

## **THE FEDERAL SALARY COUNCIL**

**Minutes of October 1, 2002**

**MEETING NO. 02-02**

The Federal Salary Council (FSC) held its second meeting of 2002 on Tuesday, October 1, 2002. Chairman Samuel Wallace called the meeting to order at 10:15 a.m. in the Pendleton Room (Room 5303) of the Office of Personnel Management (OPM).

### **Present**

The following members attended: Samuel Wallace, Chairman (Principal, Williams-Wallace Management Consultants); Mary Rose, Vice Chair (Chair, Federal Prevailing Rate Advisory Committee); Rudy J. Maestas (Acting Director, Labor and Industrial Division, New Mexico Department of Labor); Thomas Bastas (President, Association of Civilian Technicians); Richard Brown (President, National Federation of Federal Employees); Bobby Harnage (President, American Federation of Government Employees, (AFGE)); Colleen M. Kelley (President, National Treasury Employees Union (NTEU)); James Pasco (Executive Director, Fraternal Order of Police); and Peter Tchirkow, AFGE. Ms. Kelly stayed for only a portion of the meeting, as she had an urgent appointment, but designated Steve Keller as a substitute representative for NTEU. Donald Winstead was the designated Federal official.

In addition to OPM staff, more than 20 members of the public attended, including:

- Federal employees representing Barnstable County, MA; western Massachusetts; Larimer County, CO, and South Florida;
- Three representatives of the Bureau of Labor Statistics (BLS);
- Congressional staff from the offices of Senator Edward Kennedy (D-MA), Senator John Kerry (D-MA), Representative Richard Neal (D-MA), and Representative John Olver (D-MA); and
- Three representatives of the media.

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

The Council approved the minutes of its August 15, 2002, meeting (Council document FSC-02-02-01). Chairman Wallace then said he wanted the record to reflect a brief explanation of the recent renewal of the Federal Salary Council charter, which must be renewed biennially. At Chairman Wallace's request, Mr. Winstead briefly discussed the charter and said it is very similar to the previous one. An explanation of the charter is provided below.

### **Federal Salary Council Charter**

The Federal Advisory Committee Act (FACA) (Public Law 92-463) authorizes the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government.

The Federal Salary Council is an advisory body composed of experts in the fields of labor

relations or pay policy and representatives of Federal employee organizations. The President established the Council under section 5304 of title 5, United States Code, as amended by section 529 of Public Law 101-509, the Federal Employees Pay Comparability Act of 1990. The Council is subject to the provisions of FACA because it plays a key advisory role in determining Federal locality-based comparability payments for General Schedule workers.

As required by section 9(c) of the FACA and 41 CFR 101.6.1029, the charter was recently signed by OPM Director Kay Coles James, and OPM forwarded transmittal letters to the appropriate House and Senate Committees and the Library of Congress (as required by FACA).

Chairman Wallace thanked Mr. Winstead for his explanation.

Chairman Wallace then turned to the next item on the agenda: discussion of the proposed regulations appearing in the September 11, 2002, *Federal Register* that would tie the metropolitan area portion of locality pay area boundaries to the geographic scope of Metropolitan Statistical Area (MSA) and Consolidated Metropolitan Statistical Area (CMSA) definitions that are contained in the attachments to Office of Management and Budget (OMB) Bulletin 99-04.

### **Proposed Regulations Linking Locality Pay Areas to Existing OMB MSA/CMSA Definitions**

Council document FSC-02-02-02 is a copy of the *Federal Register* notice of the proposed regulations linking locality pay areas to existing OMB MSA/CMSA definitions. At Chairman Wallace's request, Mr. Winstead briefly explained the relevance of the proposed regulations to the locality pay program and said that comments would be accepted until November 12, 2002.

Mr. Winstead said the proposed regulations would tie the metropolitan area portions of locality pay areas to metropolitan area definitions issued by OMB in 1999. He said OMB is reviewing 2000 census data and could revise the metropolitan area definitions issued in 1999.

He explained that, given the new OMB criteria for defining metropolitan areas, the prior Council was concerned and wanted to review the effects of the new criteria on the locality pay program before recommending changes in existing boundaries. He stressed the importance of the Council and Pay Agent fully understanding such effects before changes in locality pay area boundaries are made.

Chairman Wallace asked if there were questions about Mr. Winstead's presentation. Receiving none, he summarized the remaining items on the meeting agenda.

Since there were no questions, Chairman Wallace said the Council would now hear testimony from the four groups requesting area-of-application status. Due to time constraints, he asked that presentations be limited to 10 minutes and that Council questions for presenters not exceed 2-3 minutes.

## **Barnstable County, MA**

Ms. Kim Ainsworth, Executive Director of the Greater Boston Federal Executive Board (GBFEB), addressed the Council on behalf of Barnstable County, MA. Ms. Ainsworth thanked the Council for hearing her presentation. Ms. Ainsworth reinforced points made in Council document FSC-02-02-05. She reminded the Council that GBFEB had, “several times over the past 2 years,” requested area-of-application status for Barnstable County only to hear that the Council thought it best to wait for census 2000 data before modifying any locality pay area boundaries. She said that Barnstable County passes all area-of-application criteria “by a wide margin” except for the General Schedule (GS) employment criterion, which is unattainable for the county because of its location, its size, and its “seasonal nature.” She said Barnstable County’s recruitment and retention problems were exacerbated by the creation of the Hartford locality pay area in 1998 and the addition of part of Bristol County, MA, to the Boston locality pay area in 2001. She said Barnstable County has a strong economic linkage with both of those areas, that the Federal Government serves largely the same customers in Barnstable County as it does in Bristol County and in the Hartford locality pay area, and that Barnstable County has lost many employees to both the Boston and Hartford locality pay areas. She said the GBFEB is aware that the Council does not consider living costs, but the GBFEB thinks living costs should be taken into consideration. She said exclusion of Barnstable County from the Boston locality pay area is a “flagrant injustice.” She thanked the Council for its time and consideration.

Chairman Wallace thanked Ms. Ainsworth for her presentation, asked if the Council had questions for Ms. Ainsworth, and, receiving none, invited congressional staff speaking on behalf of Barnstable to address the Council.

Ms. Katie Joyce, staff member from Senator Kerry’s office, said Senator Kerry strongly supports both the Barnstable proposal and another proposal, covered below, to add 21 towns in Hampden and Hampshire Counties, MA, to the Hartford locality pay area.

Ms. Kathleen Wilder, staff member from Senator Kennedy’s office, said Senator Kennedy strongly supported the addition of Barnstable County to the Boston locality pay area. She pointed out that Barnstable is surrounded by water and is considerably smaller in area than the average U.S. county.

Chairman Wallace asked the Council if it had questions or comments on the Barnstable presentations.

Mr. Tchirkow said the presentations so far had been relevant and useful, and he thanked all who had spoken on behalf of Barnstable County.

Having no additional questions or comments from the Council on the Barnstable County proposal, Chairman Wallace invited the Federal Executive Association of Western Massachusetts to address the Council.

### **Federal Executive Association of Western Massachusetts**

Mr. Bruce Sylvia, Vice President of the Federal Executive Association of Western Massachusetts (FEAWM), thanked the Council on behalf of Federal agencies in the Connecticut River Valley (CRV) area of western Massachusetts for providing him with the opportunity to speak.

He said he would not take the time to address his submission in the same detail as he had at the August 15, 2002, Council meeting, since the proposal made public at that meeting and his previous statement supporting the proposal “speak for themselves.” However, he said he wished to “highlight a few pertinent points,” which included the following:

- A strong economic link exists between the 21 towns in the proposal and the Hartford MSA.
- In 1998, the Massachusetts legislature voted to abolish the county-based form of government, which made county lines irrelevant for practical purposes;
- The Connecticut River Valley is, in effect, a unique subdivision or employment corridor within Massachusetts.
- The 21 towns all contain GS employees.
- Sufficient precedent exists for a favorable decision regarding the proposal, since the Council had reported to the Pay Agent in October 2001 that the Pay Agent should continue to monitor counties adjacent to pay areas and could make minor adjustments before census 2000 data are available if a particularly egregious situation warrants such action, as in the case of the portion of Bristol County that was added to Boston in 2001—Bristol County is comparable to the 21 towns in that it is the same size “geographically” as the proposed area of application, plus living costs in the 21 towns exceed those of the CRV’s “neighbors to the east.”
- For 3 years, FEAWM has been unsuccessful in its efforts to persuade the Council to modify its area-of-application criteria, although arguments supporting such revision are “reasonable and logical.”
- The commuting criterion, which now measures commuting to/from the core of a metropolitan area, should instead measure commuting to/from the entire metropolitan area.
- OPM staff told FEAWM that when the commuting criterion was established, it was arbitrarily set and intentionally made difficult to satisfy, so it seems the Council has the authority to modify such a criterion when such modification is based on a “well-reasoned offering.”
- If Hampden and Hampshire Counties must wait for a remedy until census 2000 data are available, this might mean that the counties would have to wait at “least 5 years after the census 2000 data were initially collected.”
- New London, Santa Barbara County, and Edwards Air Force Base are still areas of application even though they fall below criteria they once passed.
- Existing tools to alleviate recruitment and retention problems are inadequate and lead to “disparity, dissent, and poor morale.”

He asked the Council to modify its area-of-application criteria or recognize the situation in Hampden and Hampshire Counties as egregious.

Chairman Wallace thanked Mr. Sylvia for his presentation and asked if any congressional staff cared to comment on the proposal.

Ms. Annie Russo, a staff member from Representative Olver's office, said that Representative Olver supported the proposal, that the Connecticut River Valley (CRV) "enjoys a wealth of colleges and universities," and that many CRV residents commute to Hartford, where pay is higher.

Ms. Ann Jablon, a staff member from the office of Representative Neal, expressed Representative Neal's support for the proposal, and said Representative Neal's office had heard from many about recruitment and retention difficulties in the CRV. She said Representative Neal believed the Council should evaluate the proposal using a GS employment criterion that reflects downsizing that has occurred since the Council established the criterion.

Ms. Kathleen Wilder, a staff member from Senator Kennedy's office, said Senator Kennedy strongly supported the addition of the 21 towns to the Hartford locality pay area. She said "high turnover" in the CRV leads to increased expenses resulting from the need to recruit and train new workers.

Chairman Wallace thanked all who had spoken in support of the proposal.

Chairman Wallace said that the Council had done considerable work to "deal with the issue of egregiousness" and had taken pains to evaluate each petitioning area carefully to ascertain whether available data indicated in each case constituted an "egregious situation." In its careful evaluation of each area, the Council had chosen to review such data as accession and separation rates for FY 2000 and FY 2001, a summary of the number and percentage of employees on special salary rates in each area, a summary of special rate authorizations in each area, and analysis of movement of GS employees in each area from CY 1996 to CY 2001.

Chairman Wallace said that, while OPM did not have data limited to the 21 towns in the proposal concerning Hampden and Hampshire Counties, it did provide the Council with county-wide data on Hampden and Hampshire Counties to help the Council evaluate the proposal. He said OPM data indicated a slight improvement in quit rates for Hampden and Hampshire Counties, and he asked whether Mr. Sylvia perceived any improvement in quit rates. Mr. Sylvia said he could not speak to the quit rates, since he did not have the same data available for his own evaluation.

Mr. Sylvia asked OPM staff if the quit rate data would exclude employees who transferred to other Federal Agencies, and Mr. Winstead said the quit rates did not take such transfers into account.

Mr. Sylvia provided an anecdote about difficulties in retaining senior Federal law enforcement employees. He said he would need to talk to human resource offices in Hampden and Hampshire Counties to address changes in quit rates.

Chairman Wallace said he was not trying to debate with any petitioners, but that the Council was trying to “focus on what constitutes egregiousness.” He said he wanted to clarify that the Council was not yet trying to evaluate criteria for possible changes.

Mr. Tchirkow said that the Council Working Group “looked at a number of different data points” for Hampden and Hampshire Counties, but that he, for one, was not yet comfortable with the proposal encompassing only 21 selected towns in the two counties. He said he did not know, for example, whether each of the 21 towns included Federal facilities.

Mr. Sylvia said the 21 towns were selected because they had GS employment and that FEAWM had relied on its membership to report which townships in the CRV had Federal employment.

Mr. Sylvia said an earlier proposal had included more than the 21 towns, but that FEAWM had modified the proposal based on advice from OPM that the proposal should perhaps be limited to the CRV area that had a substantial amount of commuting of Federal employees to/from the core of the Hartford MSA.

Chairman Wallace said that, regarding questions about the Working Group’s analysis of the four area-of-application proposals on the agenda, he would have to defer to some extent to Mr. Maestas and Ms. Rose, Chair and Co-Chair, respectively, of the Working Group tasked with analyzing the proposals and dealing with the issue of egregiousness. He said he thought, however, that it might be inadequate to bring petitions up to the level of egregiousness by adding towns or drawing boundaries in order to come closer to meeting area-of-application criteria. It might be preferable, he said, to ask instead what “egregious” means and to base boundaries in proposed areas on existing or natural boundaries.

Chairman Wallace expressed the hope that no petitioner would feel “on the hot seat.” He said the existing criteria were subject to review and perhaps revision in the future, but that for now, deviations from existing criteria should be “on solid ground” and that the Council needed to ensure this would be the case.

Mr. Sylvia said he wanted to remind the Council that FEAWM said in previous petitions that it wanted the 21 towns to be addressed as a separate and discrete area: the CRV. He submitted that the Council, now having counties and partial counties, might simply add “multiple partial counties” for cases where areas clearly consist of economic entities consisting of multiples towns crossing county lines.

Chairman Wallace reiterated that the Council had not begun its evaluation of locality pay area boundaries and existing criteria but would once equipped with 2000 census data. Its current task was to confront the issue of “egregiousness” and carefully evaluate current petitions from that perspective.

Mr. Sylvia returned to his earlier point about the addition of a portion of Bristol County, MA, to the Boston locality pay area constituting sufficient precedent for an exception on the basis of “egregiousness.”

Chairman Wallace said that the Council was evaluating each area on its own merits and had made the commitment to take a fresh look at each new petition rather than trying to establish similarity between areas of application and qualifying areas as “egregious” on that basis. He thanked Mr. Sylvia for his comments, asked for further comments, and, receiving none, invited Representatives of Federal employees in Monroe County, FL, to speak before the Council.

### **Monroe County, FL**

Mr. Michael Rhodes spoke on behalf of Monroe County, FL, and the South Florida Federal Executive Board (SFFEB). He reinforced points made in Monroe County’s petition presented before the Council in meeting FSC 02-01. He cited support from U.S Coast Guard Admiral R.D. Sirois, SFFEB Director Jacqueline Arroyo, and Representative Ileana Ros-Lehtinen (R-FL) (each of whom wrote a letter in support of the Monroe proposal to the Chairman—see documents FSC-02-02-06, FSC-02-02-07, and FSC-02-02-08).

Mr. Rhodes provided a summary of SFFEB’s efforts to date to have Monroe County added to the Miami locality pay area as an area of application. He said the SFFEB had begun about 2 years ago to address the fact that for Monroe County, the two unmet criteria—GS employment and population density—were likely unattainable due to the nature of the county, particularly its paucity of habitable land.

Mr. Rhodes said that SFFEB’s position on the Florida Keys issue was that it constitutes an egregious situation because—

- It is contiguous to only one area, Miami;
- Unlike some other areas, it lacks the *potential* to meet GS employment and population density criteria; and
- It has had recruitment and retention difficulties that worsened considerably after the events of September 11 and the increased interest in national security.

Mr. Rhodes said that, while he knew that locality pay, like recruitment and retention tools already used to alleviate such problems in the area, could not fix all of the recruitment and retention problems in Monroe County, at least one disincentive—lower pay than the Miami locality pay area—would be removed from the many problems the area now faces.

Chairman Wallace thanked Mr. Rhodes for his presentation and asked for any testimony from Congressional staff regarding Monroe County. No congressional staff attended on behalf of Monroe County.

Chairman Wallace asked Mr. Rhodes to summarize what he thought made the area “egregious.” First, which of the four current area-of-application criteria did the area meet? Mr. Rhodes said the area was adjacent to the Miami locality pay area and passed the commuting criterion.

Chairman Wallace asked what the difference was between the Miami locality pay rate and the Rest of U.S. (RUS) locality pay rate. OPM staff provided the difference. (For 2002, the Miami

locality pay rate is 12.45 percent, and the RUS locality pay rate is 8.64 percent, a 3.5 percent difference in pay.)

Chairman Wallace asked Mr. Rhodes what he knew about efforts in Monroe County to address the quit rate. Mr. Rhodes said he had limited anecdotal information about the quit rate and attempts to address it, but could conclude that Monroe County has experienced difficulties in recruiting new employees.

Chairman Wallace asked if many of the employment losses had been to other Federal agencies. Mr. Rhodes said that some losses had, while others had been to the private sector.

Chairman Wallace asked if there were other questions or comments from the Council. Hearing none, Chairman Wallace invited representatives from Larimer County, CO, to make their presentation.

### **Larimer County, CO**

Mr. Steve Weber and Ms. Mel Fernandez of the Federal Executive Association of Larimer County, CO, addressed the Council. Their presentation supplemented the proposal in Council document FSC-02-02-11; made the case for adding Larimer County as an area of application to the Denver, CO, locality pay area; and included the following points:

- Larimer County meets the Council's urbanization criteria.
- Larimer County is contiguous to the Denver, CO, CMSA.
- A major highway system links Fort Collins, CO, to the Denver-Boulder-Greeley area.
- Commuting from Fort Collins to Denver has increased significantly since 1990—from 9.8 percent in 1990 to 15.0 percent in 2000.
- The Fort Collins area is growing in population at a rate commensurate with that of the Denver-Boulder-Greeley MSA.
- While Larimer County currently fails the GS employment criterion, GS employment is expected to grow. A new Center for Disease Control (CDC) campus has been approved, CDC has increased bioterrorism responsibility and is losing employees (especially senior scientists) to higher-paying competitors, the National Wildlife Research Center is adding buildings, etc.
- Significant pay disparities exist between the RUS and Denver locality pay areas, between Colorado State University and Federal salaries in Larimer County, and between other parts of the private sector and Federal salaries in Larimer County.
- The Federal workforce is aging, and Larimer County needs to prepare for a recruitment crisis.
- Addition of Larimer County as an area of application will help Larimer County continue to accomplish its increasing responsibilities.

Chairman Wallace thanked the presenters. He asked OPM staff for the difference in pay between the Denver and RUS locality pay areas. OPM staff said the difference is 4.3 percent.

Mr. Wallace asked the Larimer county representatives if recruitment difficulties varied significantly by grade level. Ms. Fernandez said that a good example that came to mind was the difficulty in recruiting microbiologists for GS-7/9/11 career ladder positions. She said it takes many months to fill such positions, and the norm is to end up with unqualified people.

Mr. Brown asked about an anecdote Ms. Fernandez provided in which she mentioned difficulties recruiting from CDC headquarters in Atlanta. He asked whether there are not many factors other than locality pay that might effect an Atlanta employee's decision regarding a distant transfer. Ms. Fernandez said there would be, but that the lower pay rates offered in Larimer County could be a significant disincentive. Mr. Brown pointed out that, in his presentation, he projected growth on the one hand but recruitment and retention difficulties on the other. He asked whether this constituted a contradiction. Mr. Weber said he hoped it did not. The presentation forecasts the slots and aims toward increased locality pay, which he hopes will help fill the slots.

Chairman Wallace asked if the presenters knew the extent to which special pay rates and other existing management flexibilities had been used in Larimer County to alleviate recruitment and retention problems. Mr. Weber said he did not have the data to back up a response. He added it was his feeling that special rates help with retention somewhat but probably do little for recruitment.

Chairman Wallace asked if there were more questions from the Council. The Council asked none. Chairman Wallace thanked Mr. Weber and Ms Fernandez for their presentation.

The Council took a short break at 11:37 and reconvened at 11:52. Chairman Wallace said the next item on the Agenda was the Report of the Working Group.

### **Report of the Working Group**

A copy of the Working Group Report is provided in Council Document FSC-02-02-12. Mr. Maestas and Ms. Rose read the full report into the record. The report includes recommendations on the following topics:

- Use of the Occupational Compensation Survey Program and the National Compensation Survey Program to determine locality rates for 2004 (by taking an average of these measures),
- Locality rates for 2004,
- Areas with pay gaps below those of RUS,
- Areas of application,
- Locality pay areas for 2004,
- Status of improving BLS surveys used in the locality pay program, and
- Allocation of locality pay in 2003

The report also discusses the process by which the Council evaluated the four petitions for area-of-application status, but it does not include a recommendation as to the disposition of the four petitions. Instead, it recommends that the Council continue discussions and deliberations at today's Council meeting.

Finally, the report provides an update on improving future locality pay surveys and discusses the Council's plans for 2003.

During the reading of the report, Chairman Wallace interjected with these questions/comments:

- Is the 25.73 percent average target gap for 2004 shown in attachment 1 the result of using the midpoint of the two survey's gaps? OPM staff said that it was.
- Chairman Wallace explained that when areas were below RUS and ultimately removed from BLS surveys by the Pay Agent, the Council had not decided how to recommend that resources should be allocated.
- Chairman Wallace asked Ms. Rose to clarify how the Working Group proposed the allocation of locality pay for 2003. Ms. Rose confirmed that areas would receive increases in locality rates in proportion to the size of their pay gaps and that areas with the largest gaps would receive the largest increases. She confirmed for the Chairman that the allocation plan assumed a 1 percent increase in payroll allocated among the 32 locality pay areas, with 3.1 percent used to increase base GS pay rates. Mr. Allan Hearne, Locality Pay Team Leader for OPM, said availability of a 1 percent increase in total payroll provided 1.2 percentage points to distribute among the 32 locality pay areas. He said the proposed method had been used since 1998.

Chairman Wallace thanked the Working Group for its hard work on the report. He said the Council still needed to have further discussion about the status of future surveys and needed to make a decision on the four area-of-application petitions it had received. Chairman Wallace called for a motion to adopt the report and said adoption would be followed by further discussion of BLS surveys and a decision on the area-of-application requests. The Council adopted the report.

Chairman Wallace said he now wished to open a discussion on future surveys for the locality pay program.

Mr. Tchirkow said the Working Group had spent many hours evaluating NCS surveys and considering whether to use them with three of five improvements implemented thus far. He proposed an amendment to the Working Group report.

### **Amendment to the Working Group Report**

Mr. Tchirkow proposed the following amendment to the Working group report:

The Working Group Report includes a recommendation to phase in the use of NCS survey data to calculate locality pay gaps by averaging the pay gaps under NCS with the pay gaps under the OCSP surveys. The pay gaps using this averaging formula are shown in Attachment 1 to the Working Group report.

However, employee representatives continue to have concerns about the reliability of data produced by the NCS. As a result, we recommend that any further implementation of the use of NCS data in the calculation of locality pay

gaps be conditioned on Bureau of Labor Statistics (BLS) addressing the following issues:

1. **Continued implementation by BLS of previously identified improvements to the NCS methodology:** At this point, BLS has implemented only three of the five improvements previously identified by the Council as necessary for the use of NCS for locality pay calculations. Although the Working Group has recommended partial use of the NCS data based on the implementation of these three improvements, any further implementation of (or additional weight given to) the NCS data must be expressly conditioned on action by BLS to implement the remaining two improvements identified by the Council.
2. **Sample Size:** The NCS relies heavily on modeling to produce “missing” data, i.e. data that is not collected from actual surveys because of insufficient matches in certain job categories. For example, as noted in the Working Group report, “NCS random samples may miss key high-paying jobs that are not common in non-Federal establishments.” While modeling is an appropriate technique in the absence of available data, heavy reliance on modeling is troubling, especially when the modeled NCS data indicate a lower gap in a locality than had been identified using the former OCSP survey methodology. In order to address this concern, additional resources should be committed by BLS to increase the sample size of its surveys, particularly in those localities where the NCS data indicate a pay gap that is more than 5 percentage points below the gap measured using OCSP. This will not only greatly increase the reliability of the NCS data, but also its credibility with Federal employees, Congress, and the public in general.

Chairman Wallace thanked Mr. Tchirkow for the proposed amendment.

Chairman Wallace said BLS has made great progress in improving the NCS program for use in the locality pay program. He asked if BLS representatives were present and could come before the Council to discuss the future of locality pay surveys. Mr. William Wiatrowski, Chief, Division of Compensation Data Analysis and Publication, BLS, approached the Council.

### **Future of Locality Pay Surveys**

Mr. Wiatrowski said BLS is very pleased that the Council is recommending use of NCS data, which he considered “a very positive step.”

Mr. Wiatrowski said he wished to respond to Mr. Tchirkow’s concerns. He said BLS continues to implement the remaining two improvements. He said he wanted to clarify for the record that the NCS surveys are very large and complex and do not lend themselves to immediate modification. He explained that fully implementing the remaining two improvements requires completion of a survey cycle that includes a personal visit. He said personal visits cannot be

conducted more frequently—partly because of limits on BLS resources but also because more frequent personal visits would likely jeopardize response rates. He said BLS surveys are voluntary and that BLS continues to explore ways to facilitate data collection and reduce respondent burden. (Council document FSC-02-02-13 is a draft BLS paper that discusses the NCS data collection cycle in some detail.)

Mr. Wiatrowski said, regarding Mr. Tchirkow's point about increasing sample size, that while he could not say at this time what future BLS resources would be, BLS would be pleased to work with the Council to examine areas where the difference between NCS and OCS pay gaps exceeds 5 percent.

Mr. Wiatrowski said that, while BLS is not in the pay policy business, he nevertheless had concerns about sample augmentation based on comparisons between the two sets of gaps and wanted to point out that BLS cannot stand behind the results of OCSP data. He said BLS' analysis indicates that aged OCSP data "tend to reflect reality for only about 1-2 years," which is one reason he was not surprised that NCS gaps were different from those derived by aging OCSP data from surveys conducted 6-8 years ago.

Mr. Wiatrowski said that while OCSP surveys were designed to represent a fixed set of jobs, NCS surveys are designed to represent the entire Federal workforce in an area (by using probability sampling to choose jobs for which salary data will be collected). He said both NCS and OCSP had "a fair amount of modeling" and added that the amount of modeled data may be roughly the same for both survey programs. (OCSP data were about 70 percent actual observations, but the list of 115 jobs covered only about 30 percent of the Federal workforce.)

Chairman Wallace thanked Mr. Wiatrowski for his presentation. He said BLS surveyed approximately 40,000 establishments for the NCS program, which is an impressive number. He said the problem, however, is "we are dealing with only a portion of the 40,000 in each area" and that the extent of modeling is quite high in some areas.

Chairman Wallace asked Mr. Wiatrowski whether it is necessary to represent jobs that may not exist in a local economy.

Mr. Wiatrowski explained that the model uses all of the data collected in the continental U.S. and predicts data for jobs not found in local surveys in order to represent the entire Federal workforce in each locality pay area. (Since NCS surveys use probability sampling to select jobs that are reported, not modeling would likely lead to significant fluctuations resulting from job selection rather than changes in the local labor market. The model is used to help BLS represent the entire non-Federal labor market while providing more stability.) Mr. Wiatrowski said that, since the goal of the Federal Employees Pay Comparability Act of 1990 is to compare Federal pay to non-Federal pay, he would argue that a model is appropriate; however, he said, BLS will be happy to help explore refinements in the modeling process.

Chairman Wallace asked how data might be augmented in areas where modeling is high and survey results are lower than with OCSP data. He said that it is common in private-sector compensation practice to appoint focus groups to develop strategies for handling transitions

between methodologies. He said it would be best if the Council could ensure through research that it was "on the right track" with regard to survey methodology—particularly since use of lower gaps may appear detrimental to some employees.

Mr. Wiatrowski said that budget and timing would be two major issues affecting BLS participation in such efforts as Mr. Wallace described. Mr. Wiatrowski said that, after further consideration, BLS might have some statistical concerns to raise later regarding augmentation of NCS data. Mr. Wiatrowski then reiterated that BLS would be pleased to work with the Council to explore ways of addressing concerns about the extent of modeling.

Chairman Wallace said he wanted to make clear that he was not yet saying the model needed to be changed in any way. What he wanted to say was that the Council and BLS needed to work together to lend the model support. He said it would be helpful to know what BLS' resource constraints were. He said that if resource constraints preclude BLS from augmenting data, perhaps the Council could develop outreach strategies to explain the differences between OCSF and NCS in affected areas. Mr. Wiatrowski said BLS would be happy to help the Council address its concerns about the survey methodology. Chairman Wallace thanked Mr. Wiatrowski and said the Council would now discuss areas of application.

Chairman Wallace called for a motion to adopt Mr. Tchirkow's proposed amendment. The Council adopted the amendment.

### **Areas of Application**

Chairman Wallace said the Council has worked hard to understand and refine the concept of "egregiousness," and he said the concept would probably be further refined in the future. He said he believed the Council needed a protocol for considering requests based on "egregiousness" and that the Council would probably need to define a standard set of data to review for each such request, e.g., adjacency to a locality pay area, the cost resulting from adding an area of application, and turnover and accession rates, level of commuting, number of Federal employees affected, extent of local support.

Mr. Brown said he would like to make a motion. He prefaced it by saying that the Council had taken each proposal seriously. He made a motion to add Barnstable County, MA, as an area of application to the Boston locality pay area.

Mr. Harnage seconded the motion. Mr. Tchirkow said he believed Barnstable "sticks out like a sore thumb," being the only area on the East Coast, from Boston to Washington, DC, not included in a locality pay area. He said he would support the motion that, effective January 2004, Barnstable County be made an area of application to the Boston locality pay area.

Mr. Maestas said he supported Mr. Brown's motion.

Ms. Rose said she believed the Council was "making a leap of faith" by modifying a locality pay area without waiting for the census data and new OMB metropolitan area definitions.

Chairman Wallace thanked Ms. Rose for expressing her opinion. He said he wanted to encourage debate. He then called for a vote on the issue of Barnstable County. All but Ms. Rose voted to add Barnstable County as an area of application to the Boston locality pay area in January 2004.

Chairman Wallace and Ms. Rose said that other petitioning areas—western Massachusetts, Larimer County, CO, and Monroe County, FL—were welcome to reapply when the Council has new census data and new OMB metropolitan area definitions. Chairman Wallace said that the Council was not saying "no" to the other areas, but that it was deferring a decision until the new data are available.

Mr. Brown said that the Council could consider the petitions again next year.

Chairman Wallace asked Mr. Winstead when new census data and new OMB metropolitan area definitions would be available. Mr. Winstead said commuting pattern data from the Census Bureau should be available in March 2003 and that new metropolitan area definitions should be available no later than June 2003.

Chairman Wallace said he would like the petitioning areas to know they could continue to submit whatever material they believed might further support their cases, despite decisions the Council made today. Chairman Wallace said the Council would now discuss its next steps.

### **Next Steps**

Chairman Wallace asked Mr. Winstead how the Council would report its recommendations to the Pay Agent. Mr. Winstead said OPM staff would draft written recommendations and forward them to the Council in approximately 2 weeks.

Chairman Wallace said the Council was not yet ready to schedule future meetings. He asked that the Working Group work with BLS to prepare an update on the status of BLS improvements, to ascertain and summarize the implications of using the model in areas with a gap reduction of more than 5 percentage points, and to continue to refine the process by which area-of-application petitions are handled. He said that as the Working Group progressed in this work, the Council would be in a better position to schedule future meetings. Chairman Wallace said the Working Group should also consider additional data from petitioning areas.

Chairman Wallace said the Working Group might prepare an update on reform efforts thus far resulting from the publication of the White Paper, *A Fresh Start for Federal Pay: The Case for Modernization*. (The White Paper is a pre-decisional paper that documents many problems in the Government's current pay and job evaluations systems. It does not propose solutions to those problems. Its objectives are to help stakeholders learn from the Government's history and experience and to inform the debate over how the Government can preserve core values of public service - such as equity, procedural justice, openness, and accountability - while modernizing its compensation practices. The aim is to surface areas of agreement and disagreement and concern and consensus so that the Federal community may be fully informed as it pursues future directions for improving pay as a strategic tool for managing human capital.)

Chairman Wallace asked whether the Council or Mr. Winstead had additional comments. Receiving none, Chairman Wallace then opened the floor for public comment.

### **Public Comment**

Mr. Rhodes said, for those petitioning areas not added as areas of application, it would be beneficial if the Council would explain its reasoning. Mr. Rhodes said it appeared the Council had developed new criteria that had yet to be specified.

Chairman Wallace said area-of-application criteria had not changed. What the Council had been considering in the case of the petitioners, none of which had met the current criteria for areas of application, was the issue of egregiousness. The Council had defined criteria for areas of application and had recommended modifications where egregious situations exist, but it never has developed a definition of "egregiousness." The Working Group had identified employment levels, use of special rates, and turnover and accession rates as some data elements that might be considered in efforts toward standardizing evaluation of areas that request area-of-application status based on "egregiousness." Chairman Wallace noted that the term allows for flexibility but leaves the Council to evaluate to the best of its ability available evidence and make the best possible decision without the benefit of special criteria that indicate egregiousness. He said the Council would, however, continue to refine the process by which such requests are treated.

Mr. Rhodes said the GS employment criterion is an arbitrary one unattainable for Monroe County. Chairman Wallace said the Council had not begun its work to evaluate the current criteria, but intended to do so when new census and commuting pattern data become available.

Mr. Rhodes said it would still be best if the Council could explain where Monroe County fell short. Chairman Wallace said that while it was not the Council's intention to debate each area, a memorandum could be prepared for Monroe explaining the reasoning leading to the Council's decision that it could not yet describe Monroe's situation as "egregious."

Mr. Brown said the Council is not discounting any of the three remaining petitions. He said the Council has decided it needs more time to "get comfortable with" further modifications.

Chairman Wallace said that "egregiousness" is not only a high bar to make but also allows for flexibility. He said the Council needs to ensure its decisions were for the good of the entire program. He said the ultimate goal of the locality pay program is to fairly and accurately base Federal salaries on non-Federal salaries.

Chairman Wallace said he knew there had been some disappointment today. He asked that everyone keep in mind that one very positive outcome had been the Council's statement of its commitment to "hold BLS and others accountable for maximizing the validity of comparisons between Federal and non-Federal pay."

Chairman Wallace said Council meetings were not designed to duplicate a "courtroom environment" in which the Council could hold a debate with each area.

Mr. Rhodes said he understood the Council could not hold debates with each area, but added that the people he represents would expect an explanation of some kind.

Chairman Wallace said the Council would write letters to petitioning areas about today's decisions. He asked if the remaining two areas had any comments.

Mr. Sylvia said he was extremely disappointed. He said that, with the addition of Barnstable County, the only place in Massachusetts that would be excluded from locality pay, under the Council's recommendations, would be western Massachusetts. He reiterated his support of the FEAWM proposal and asked the Council to call for a vote on the three remaining areas. (The Council voted to make Barnstable County an area of application, but had not specifically voted on the other three petitioning areas).

Chairman Wallace said that Mr. Sylvia could prepare a letter to the Council or submit additional materials if he so desired. However, Mr. Wallace said the Council did not want to vote on the three remaining areas because a final decision had not yet been made. The Council's decision to defer modification as requested in the proposals did not, he said, amount to a "no" vote.

Mr. Sylvia asked Chairman Wallace whether it was true that the Council had, in effect, made a "no" vote for western Massachusetts being an area of application in 2004. Chairman Wallace said it was true that western Massachusetts would not be an area of application in 2004, but that the Council could decide, once it had the new census data and metropolitan area definitions, to revisit the petition. He added that the Council could also evaluate any additional materials submitted by the petitioning areas.

Chairman Wallace asked if there were additional comments or questions. Hearing none, he called for adjournment. The Council adjourned at 1:24 p.m.

SIGNED  
Samuel Wallace  
Chair