12, step 10, which led to morale problems, since some employees that had been on board for several years were only at GS-12, step 5 or 6. She also mentioned cases of employees declining job offers once they found out the salaries offered were RUS rates.

Mr. Nesterczuk asked if the salaries Ms. Jackson-Grove quoted in her personal anecdote included locality pay, and she said they did. Since Ms. Jackson-Grove's personal anecdote involved a promotion, Mr. Nesterczuk asked for confirmation that the Federal Government uses a two-step promotion rule so that salaries in the higher position have the value of at least two step increases. He said that agencies ought to have the flexibility to include locality pay before applying the two-step promotion rule to calculate rates of pay for promoted employees.²

Ms. Jackson-Grove agreed with Mr. Nesterczuk and added that since the job offer amounted to an excellent professional opportunity, it was fortunate her family could afford her accepting a job offer with such a modest increase. She might otherwise have

² In promotions involving duty stations in different locality pay areas, agencies must convert salaries to those for the new duty station before applying the two-step promotion rule.

had to forego the opportunity, as might many other applicants. Mr. Nesterczuk responded that agencies need to be able to fill vacancies with desirable candidates and said that if agencies in Albany can further apply human resource flexibilities in order to do so, they should.

Ms. Lacy confirmed there were no other questions for Ms. Jackson Grove, and then invited Kevin Fink, Congressional staff from Representative Gillibrand's office, to speak. Mr. Fink presented the Council with a letter (included in Council document FSC-08-01-04) signed by Senators Charles E. Schumer and Hillary Rodham Clinton and Representatives Kirsten E. Gillibrand and Michael R. McNulty. The letter expresses support for the FEANNY proposal.

After confirming there were no more presentations or questions on the Albany area, Ms. Lacy said she would continue calling for speakers alphabetically. No speakers attended for Albuquerque, NM; Austin, TX; or Bakersfield, CA. (However, two petitions were submitted which are Council documents FSC-08-01-13 (Austin) and FSC-08-01-06 (Bakersfield)). The next area on the agenda with speakers in attendance was Beaumont, TX.

Beaumont, TX

The following speakers addressed the Council and asked that Hardin, Orange, and Jefferson Counties, (Beaumont-Port Arthur, TX Metropolitan Statistical Area (MSA)) be added to the Houston locality pay area:

- Mr. Mike Mason, Executive Director for the Houston Federal Executive Board (HFEB),
- Mr. Robert P. Rutt, Special Agent in Charge, Immigrations and Customs Enforcement (ICE),
- Ms. Rebecca A. Gregory, United States Attorney for the Eastern District of Texas,
- Mr. Jeff Darby, AFGE Local 2139 President, and
- Mr. Isaac Ortiz, AFGE Local 1010 President.

Mr. Mason thanked the Council for the opportunity to speak and thanked OPM staff for answering questions the petitioners had as they prepared their presentation. He informed the Council that Ms. Ashley Huff, Congressional Staff from Senator Cornyn's office, was in attendance. He asked that oral presentations along with the written petition, Council document FSC-08-01-07, be part of the public record of the meeting. He expressed the HFEB's enthusiastic endorsement of the proposal to add the Beaumont-Port Arthur MSA to the Houston locality pay area. He turned the floor over to Mr. Rutt.

Mr. Rutt introduced himself and greeted the Council. He discussed staffing difficulties agencies have in the Beaumont-Port Arthur area. He provided several examples of how agencies in the Beaumont-Port Arthur area have trouble keeping key positions filled with suitable employees. He addressed the locality pay program's current commuting and GS

employment criteria for evaluating an adjacent multi-county metropolitan area for inclusion in a locality pay area.

In addressing the Council's GS employment criterion, Mr. Rutt used GS employment figures from the petition (Council document FSC-08-01-07). Mr. Rutt said that the Beaumont area falls short of the requirement of 1,500 GS employees because of high vacancy rates in the Beaumont MSA, and he attributed the vacancies to RUS pay rates. He also attributed the decrease in GS employees from December 2007 to March 2008 in the Beaumont-Port Arthur MSA to retention difficulties arising from RUS pay. As claimed in the written petition (page 9), he said that if area vacancies at just 7 agencies could be included in the counts, the GS employment requirement would be met.³

Regarding the commuting criterion, Mr. Rutt pointed out that commuting interchange rates currently used by the Council are based on data from the 2000 census, and he said that the Beaumont-Port Arthur MSA has undergone billions of dollars of industrial and economic expansion since the census data were collected. He asked that such "dramatic" changes be considered since the census data are now "clearly out of date."

Mr. Rutt summarized the petition's points on pages 10-11 about the high degree of interconnectedness between Federal offices in Houston and their extensions in the Beaumont-Port Arthur MSA. He said that field offices in the Beaumont-Port Arthur MSA all report to Houston offices, which makes the disparity between employees paid RUS rates and those paid Houston rates "particularly problematic." He thanked the Council for its time and turned the floor over to Ms. Gregory.

Ms. Gregory introduced herself and greeted the Council. Ms. Gregory said that the Beaumont-Port Arthur MSA should be part of the Houston locality pay area because the Beaumont area is "right next door" and has funded staffing levels exceeding the GS employment criterion. (See note #3 on GS employment in the Beaumont area.) She said that if the Beaumont area received Houston locality pay it would meet the GS employment criterion, and that if the Council fails to take that into consideration it will be favoring form over substance. Regarding the commuting criterion, Ms. Gregory repeated Mr. Rutt's belief that the commuting data are outdated and do not reflect the considerable economic change in the Beaumont-Port Arthur area since the 2000 census.

Ms. Gregory discussed Beaumont's importance to the national economy as a major petrochemical center and extremely busy port. She said that very large proportions of the nation's commercial and military jet fuel are produced in the Beaumont area, which she said also holds half the country's petroleum reserve. She talked about the area's economic growth since the 2000 census, its vulnerability to sabotage and terrorism, and

³ Note on employment figures in the Beaumont petition: The chart on page 8 shows 1,410 GS employees in the Beaumont-Port Arthur MSA as of December 2007 and 1,396 GS employees as of March 2008, but those are counts for *all pay plans*, not GS employment. There were 1,143 GS employees in the Beaumont area in December 2007 and 1,096 in March 2008. OPM and the FSC use only GS employment for applying the criteria to evaluate adjacent areas.

its need for Federal employees. She said her office works “hand in hand with Federal agencies” and sees first-hand the problems arising from the Beaumont area receiving RUS rather than Houston locality pay. She said that staffing positions that are important in protecting and preserving the Beaumont area is like being involved in a game of musical chairs, as Federal employees leave the Beaumont area for higher pay in Houston.

Ms. Gregory said that, given the Beaumont area’s significance to the national economy and security, a terrorist event would obviously be calamitous to the nation and that in order to protect the Beaumont-Port Arthur area “it’s critical to get the best and brightest.” She told the Council that she knew its members do important work for the country, and she thanked the members for their service.

Ms. Lacy asked whether anyone else wanted to speak about the Beaumont area. Mr. Jeff Darby, AFGE local 2139 president, addressed the Council.

Mr. Darby said that local 2139 represents U.S. Department of Labor (DOL) employees in Texas, New Mexico, Oklahoma, Arkansas, and Louisiana, as well as a few in Missouri. He said he had been with the DOL since 1989. He said he was attending the Council meeting as a representative not of the DOL but of the labor organizations in which he has membership.

Mr. Darby said he would be brief and wanted to add to the preceding “fine presentation” that the VA has a clinic and DOL has labor statistics offices in the Beaumont-Port Arthur area. He then presented Ms. Lacy with a letter from the Sabine Area Central Labor Council (now included in Council document set FSC-08-01-04) expressing support of the proposal to add the Beaumont-Port Arthur MSA to the Houston locality pay area.

Mr. Darby said he was a third-generation native of the Beaumont area and knows it well. He confirmed earlier statements about the military and economic importance of the area, then he turned the floor over to Mr. Issac Ortiz, AFGE local 1010 president.

Mr. Ortiz said he had no prepared speech but wanted to speak briefly about the Beaumont area, where his AFGE local represents Bureau of Prisons (BOP) employees. He said there were significantly high vacancy rates at BOP prisons in the Beaumont area and that managing inmates was increasingly difficult and dangerous at current staffing levels. He said that RUS pay was part of the problem and that the area has very competitive employers who can pay higher salaries to potential BOP hires. He said that paying Houston locality pay in Beaumont would help and then asked the Council if it had any questions.

Mr. Maestas noted that Mr. Ortiz had mentioned that BOP had 122 vacancies and asked Mr. Ortiz if he attributed the vacancies to relatively low salaries or a shortage of qualified applicants to fill BOP jobs. Mr. Ortiz said, “Both.” Mr. Maestas suggested that part of the problem might be that state and local governments had more resources than BOP to recruit staff that would be qualified for the vacant BOP jobs, and Mr. Ortiz agreed.

Mr. Cox mentioned a case where a young BOP employee had been murdered on the job. He said he wanted to thank BOP employees for the difficult and dangerous work they perform every day.

Mr. Ortiz thanked Mr. Cox. He said he had not mentioned the case Mr. Cox referred to because he didn't want to use the story of such a tragedy as a way to get more pay, but that BOP jobs are such that he could "go on and on" about the dangers BOP staff face.

Ms. Gregory said she wanted to add to her earlier remarks that her office deeply appreciates BOP employees' fine service and that relatively low pay rates hinder BOP's ability to deal with dangerous criminals.

Mr. Maestas asked Mr. Gregory if the Beaumont area would have 1500 or more GS employees if it could fill its vacancies, and she said that was correct. (See note #3 on employment in the Beaumont area.)

Ms. Lacy confirmed there were no additional presentations on the Beaumont area and invited presentations on Berkshire, MA.

Berkshire, MA

Mr. Jeffrey Anliker, former Chair of the Federal Executive Association of Western Massachusetts (FEAWM), greeted the Council. He said that Mr. Patrick DeFalco of the FEAWM was planning to address the Council today but that he had come in his stead. Mr. Anliker said it had been four years since he last attended a Council meeting and that he has retired. He said he came back because Mr. DeFalco requested it, because he had "friends in Berkshire," and because he felt "a little guilty" that the FEAWM had not foreseen in 2003 (when it petitioned the Council to include Hampden and Hampshire Counties, MA in the Hartford pay area) that Berkshire County, MA would be left in the RUS locality pay area.

Mr. Anliker summarized Mr. DeFalco's testimony, which presents an FEAWM proposal (FSC-08-01-08) that the Council recommend new criteria for evaluating counties in RUS for possible inclusion in other locality pay areas. The proposal says that Berkshire County has significant "personnel challenges in the area of recruitment and retention;" that it is the only county in Massachusetts, Connecticut, or Rhode Island that is still part of the RUS locality pay area; and that it is in a "unique situation" because it is situated between two locality pay areas, which exacerbates "recruitment and retention challenges" for Federal agencies in the county.

The proposal recommends that the Council adopt the following or similar criteria and apply them to Berkshire County:

To be included in an adjacent locality pay area (within the same state), the following 4 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; The county must have a combined commuting rate between all bordering locality pay CSA's with add-ons of at least 7.5%.

Ms. Lacy thanked Mr. Anliker for the testimony and invited Mr. Frederick Baron to speak.

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

Mr. Baron said that he is one of 52 Navy employees (46 employees covered by the Federal Wage System and 6 employees covered by the National Security Personnel System). He gave examples of unfilled vacancies, which he attributed to RUS locality pay being applied in Berkshire County. He quoted a declination letter in which an applicant said he could not accept a position because he wanted a higher local market supplement. He said there had been cases where applicants' requested starting salaries could have been met if Berkshire County received higher locality pay. He provided an example of how a GS-15 supervisor in Berkshire could receive lower pay than a subordinate in the Hartford locality pay area. He said that the Department of Defense (DOD) had recently conducted a housing cost evaluation for military personnel stationed in Berkshire County and that the DOD data includes housing data from the Hartford area.

Ms. Lacy asked for clarification on Mr. Baron's comments about DOD housing data. Mr. Hearne briefly explained that DOD does surveys of housing costs to determine housing supplements for military personnel and that Mr. Baron had found that DOD estimates of housing costs for personnel stationed in Berkshire County included housing costs from the Hartford area. Mr. Baron said he could provide the Council with materials showing the DOD estimates. Ms. Lacy asked that any additional materials be forwarded to Mr. Hearne to make sure they are appropriately processed as Council documents.

Ms. Lacy asked if there were any more presentations concerning Berkshire. There were none, so she invited speakers for New Orleans, LA.

New Orleans, LA

Mr. Walter Cruikshank, Deputy Director for the Minerals Management Service (MMS), introduced himself and presented the statement in Council document FSC-08-01-09.

Mr. Cruikshank said the Minerals Management Service (MMS) is a Bureau in the Department of the Interior whose mission is to manage the energy and mineral resources of the outer Continental Shelf and to collect the revenues from energy and mineral leases on all Federal and Indian lands. He said the Gulf of Mexico is central to this mission and of critical importance to the nation.

Mr. Cruikshank said the state of wages and the increasing employment vacancy rate in the New Orleans area has been a critical concern of MMS since Hurricane Katrina and that MMS continues to experience recruitment and retention problems as New Orleans experiences higher inflationary pressure as a result of housing shortages and other basic commodity price increases. He said recruitment and retention of petroleum engineers, geologists, and other scientific positions are especially difficult. He said that salaries MMS can now offer for such positions provide too low a standard of living for highly qualified applicants to accept the positions. He discussed recruitment and retention difficulties MMS has, particularly with petroleum engineers and geologists.

Mr. Cruikshank said that living costs in the Houston area are lower than living costs in the New Orleans area. He said that according to the National Compensation Surveys (NCS) of New Orleans, salaries increased by 14.2 percent between December 2004 and May 2007, compared to 8.1 percent for the NCS data for the RUS survey area. He said that the vacancy rate for Federal agencies in New Orleans is 19% and growing, which “has created a bidding war between agencies that can be best addressed by a change in the Federal wage structure in the New Orleans area.”

Mr. Cruikshank said that the MMS is now one of the few Federal agencies in the New Orleans area which has not implemented across the board retention incentives as a means to deal with recruitment and retention issues in New Orleans. He said the MMS has a “relatively small budget, but many employees,” and that its ability to use this tool is limited” and that as a result, MMS is no longer competitive with other Federal agencies in both recruiting new employees and in retaining their current workforce in other job series.

Mr. Cruikshank said that after Hurricane Katrina, the Federal government made a commitment to staying in New Orleans to help in its recovery, and that MMS was one of the first to answer that call. He said the recent evacuation for Hurricane Gustav underscores the challenge in attracting and retaining the highly skilled workforce needed in New Orleans. He said that while MMS will continue to make use of all available recruitment and retention flexibilities, MMS believes that establishing New Orleans as a locality pay area is an important tool in providing stability to the federal workforce in the region.

Ms. Lacy thanked Mr. Cruikshank for his presentation. The Council had no questions concerning the New Orleans area. Ms. Lacy confirmed that no speakers from Polk County, TX; Portland, ME; Wilmington, NC; or others areas were present.

Conclusion

Ms. Lacy thanked all the speakers for their presentations. She said the Council would take a 5 minute break and would then discuss how it should proceed regarding locality pay area boundaries.

At 11:10, Ms. Lacy reconvened the meeting. She said that prior to the next meeting on September 30, the Council would hold a working group meeting to review its criteria for evaluating adjacent areas and other issues concerning locality pay area boundaries.

Ms. Kelley suggested that the Council work with BLS “to explore other ways of looking at survey data” to address such issues as had been discussed in the meeting. There were no further comments or questions about the meeting. Ms. Lacy asked that Mr. Hearne provide the Council with any help it needs in reviewing locality pay area boundaries and in exploring the possibility of alternative uses of BLS data in the locality pay program.

Ms. Lacy adjourned the meeting at 11:20 a.m.

CERTIFIED

SIGNED
Terri Lacy
Chair