

THE FEDERAL SALARY COUNCIL

Minutes of October 19, 2009

MEETING NO. 09-01

The Federal Salary Council held its first meeting of 2009 on Monday, October 19, 2009. Charles Grimes, Deputy Associate Director for Performance and Pay Systems at the Office of Personnel Management (OPM), was the Designated Federal Official. He also chaired the meeting, since the Chair position was vacant, and called the meeting to order at 10:02 a.m.

The following members attended: Mr. J. David Cox (National Secretary-Treasurer of the American Federation of Government Employees (AFGE)); Mr. James Pasco (Executive Director, Fraternal Order of Police); Ms. Colleen M. Kelley (President, National Treasury Employees Union (NTEU), and Mr. Frank Ferris (Vice President, NTEU). Mr. William R. Dougan (President, National Federation of Federal Employees) also attended the meeting¹.

In addition to OPM staff, more than 25 members of the public attended the meeting, including seven representatives from the Bureau of Labor Statistics (BLS), four representatives from the media, and Congressional staff from the office of Representative John Olver.

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

Mr. Grimes said the first item on the agenda was discussion of the interim regulation moving McGuire Air Force Base and Fort Dix from the Philadelphia locality pay area to the New York locality pay area. He asked Mr. Allan Hearne, OPM team leader for the General Schedule (GS), to explain the regulation (Council document FSC-09-1-2).

Mr. Hearne explained that for Federal facilities that cross locality pay area boundaries, the Council recommended and the President's Pay Agent approved criteria to determine whether the part of the facility outside a higher paying locality pay area should be included in it. He said the new Joint Base McGuire-Dix-Lakehurst commander informed OPM that the Joint Base met the criteria, and that the commander asked that the entire Joint Base be included in the New York locality pay area.

Mr. Hearne said the Joint Base was to be established effective October 1, 2009. He explained that the Council did not have time to meet before that date to discuss the change in locality pay area boundaries, and that since the new Joint Base McGuire-Dix-Lakehurst met criteria recommended by the Council and approved by the Pay Agent, the Pay Agent saw no reason to

¹ There are presently five vacancies on the Council, three expert seats pending new appointments, and two Federal employee organization seats due to the retirement of Thomas Bastas and the passing away of Richard Brown.

delay the regulatory process required to implement the change. (The interim regulation was published in the September 28, 2009 Federal Register.)

Mr. Grimes thanked Mr. Hearne and said the next item on the agenda was a presentation by BLS on its salary surveys. He invited Mr. Phil Doyle, Assistant Commissioner for the BLS Office of Compensation Levels and Trends, to begin his presentation.

BLS Presentation

Mr. Doyle's presentation is in Council document FSC-09-1-3. Major points of his presentation are below.

- Over the past decade BLS has worked to implement the five major improvements in the National Compensation Survey that were recommended by the Council and approved by the Pay Agent. Four of those improvements are now fully deployed. They are—
 - An econometric model to estimate salaries when survey data are not available,
 - A crosswalk between Federal job classifications and the Standard Occupational Classification system,
 - A method to identify and exclude from the survey estimates jobs that would be classified above GS-15, and
 - A method for evaluating the work level of supervisory and managerial employees.
- The fifth improvement, the use of a four-factor evaluation system to assign work levels to surveyed occupations, is being phased-in as BLS selects new survey samples. Currently the system is used in nearly two-thirds of the sample.
- BLS has begun work with OPM staff on the modifications that will be needed in the four-factor leveling materials and the crosswalk to accommodate the revised Standard Occupational Classification System to be implemented next year.
- This year, in addition to providing data that include and exclude workers paid on an incentive basis, BLS also delivered the results of research the Council requested on how data from the Bureau's Occupational Employment Statistics program could be used to supplement data from the National Compensation Survey.

- Because BLS is introducing a new private sector sample, and since complete introduction of the private sector sample will take approximately five years, BLS could not deliver data for the Raleigh pay area again this year. (At the time estimates were prepared, collection of only the government sample and approximately one-fifth of the private industry sample was complete in this newly selected area.)
- Data for all other localities, including Austin, Louisville, and Memphis, reflect a combination of “new and on-going samples.”
- Regarding NCS surveys that might be used should the Pay Agent need to implement locality pay in areas now covered by the Cost of Living Allowance program—
 - The National Compensation Survey currently includes three Alaska areas in its sample of metropolitan and non-metropolitan areas – Anchorage, Fairbanks-North Star, and Juneau – but all three will be phased out as BLS transitions to its new sample of areas.
 - At this time surveys of State and local government operations in Alaska have been terminated and the sample of private industry establishments has been reduced.
 - In Hawaii, BLS currently has surveys in Honolulu and Kauai. The latter will be ended as BLS transitions to the new area sample. Honolulu will continue as part of the program but with a sample only about half as large as in pay areas of similar size. The NCS program does not cover any of the U.S. territories.
- This year, data for some PATCO cells changed significantly from the information BLS provided last year. Some change can be attributed again to the incentive pay component of the earnings reported for some workers. Incentive payments have long been included in our data; however, in recent years the coverage of the PATCO estimates has grown to include more occupations that may receive incentive pay.
- BLS prepared and delivered two sets of estimates this year, one that included all workers and one that excluded workers paid on an incentive basis.
- As BLS reported last year, the President’s Fiscal 2009 budget proposal resulted in a decrease in the sample size of the National Compensation Survey. These sample reductions will be seen in the data prepared for the Council and Agent beginning in the delivery of 2011. However, smaller sample reductions made in response to budget restrictions in earlier years were seen in the data delivered in 2009.

- Congress has not taken final action on the BLS budget for fiscal year 2010, so it is unknown whether additional decreases in sample sizes will be required.
- BLS conducted research on the possible use of Occupational Employment Statistics (OES) data in the locality pay program and delivered the results to OPM staff in April.
- BLS believes it is feasible to use OES data for pay comparability, but the OES data cannot be used by itself; it must be combined with NCS data that reflects work level differences in pay. Pay gaps from the NCS-OES model are comparable, on average, to current pay gap produced by OPM using NCS data.
- The proposed method of using the OES data appears to be capable of estimating reasonable-looking pay gaps with greater precision than does the current approach. This is due to the use of the much larger sample from OES along with its resulting rich file of occupational earnings information.
- The proposed method of using OES data would be less sensitive to a reduction in the NCS sample, than is the current approach assuming the OES sample sizes would remain constant.
- The proposed method of using OES data can be used to extend the estimation of pay gaps to areas that are not present in the NCS sample.
- BLS believes it addressed the Council’s concern about work level data by using the NCS data which explicitly collects that information to estimate the impact of work level on pay. BLS has extended the analysis by preparing estimates for additional years and delivered those estimates to OPM earlier this month.

At the end of his presentation, Mr. Doyle said he would be happy to address any questions. Since there were none, Mr. Grimes said the Council would now hear testimony regarding locality pay area boundaries. Mr. Grimes asked that each speaker limit such testimony to five minutes. Mr. Grimes said the Council would first hear testimony regarding Berkshire County, MA.

Berkshire County, MA

Mr. DeFalco, Chair of the Federal Executive Association of Western Massachusetts (FEAWM) and Assistant District Manager of the Social Security Administration Office in Holyoke, MA, greeted the Council. He said it was his fifth appearance before the Council to ask that the Council “take action to bring equity to the only remaining GS employees in southern New

England without locality pay.” (As part of the “Rest of U.S.” (RUS) locality pay area, Berkshire County does receive locality pay. The RUS locality payment for 2009 is 13.86 percent).

Mr. DeFalco said Berkshire County is unique in that it is located between two locality pay areas, New York and Hartford. He added that Berkshire County borders Litchfield County, CT (which is in the New York locality pay area), is within 3 miles of bordering the Hartford Combined Statistical Area (CSA), and is adjacent to Franklin, Hampden, and Hampshire Counties, MA, which are areas of application to the Hartford locality pay area. He pointed out that Berkshire County is bordered to the west by the Albany metropolitan area, “which, as the capital of New York, is a regional hub for Federal and private sector employment.” He said that Berkshire County’s location has contributed to recruitment and retention challenges for Federal Agencies in the county.

Mr. DeFalco said the FEAWM was “encouraged at the last Federal Salary Council Meeting in 2008 by the honest admission that the current locality pay system is leaving out employees across the country who are suffering under the current system.” He said that his impression from the previous Council meeting “and in comments made by the council members in the days and weeks following the meeting” was that “the rules would be revised to account for those who have consistently described the very real challenges being faced by the pay discrepancy.” He added, “Unfortunately, we have not yet seen any changes take place.”

Mr. DeFalco said over the past four years, the Council had “sympathized but taken no action to correct the pay discrepancy for the employees in Berkshire County.” He said he believed the FEAWM “had addressed the Council’s concerns each year and are putting forth a very reasonable rules change request.”

Mr. DeFalco expressed support of the petition by the Federal Executive Association of Northeastern New York (FEANNY) to make Albany, NY, a separate locality pay area and said he believed Berkshire County should be included in the Albany locality pay area. (The Albany petition is Council document FSC-09-1-4.) But he added that the FEAWM would also approve of the alternative solution of adding Berkshire County to the Hartford locality pay area. As a means to that alternative, he suggested the Council use the following:

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%.

Mr. DeFalco told the Council that the FEAWM proposal regarding Berkshire County gave examples of “personnel challenges.” He referred to a Department of Defense

(DOD) decision to pay the same base housing allowance to military members in Berkshire County as in the Hartford CSA, and said this decision had resulted from a survey DOD conducted, which showed that real estate costs in Berkshire County warranted the DOD decision. He said the DOD policy change “clearly shows a connection with Berkshire County (and the rest of Western Mass) to the Hartford CSA,” and said that the DOD decision regarding payment of base housing should be “imitated for all GS employees on the pay scale” and that the connection between Berkshire and the Hartford CSA “is true for all employment related issues.”

Mr. DeFalco said the only way to alleviate recruitment and retention problems in Berkshire County is to pay Federal employees there the same as those in nearby areas. He thanked the Council for hearing his presentation and said he would now give way to his colleague, Mr. Frederick Baron

Mr. Baron thanked the Council and said that he is a civilian employee of the Navy and that the views he would express were his own and not intended to express the views of the Navy. He said he is the Chief Engineer for the Program Management Office (PMO), Shipboard Systems, located in Pittsfield, MA. He said he is also one of 48 PMO employees (42 paid under the Federal Wage System and 6 paid under the National Security Personnel System (NSPS)).

Mr. Baron said the PMO had shared information with the FEAWM over the past five years, and that this information reflects an “increasing impact within the Federal government regarding recruitment, retention, and relocation” in Berkshire County. He said he wanted to highlight “a few recent issues faced by managers.”

Mr. Baron said the PMO had several positions that had remained vacant for several months due to the relatively low NSPS local market supplement paid in Berkshire County.(NSPS local market supplements are the same as GS locality pay.) He said the PMO had been contacted by highly qualified candidates expressing interest in vacant positions, but once they find out what the local market supplement is they lose interest. He said managers have tried sign-on bonuses, with “marginal success the first year,” but then employees leave for higher paying positions elsewhere.

Mr. Baron said he had been involved in college job fairs where well qualified individuals expressed initial interest in working for the PMO but then lost interest when salary ranges were discussed. He quoted two people who both mentioned pay as a factor in their not further pursuing employment with the PMO. He said that, had he been able to offer Hartford pay to these individuals, the offer would have been closer to salaries offered elsewhere in the region. He said that current Berkshire County pay reduces the PMO to selecting candidates who need extensive training to do their jobs, which necessitates managers taking time away from mission critical tasks to provide that training.

Mr. Baron said that Berkshire County pay has also resulted in retention problems. He gave an example of a technical position at the PMO, which three employees had

found satisfactory in all respects except pay. He said these individuals all left the position for higher pay. He gave another example of difficulties the PMO experienced in trying to fill an information technology position, which the command had considered outsourcing. He said he hoped the Council could take action to increase locality pay for Berkshire County in order to alleviate staffing problems resulting from the county being limited to RUS locality pay.

Mr. Baron concluded his presentation and said he would be happy to answer any questions. There were none. Mr. Grimes said the Council would now hear a presentation by Ms. Lisa Wiehle, Congressional staff from the office of Representative John Olver.

Ms. Wiehle said employees in Berkshire County continue to be affected by the county receiving no more than RUS locality pay. She said the addition of Franklin, Hampden, and Hampshire Counties, MA, had caused a “quantifiable squeeze” on Berkshire County. She said that in the past four years GS employment in Berkshire County had decreased from 115 to 85 employees, that more senior Federal employees were leaving Berkshire County for higher paying positions elsewhere, and that Representative Olver was concerned about the quality of services Federal agencies in Berkshire County could deliver to his constituents with a reduced workforce.

Ms. Wiehle said that Representative Olver supported the “rules change” suggested by the FEAWM (the change to the criteria for possible inclusion of adjacent counties) but preferred the establishment of a separate Albany locality pay area, with Berkshire included in it. She thanked the Council for hearing her presentation, and there were no questions.

Mr. Grimes said the Council would now hear testimony regarding locality pay in Albany, NY.

Albany, NY

Mr. Steve Cox², President of the FEANNY, greeted the Council and said he was pleased to represent 2,700 employees in the Albany area. He said he believed the statistical evidence in the FEANNY proposal “speaks for itself” and that staffing problems for Federal agencies in the Albany area had been long-term.

As an example of staffing difficulties in the Albany area, he said there was a GS-11/12 lease manager position responsible for overseeing 50 properties. He said the agency had finally managed to fill the position with a Federal employee in the Albany area, but that this had created yet another vacancy at the National Parks Service. He said that even after filling the lease manager position, his agency was still feeling the effects of staff having to fill in and perform the duties of the position while it was

² Since there is a Council member with the same last name, please note that “Mr. Cox” elsewhere in this document refers to Mr. J. David Cox.

vacant. He said that agencies throughout the Albany area were experiencing the same kind of difficulty due to the Albany area receiving only RUS locality pay.

He said that among the staffing challenges Federal agencies face in the Albany area is having to compete with the New York State Government compensation system, which he said offers better pay, a shorter work week, and an attractive benefits package. He said that Albany was becoming more of a center for high technology, and that nanoscience facilities and a large microchip facility will soon create a number of jobs in the Albany area. He said that while such developments in high technology were good overall for the Albany area, they are a cause for concern for Federal agencies trying to recruit and retain qualified individuals for mission critical positions.

He concluded his presentation, reiterating that Albany faces staffing challenges which he believes could be alleviated if Albany were a separate locality pay area. Mr. Grimes then turned the floor over to Mr. Andrew Rakowski, President of the Albany Chapter of the Federal Law Enforcement Officers Association (FLEOA).

Mr. Rakowski introduced himself and said that he is a special agent for the Department of Homeland Security (DHS) but that he would speak regarding Albany on behalf of the FLEOA and not on behalf of DHS.

Mr. Rakowski said that Federal agencies in the Albany area had difficulties recruiting the “best and brightest,” and that years of training required to qualify for more senior positions made viable candidates “even brighter” and more difficult to recruit. He asked the Council to accept the data prepared for the FEANNY petition and said that if he had a “blank checkbook” he would “love BLS to come up and survey,” and that if BLS did a survey in Albany he was sure the data would show “the same thing.” He added that establishing a separate locality pay area for Albany would also help “our friends from Berkshire.”

Mr. Rakowski said that more senior Federal law enforcement employees were leaving the Albany area in order to increase their “high three” salary for retirement, and that this created retention difficulties for Federal agencies. He said he would “love the Council members to come up and visit the Albany area.”

Mr. Rakowski said his understanding was that if the Council decided to recommend Albany be made a separate locality pay area, the earliest the change would take effect would be January 2011. He said that if Federal agencies have to wait that long, they will lose “a lot of the best and brightest college kids.” He suggested the Council try to convince the Pay Agent to establish Albany as a separate locality pay area effective January 2010.

Mr. Rakowski thanked the Council for hearing his presentation and repeated his invitation to the Council members to visit the Albany area.

Since there were no questions on the Albany presentations, Mr. Grimes said it was time to turn to the next item on the agenda, the report of the Council Working Group. He asked Mr. Hearne to present the report (Council Document FSC-09-1-10.)

Report of the Working Group

Mr. Hearne said the purpose of the report is to help the Council decide what recommendations to make to the Pay Agent. He said the working group met on December 10, 2008, and again on October 5, 2009.

Mr. Hearne read and summarized major sections of the Working Group Report. The issues, recommendations of the Working Group, and Council action are summarized in the chart below, which is followed by a summary of the Council’s discussion of each issue. (The Working Group’s rationale for each recommendation to the full Council can be found, along with detailed discussion, in the Working Group report.)

Issue	Recommendation of the Working Group	Council Action
<p>What should the Council recommend about incentive pay for GS-12 administrative jobs in the Rest of U.S. survey?</p> <p>1) Use the data as delivered by BLS, or 2) Exclude the GS-12 administrative incentive pay data from the RUS survey as suggested by OPM staff.</p>	<p>While the Working Group discussed incentive pay at the Working Group meetings, and agreed the Council should use the survey results including incentive pay in most cases, the Working Group did not reach a consensus to recommend a methodology for dealing with extreme outliers and concluded the full Council should give further consideration to its position on use of incentive pay in BLS data.</p>	<p>Council recommends to the Pay Agent that BLS data be used as delivered by BLS: with incentive pay included.</p>
<p>If the GS-12 administrative category incentive pay in the RUS area is excluded, no locations are below RUS and this isn’t an issue. Otherwise, what should the Council recommend about locations with pay gaps below that for the Rest of U.S. pay area?</p> <p>1) Average these 11 locations with RUS in a cost neutral fashion as the Council has done in the past, or 2) Other action.</p>	<p>Retain these 11 locality pay areas for review again next year but average the 2009 pay gaps for these 11 areas with that for the RUS locality pay area in a cost-neutral fashion for computing locality pay in 2011.</p>	<p>Council agreed to adopt the Working Group’s recommendation for submission to the Pay Agent.</p>

Issue	Recommendation of the Working Group	Council Action
<p>Should the Council continue to review data for Austin, Louisville, and Memphis? What about Charlotte and New Orleans? (Bear in mind that removing locations from RUS affects the quality and statistical validity of the remaining data.)</p> <p>1) Continue to monitor some of these places, or 2) No longer monitor these places.</p>	<p>Working Group concludes that available data indicate Austin, Louisville, and Memphis do not warrant becoming separate locality pay areas and suggests the Council discontinue reviewing them. OPM staff checked with BLS to see whether BLS had sufficient data to model Albany, Charlotte, Fresno, Las Vegas, Madison, and New Orleans. BLS said it has sufficient data to model Charlotte and New Orleans, but not the other four areas. Working Group took no further action pending direction by the Council.</p>	<p>Council agrees that Austin and Memphis should not be made separate locality pay areas and do not warrant additional review at this time. Council recommends that the Pay Agent ask BLS to produce data files using the locality pay methodology for Charlotte, Louisville, and New Orleans for next year's data delivery.</p>
<p>What should the Council do or recommend about BLS' research on using Occupational Employment Statistics in the locality pay program?</p> <p>1) Continue to work with BLS and OPM staff on this research and schedule a public meeting covering the findings when new members have been appointed to the Council, or 2) Other.</p>	<p>Council should continue to work with BLS to investigate appropriate methods for using OES data for locality pay purposes.</p>	<p>Council agrees to continue to work with BLS to investigate appropriate methods for using OES data for locality pay purposes and hold a public meeting to discuss the issue within 45 days of new appointments to the Council.</p>
<p>What should the Council recommend about the locations seeking to become separate pay areas or about making changes in the criteria used to define locality pay areas?</p> <p>1) Continue to study this issue and schedule a public meeting covering the findings when new members have been appointed to the Council, or 2) Other.</p>	<p>Working Group did not reach a consensus on what recommendations the Council should make on this matter.</p>	<p>The Council agreed that any decision on whether to recommend a change in locality pay areas or in the existing criteria for defining locality pay areas should be deferred until the Administration fills the vacant seats on the Council.</p>
<p>Does the Council wish to consider any</p>	<p>The Working Group did not recommend</p>	<p>Council recommended</p>

Issue	Recommendation of the Working Group	Council Action
<p>alternative to recommending the same locality pay areas for 2011 as currently authorized?</p>	<p>an action for the Council regarding this matter, and said it believed the Council should discuss this issue further after the full Council has considered new information from BLS on the OES survey system.</p>	<p>the existing locality pay areas be maintained pending its recommendations on the use of OES data in the locality pay program and on what criteria should be used to define locality pay areas, which will be submitted once the Council has a full complement of members. If using OES data proves feasible, the Council recommends that the Pay Agent seek a legislative waiver to permit additional pay areas in 2011 that could not be included in the 2009 report to the President.</p>
<p>The Non-Foreign Area Retirement Equity Assurance Act of 2009 extends the locality pay program to Alaska, Hawaii, and other Non-foreign areas. Does the Council support recommending that BLS reinstate its survey of Anchorage, increasing its sample in Honolulu, and receive sufficient funding for these survey enhancements?</p> <p>What should the Council recommend or what comments should the Council make about this action?</p>	<p>The Council should continue to monitor legislative activity and the survey results, and note that BLS no longer surveys Anchorage, AK, and, if the legislation is enacted, that survey should be reinstated.</p>	<p>Council agreed to urge the Pay Agent to ensure BLS has the resources to reinstate the Anchorage survey and increase the Honolulu sample.</p>

Council Discussion Regarding High Incentive Pay in BLS Data

During the discussion of what to recommend regarding anomalies in the NCS data caused by extremely high levels of incentive pay, Ms. Kelley said that since last year when the Council discussed this problem, “the issues haven’t changed.” She repeated her point from Council meeting 08-02 that the Council had never “reached in and taken out incentive data” and said she worried about doing it now. She said, “Either it’s the data we rely on or it’s not.” She expressed concern that removing incentive data might not be true to the intention of the Federal Employees Pay Comparability Act of 1990 (FEPCA). She said her understanding was that the incentive data at issue will “cycle out” eventually, due to BLS replacing 20 percent of its sample each year. She said she realized the incentive data would affect data used in the locality pay program this year, but that her inclination was to “follow the BLS data.” She added that she didn’t know what other Council members thought at this point.

Mr. Grimes asked the Council if other members had comments. Since no one disagreed at this point, he asked whether the Council’s decision was to use the BLS data as reported. Mr. Pasco clarified that this meant using the set of BLS data with incentive data. (BLS provided two sets of data, one with incentive data and one without incentive data). No members expressed disagreement or had additional comments.

Later in the meeting, Mr. Cox asked for a moment to confer with AFGE staff. When he returned, he asked what would happen regarding pay increases, for areas with pay gaps below that for RUS if incentive data are included? Would the 11 areas with pay gaps below RUS get higher pay increases?

Mr. Hearne said that if “full FEPCA” pay increases were implemented, then the 11 areas with pay gaps below that for RUS would have the same locality payments as for RUS, but he added that this outcome appears unlikely. He said that what seemed more likely is that some lesser amount would be allocated for locality pay, and the *share* for the RUS locality pay area and the 11 other areas would be the same. He added that, in this event, net pay raises for the 11 areas would be lower than that for RUS.

Mr. Cox asked for confirmation of his understanding that the 11 areas with pay gaps below that for RUS would receive smaller pay increases than if incentive pay were excluded. Mr. Hearne said that this was correct. Mr. Pasco pointed out that “RUS would benefit” from incentive pay being included, and Mr. Hearne said that RUS would get a larger pay increase if incentive data were included.

Ms. Kelley said she understood the concern that leaving the incentive data in for the RUS locality pay area would affect other areas, but she reiterated her point that the Council's practice in the past had not been to change BLS data.

Mr. Cox said that he now had a clearer understanding of the issue, and since decisions for the RUS locality pay area "affect a larger number of people" that he was "okay on this point." The Council agreed it would recommend to the Pay Agent that BLS data be used with incentive data included.

Council Discussion Regarding Surveys in New Cities

Ms. Kelley said she would like to have surveys in every city, if that were possible.

Mr. Cox said that since Louisville "keeps fluctuating," it's difficult to say the area should be "taken off the list." He added that it's difficult to make such a conclusion for any area, since such decisions affect employees. He said he understood as well that "it's been a long haul for Austin and Memphis."

Ms. Kelley asked whether continuing to monitor Louisville (which Mr. Cox had pointed out "keeps fluctuating") would affect BLS' ability to deliver data for Charlotte and New Orleans. Mr. Grimes referred the question to Mr. Doyle, to which Mr. Doyle responded, "No impact."

Ms. Kelley recommended, in view of Mr. Doyle's response, that the Council Continue to monitor Louisville and ask BLS to deliver data next year for Charlotte and New Orleans. The Council agreed.

Council Discussion Regarding Use of OES Data and Council's Criteria for Evaluating Adjacent Areas

Ms. Kelley said that the current Council members should probably wait until the vacancies on the Council are filled before deciding about the use of OES data. Acknowledging Mr. Rakowski's point during his presentation on Albany about the effect having to wait until 2011 to establish a new locality pay area could have on Federal agencies, Ms. Kelley said she would like the Council to explore means of avoiding such a delay. Mr. Pasco and Mr. Cox agreed with this point.

Mr. Cox said he hoped that when the Council decided on suitable criteria for evaluating adjacent areas, he would have an opportunity to vote "yes" for Berkshire County.

Mr. Rakowski asked Mr. Grimes if it would be appropriate to ask a question at this time. Mr. Grimes said, "Sure, go ahead." Mr. Rakowski asked how many seats need to be filled to have a quorum. Mr. Hearne said there were nine seats and five vacancies. Mr. Rakowski asked when the seats might be filled. Mr. Grimes told him the Administration is working on filling the seats now.

Mr. Cox suggested the Council wait to vote until it has a full complement of members. Ms. Kelley agreed that would be best. She said she didn't like waiting, but added, "We have a process." She said her hope is to get the full agreement of the Council and approval of the Pay Agent and the Administration. She said that every time the Council has modified locality pay area boundaries, "other areas have been affected." She said she hated to tell those who had testified before the Council today that they would have to wait, but she stressed the importance of careful examination of available data before making such an important decision.

Council Discussion Regarding Locality Pay Areas for 2011

Mr. Hearne told the Council that, regarding the interim regulation moving McGuire Air Force Base and Fort Dix from the Philadelphia locality pay area to the New York locality pay area, the Council could comment as a body, or individual members could comment.

Mr. Pasco said he thought the Council agreed that it was "the right thing to do." Mr. Grimes asked the other Council members if they concurred, and they did. There were no other questions.

Conclusion and Public Comment

Mr. DeFalco suggested the Council "meet again in October" once it had a full complement of members so that Federal agencies in Berkshire County would not have to wait another year for Berkshire County to receive higher locality pay.

Mr. Rakowski asked if the Council would like to suggest alternative means for adding Albany as a separate locality pay area and extending higher locality pay to Berkshire County. He said, "Maybe we should pursue legislation. I'm not trying to offend anybody."

Ms. Kelley said she would not be offended if someone tried to change locality pay through legislation, but she hoped that Berkshire County and Albany would "not give up on the Council." She then asked whether the Council could commit to meeting within 45 days of having a full complement of members.

Mr. Pasco said he agreed with Ms. Kelley that Berkshire County and Albany should “exhaust every avenue,” but he added that it could take considerable time for the areas to reach their goals through legislation and that “if it started off with one area it would end up with 500.”

Mr. Rakowski suggested that another avenue might be to “get Congress to earmark money to fund a BLS survey” of Albany. He added that the FEANNY had really “already done the work for you guys.”

Mr. Steve Losey of the Federal Times asked whether the Council not having a full complement of members meant that the recommendations to the Pay Agent would be unofficial. Mr. Grimes responded that the Council charter has no quorum requirement, so the recommendations would have the same force as if there were a full complement of members.

Since the Council had concluded its business and there were no other questions, Mr. Grimes adjourned the meeting at 11:44 a.m.

Correspondence Received after the Council Meeting

OPM received 4 letters after the Council meeting. Since the letters were not received in time for the meeting, they were not part of the meeting materials; however, the Council will be informed of these contacts, which are summarized briefly below.

From	Date	Subject
Representative Kevin Brady	October 16, 2009	Asks that Polk County, TX be included in the Houston locality pay area.
Representative Lois Capps	October 19, 2009	Expresses concern about locality pay in San Luis Obispo County, CA.
Senators John Kerry and Paul Kirk, Jr.	October 19, 2009	Expresses support of the FEAWM proposal regarding Berkshire County, MA.
Senator Bernard Sanders	October 19, 2009	Asks that Windsor County, VT and Sullivan County, NH be added to the Boston locality pay area.
Mr. Konrad Motyka, President of the FBI Agents Association	October 20, 2009	Argues that pay rates for law enforcement officers should be higher.

CERTIFIED

SIGNED

Charles D. Grimes III
Designated Federal Official