

FEDERAL SALARY COUNCIL MEETING MINUTES
MEETING NUMBER 20-01
OCTOBER 21, 2020

The [Federal Salary Council](#) met virtually through a teleconference held on October 21, 2020, and hosted by the U.S. Office of Personnel Management (OPM). Council members who participated in the meeting are listed in the table below. The agenda for the public meeting is provided in Council Document FSC 20-1-1.

Council Member	Title
Dr. Ronald P. Sanders	Chairman
Mr. Douglas G. Fehrer	Vice Chairman
Ms. Katja Bullock	Expert Member
Ms. Jacqueline Simon	Employee Organization Representative—American Federation of Government Employees (AFGE)
Mr. Anthony M. Reardon	Employee Organization Representative—National President, National Treasury Employees Union (NTEU)
Mr. Randy Erwin	Employee Organization Representative—National President, National Federation of Federal Employees (NFFE)
Mr. Robert J Creighton	Employee Organization Representative—Fraternal Order of Police (FOP)
Mr. Andrew Rakowsky	Employee Organization Representative—Federal Law Enforcement Officers Association (FLEOA)

Mr. Mark Allen, OPM Pay Systems Manager, was the Designated Federal Officer. About 100 members of the public also attended the teleconference, including 4 representatives of the media.

EXECUTIVE SUMMARY

Below is a list of agenda items and issues the Council discussed in the meeting. Agenda items that involve a decision point on what the Council should recommend to the [President’s Pay Agent](#) are followed first by the Council Working Group’s relevant views and then by a summary of any Council recommendation on the issue.

1. Introductions and announcements; Minutes from November 5, 2019, meeting
2. Report and Recommendations of the Federal Salary Council Working Group, decision points related to pending business:

- a) Should the Council recommend that the President’s Pay Agent revise the GS employment threshold for considering additional locality pay areas within the NCS/OES model?

Working Group Recommendation: The Council should continue to analyze and discuss this issue.

Council Recommendation: The Council should continue to analyze and discuss this issue, and the Working Group should come up with a specific recommendation or recommendations on the 2,500 or more threshold for areas in which pay disparities are monitored. This issue should be one of the top priorities for the next Working Group meeting and the next public meeting of the Council.

b) Should the Council recommend that the Pay Agent adopt the metropolitan statistical areas (MSAs) and combined statistical areas (CSAs) delineated in Office of Management and Budget (OMB) Bulletin No. 20-01, issued March 6, 2020, for use in the locality pay program?

Working Group Recommendation: Working Group members were unable to reach a consensus on this issue and submitted their individual views to the Chairman; those views are set forth in the Working Group report, and the Working Group recommends that Council members submit them to the Pay Agent for consideration.

Council Recommendation: Council members were unable to reach a consensus on this issue, and the Council will submit the three separate views of Council members/Working Group members as set forth in the Working Group report to the Pay Agent for consideration.

3. Report of the Bureau of Labor Statistics

4. Report and Recommendations of the Federal Salary Council Working Group, present business:

a) What locality pay rates should the Council recommend that the President's Pay Agent adopt as those that would go into effect in 2022 under the Federal Employees Pay Comparability Act of 1990 (FEPCA), absent some other provision of law?

Working Group Recommendation: The Council should recommend locality pay adjustments as listed in Attachment 2 of the Working Group report (Council Document FSC-20-1-2).

Council Recommendation: The Council recommends the locality pay adjustments listed in Attachment 2 of the Working Group report.

b) Should the Council recommend the Pay Agent establish new locality pay areas for 2022 based on the results of the NCS/OES Model?

Working Group Recommendation: No, not at this time.

Council Recommendation: No, not at this time.

c) Should the Council recommend any action be taken for locations that do not meet approved criteria for a change in their locality pay area designation?

Working Group Recommendation: The Council should strongly endorse the approval of all appropriate pay flexibilities—such as recruiting and retention incentives and/or special pay rates—to the agencies that employ Federal workers in two areas that submitted Human Capital Indicators data that were sufficient to support further Council consideration (i.e., Charleston, SC, and Southern New Jersey).

Council Recommendation:

- The Council strongly endorses the approval of all appropriate pay flexibilities—such as recruiting and retention incentives and/or special pay rates—to the agencies that employ Federal workers in two areas that submitted Human Capital Indicators data that were

sufficient to support further Council consideration (i.e., Charleston, SC, and Southern New Jersey).

- For Carroll County, IL, and other areas that can demonstrate that the only reason they do not meet the GS employment criterion is because they have vacancies that keep them below the threshold, the Council will recommend that the GS employment criterion be waived.

5. Testimony regarding certain proposed locality pay areas

6. Future of Federal Pay¹

7. Public comment

8. Adjournment

MEETING MINUTES

Agenda Item 1: Introductions and Announcements; Minutes from November 5, 2019, Meeting

Chairman Sanders introduced himself and called the meeting to order at 1:00 p.m. He noted that this meeting would be the first-ever virtual Council meeting and asked that participants be patient with any technological glitches that might arise. He said the meeting would cover a number of important issues, including both pending business left over from last year and present business. He explained that in the meeting today the full Council would discuss the issues and recommendations presented in the Working Group report. He added that the full Council would then develop its annual report to the Pay Agent presenting formal Council recommendations on those issues.

At the Chairman's request, the other Council members introduced themselves. The Chairman then acknowledged AFGE National President Everett Kelley, who was not a Council member but was listening as part of the virtual audience. The Chairman then said he would like the Council to hear a statement from Mr. Mark Allen, Designated Federal Officer for the meeting. Mr. Allen read the following statement into the record.

I am Mark Allen, Pay Systems Manager here at OPM, and am serving as the Designated Federal Officer for this meeting. The Federal Salary Council is an advisory body operating under the Federal Advisory Committee Act. OPM provides staff support to the Council members but OPM itself does not have membership on the Council or develop the Council's recommendations.

The Council is meeting today to develop recommendations on locality pay for General Schedule employees for January 2022. The Council develops recommendations covering:

- The establishment of pay localities
- The coverage of salary surveys
- The processes used for making comparisons between Federal and non-Federal pay, and

¹ Prior to the meeting, the topic of the future of Federal pay was Agenda Item 5, but during the meeting the Chairman reversed the order of Agenda Items 5 and 6 and asked that the record reflect that change.

- The level of comparability payments for Federal employees.

When finalized, the Council will send its recommendations to the President's Pay Agent, which is the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management. The President's Pay Agent carefully considers the recommendations of the Council and any individual views of its members but is ultimately responsible for making decisions on the administration of the locality pay system.

And now, I'll turn things over to Dr. Sanders, Chairman of the Federal Salary Council.

The Chairman thanked Mr. Allen for his statement and noted that minutes of the Council's November 5, 2019, meeting had been approved by the Council and posted on the OPM website.

The Chairman then asked OPM staff member Joe Ratcliffe to present the Working Group report to the Council, noting that the report and Council discussion would first focus on pending business, which would be followed by a report from the Bureau of Labor Statistics and then would move on to present business. Both Mr. Ratcliffe's presentation of the Working Group report and Council discussion of the issues it covered followed the order of the Council's meeting agenda, as does the summary below of the Council's discussion of those issues.

Agenda Item 2. Report and Recommendations of the Federal Salary Council Working Group, decision points related to pending business

Mr. Ratcliffe referred everyone to the Council Working Group's report, which as the Chairman had mentioned covered pending business first. Mr. Ratcliffe said the first item of pending business was Item 2a on the meeting agenda, and he then read that agenda item and the recommendation the Working Group had made on the issue, as well as the background and rationale behind that Working Group recommendation:

Agenda Item 2a. Should the Council recommend that the President's Pay Agent revise the GS employment threshold for considering additional locality pay areas within the NCS/OES model?

Mr. Ratcliffe read the Working Group's views on the issue:

Working Group Recommendation 2a: The Council should continue to analyze and discuss this issue.

Background and Rationale: The Council has reviewed "Rest of U.S." (RUS) research areas for consideration as new locality pay areas since the implementation of the NCS/OES model (see Attachment 1 for a detailed description of that model). At that time, the Council set a threshold level of 2,500 General Schedule (GS) employees for these research areas to focus its attention on those areas affecting the most employees. This threshold has been in place for the past 8 years, and several new locality pay areas have been recommended and approved based on this process. However, there may be other areas with GS employment below that threshold that might qualify for consideration.

Accordingly, the Council asked the Working Group to collaborate with BLS to determine whether a lower GS employment threshold would be appropriate, based on maturation of the Model over the years since it was first adopted for use in the locality pay program.

The Working Group is still at work on that effort and recommends that the Council defer action on this item until that analysis can be completed.

The Chairman thanked Mr. Ratcliffe for reading the Working Group report's content on the issue, and then the Chairman summarized it further for the Council. He said that the Council had historically used 2,500 GS employment as the threshold for studying pay disparities in Rest of US locations and for various reasons had not monitored pay disparities in Rest of US locations with fewer than 2,500 GS employees. He noted that the Working Group had asked BLS to look at their capability for gathering data and modeling below that employment threshold and that BLS would be speaking soon and could be asked about this issue further at that time. He then asked his fellow Council members if they had any thoughts on the issue before he would provide his own.

Ms. Simon commented that some Council members had a longstanding proposal to entirely eliminate the various GS employment criteria used in the locality pay program. She said the 2,500 GS employment criterion for monitoring pay disparities in Rest of US locations has no bearing on whether there is a labor market from which data can be drawn to measure a gap between Federal and non-Federal pay. She added that the 2,500 GS employment threshold is a relic of the time when the Wage Survey portion of the National Compensation Survey (NCS) was used to calculate pay gaps. She said that when the Wage Survey portion of NCS was discontinued, the rationale for having any GS employment criterion disappeared, and that the criterion existed subsequently only because of budget constraints. "They could only survey so many areas. Now that we don't have that Wage Survey as part of the NCS anymore, there's truly no reason. There's no theoretical reason, there's no practical reason, no budgetary reason, and so we have proposed on several occasions that it be eliminated altogether. Obviously, in the absence of agreement to eliminate it altogether, reducing it substantially is the next best course of action. We strongly support eliminating it altogether."

The Chairman thanked Ms. Simon for her observations on the issue. He said that he thought one of the questions he would ask of BLS staff today would be whether BLS would have the technical capability and resources to produce estimates for all areas with fewer than 2,500 GS employees. He then invited comment from other Council members.

Mr. Erwin said he concurred with everything Ms. Simon had just said on this issue. He added that the Council had discussed the GS employment criterion at length last year, and he said the criterion seems unfair and completely arbitrary.

The Chairman asked for confirmation that Ms. Simon and Mr. Erwin were not suggesting a GS employment threshold of fewer than 2,500 but rather that the threshold be eliminated completely. Those two Council members confirmed that the Chairman's understanding of their position was correct.

The Chairman then noted for the record that the Working Group had recommended that the Council continue to collaborate with BLS on the question of the GS employment threshold to determine whether the threshold should change. He then asked for clarification: Were

Ms. Simon and Mr. Erwin now rejecting the Working Group recommendation and suggesting there be no GS employment standard at all?

Ms. Simon said she would not use the verb “reject” in this case. She noted that the Council had proposed on numerous occasions eliminating the various GS employment criteria used in the locality pay program. She said that while those proposals had not been accepted by the Pay Agent, to her the idea of reducing it substantially rather than completely eliminating it would be “sort of a second best.” She reiterated that there is no rationale for a GS employment criterion to exist, so getting rid of it altogether is the best course of action but having it be much lower would be a step in the right direction. Mr. Erwin concurred.

The Chairman said he would now offer his own opinion. He said he would support the Working Group’s recommendation, but with a vector to it: While many regard the 2,500 threshold as arbitrary, he would still be reluctant to recommend eliminating it entirely, since there might be limits on the number of areas for which BLS would be able to deliver salary estimates. He said he did not know what BLS’ capabilities would be in that regard, but that he did believe a *de minimis* standard should apply. He said he believed the 2,500 threshold probably should be lower but that he was not yet prepared to say how much lower. He emphasized that he wanted to give every Council member a chance to weigh in on the issue, but that he proposed that the Council follow the Working Group recommendation—i.e., continue to work with BLS so that potentially when the Working Group next meets it is prepared to discuss various options for lowering the threshold. He said that, absent further analysis and discussion by the Working Group, he would not be in a position to make a recommendation on either retaining the current standard or eliminating it altogether. He asked whether Ms. Simon and Mr. Erwin would be comfortable with that approach.

Ms. Simon said she did not know if there was a location in the U.S. where there would be a substantial pay gap between local salaries and Rest of US salaries where there are only a very small number of GS employees.² She said she understood the Chairman’s point, but that without estimates of what pay disparities may be in an area with fewer than 2,500 GS employees, she had no way of knowing who was being excluded and the impact. She added, “It would probably be helpful to know that.”

The Chairman commented that while such information as would address Ms. Simon’s concern might not be available today, she had just put her finger on precisely the kind of issues he believed the Working Group should address: Look at various Rest of US research areas, look at GS employment in those areas, and see if there is a natural sort of cut line or it could be zero. He added, however, that he would not be willing to take a position on that without looking at data. He also added that he believed there probably would be an employment threshold somewhere between zero and 2,500 that should be used. He said, “Simply put, I think 2,500 has probably

² Since BLS does not currently deliver separate salary estimates for Rest of US areas with fewer than 2,500 GS employees, the Council does not know what the pay disparities using NCS/OES Model data would be for such areas. The Chair said that he will be asking BLS what it would take to develop a program that is designed specifically to produce statistical indicators besides pay disparities that could be used to determine locality pay areas.

served its purpose and needs to be revisited.” He then asked for further comment from his fellow Council members.

Mr. Reardon said he agreed with Ms. Simon and Mr. Erwin on the issue. The Chairman thanked Mr. Reardon and invited others to comment: “That would mean we would defer to the Working Group, they would look at the data that OPM has, and then the next time that the Council meets we would want to see a recommendation from the Working Group on some GS employment standard below 2,500, whatever that number may be.”

Ms. Bullock commented that she liked that approach. Mr. Fehrer added his support, and commented that he would be fine with looking at the issue further during Working Group deliberations.

The Chairman thanked the Council members for their input on the issue. The Council then agreed that the Working Group should come up with a specific recommendation or recommendations on the 2,500 or more threshold for areas in which pay disparities are monitored. This issue should be one of the top priorities for the next Working Group meeting and the next public meeting of the Council.

At the Chairman’s request, Mr. Ratcliffe then presented the next Agenda Item.

Agenda Item 2b. Should the Council recommend that the Pay Agent adopt the metropolitan statistical areas (MSAs) and combined statistical areas (CSAs) delineated in Office of Management and Budget (OMB) Bulletin No. 20-01, issued March 6, 2020, for use in the locality pay program?

Mr. Ratcliffe read the Working Group’s views on the issue:

Working Group Recommendation 2b: Working Group members were unable to reach a consensus on this issue and submitted their individual views to the Chairman; those views are set forth below, and the Working Group recommends that Council members submit them to the Pay Agent for consideration.

Background and Rationale: On September 14, 2018, the Office of Management and Budget (OMB) updated its definition and designation of metropolitan statistical areas (MSAs) and combined statistical areas (CSAs); the September 2018 OMB update was a “mid-decade revision” that was more significant than previous updates over the past few years.³ While OMB does not establish the definitions of MSAs and CSAs specifically for use in the Federal Government’s locality pay program and cautions agencies to review them carefully before using them for non-statistical purposes, it has been the Council’s practice to consider those definitions for use in the locality pay program, both in defining new and existing basic locality pay areas and in evaluating RUS locations as potential areas of application.⁴

³ On March 6, 2020, OMB issued additional minor updates to these definitions, but based on analysis by OPM staff none of those updates would impact the definitions of current locality pay areas.

⁴ The terms *basic locality pay area* and *area of application* are defined in Attachment 4 of the report. Those terms also have been used in past Council documents, which have discussed associated issues extensively.

Use of the updated MSAs and CSAs in the locality pay program could result in RUS locations moving to separate locality pay areas and locations in separate locality pay areas moving to the RUS locality pay area. In addition, if updated MSAs and CSAs are to be recommended for use in the locality pay program, the geographic specifications provided by OPM to BLS for producing the non-Federal pay estimates could also be significantly affected. Accordingly, the Council deferred any recommendations to the Pay Agent in order to give it the opportunity to conduct a more extensive analysis of the potential impact of the revised OMB definitions on locality pay areas.

In that regard, the Working Group reviewed each location that could potentially be impacted by the OMB updates. Some members recommended that the Council treat OMB's revised definitions as it had done in the past; that is, where the OMB definition expands or extends an existing locality pay area to include additional counties, those counties should be added to the existing locality pay area, but where those definitions exclude counties currently included in an existing locality pay area, those counties should continue to receive the locality adjustment. However, the remainder of the Working Group recommended a case-by-case approach, assessing the impact of each OMB revision on the relevant locality pay area(s), adopting or rejecting the revised definitions where appropriate.

Given that the Council's authorizing statute does not require that it make recommendations based on consensus or majority vote, the Council Chairman asked that each Working Group member indicate her or his views on each OMB revision. Those views are set forth in Attachment 5 and summarized as follows:

- Working Group members representing the American Federation of Government Employees (AFGE), the National Federation of Federal Employees (NFFE), and the National Treasury Employees Union (NTEU) recommend following past practice—expanding locality pay areas following the new OMB definitions, but retaining counties excluded by those definitions in their existing locality pay areas. They further noted that the number of employees that would be added with adoption of the updated OMB definitions would be relatively small.
- Five Working Group members—the Council's three Independent HR Experts and the members representing the Federal Law Enforcement Officers Association (FLEOA) and the Fraternal Order of Police (FOP)—opposed following the revised OMB definitions blindly, especially since the revised definitions did not take the Federal locality pay program into account when they were issued. They also stated that they could not support a recommendation to follow the OMB definitions only when they would expand a locality pay area, but not when they had the opposite effect. These Working Group members recommend adopting the OMB revisions only for a subset of the locations potentially impacted by the OMB updates to the definitions of MSAs and CSAs. Four of those members agreed on all accounts, with the fifth of those five providing his own set of recommendations.

Mr. Ratcliffe noted that Attachment 5 of the Working Group report lists the locations that would be impacted by the Working Group members' recommendations on this issue and shows how each of those locations would be impacted. He added that detailed maps and GS employment and commuting data the Working Group members considered are provided in the Working Group report Appendix.

The Chairman thanked Mr. Ratcliffe for his presentation of the issue and then said he would warn his fellow Council members now that he would be asking if any of the employee organization representatives wanted to expand upon or take issue with the way their position was characterized in the Working Group report. No members said their views had been incorrectly characterized.

The Chairman said that, before hearing from everyone who wanted to speak now on the issue, he would like to confirm that everyone on the Council is comfortable with the idea that the OMB redefinitions were not done with locality pay in mind. He added that as far as the Council could tell, the impact on the locality pay program was not a consideration in revising the MSA and CSA definitions.

The Chairman said that although in the past the Council has recommended adopting MSA and CSA definitions for use in the locality pay program as they have been changed by OMB, his understanding had been that it has taken an affirmative decision on the part of the Council to do so. (OPM staff confirmed that understanding.) He added that he wanted to ensure at this time that the Council members were still comfortable with the idea that the Council is an independent body that can make independent recommendations and that the Council is not legally bound to adopt the OMB definitions. He added that the Council has the authority and in fact the responsibility to review those definitions and make its own independent assessment.

Ms. Simon said she would object to the Chairman's characterization on a couple of points. First, no one will dispute that the OMB definitions and the census data they are based on are not created for the purpose of informing the locality pay system, but then OES data sets are not created specifically to provide data for the locality pay system. Also, much of the data used for locality pay is collected for purposes other than the locality pay system. She said that the origins of a proposed deviation from past practice regarding MSA and CSA definitions essentially was one Council member saying "Why do we always raise pay and never cut pay?"

Ms. Simon noted that the one Council member's question had nothing to do with what the Council's legal obligations are but that rather was an attempt to break from past practice to accommodate first only one and later additional members of the Council who disliked the concept of only raising and never lowering pay. Ms. Simon added that she had registered a very strong objection to the way the Council's deliberations on this issue had gone. She said, "I just want to repeat here today when minutes are being taken that the whole idea of a bunch of appointees sort of taking a tour of the U.S. counties whose boundaries were altered by the census and deciding, 'We'll put this one a little from column A and a little from column B, and we'll give these guys a pay raise, and we'll cut pay for these guys—oh, and they look like they are worthy; let's give them a pay increase. And nah, not so much with these guys; we'll give them a pay cut'—that was a *terrible* deviation from our past practice of applying rules consistently to everyone, not only keeping with past practice but keeping with one rule being applied to everyone consistently and fairly. I think it started out as a lark and it ended up, I think, really undermining the integrity of the locality pay system, and I just want to register AFGE's strongest, most vehement opposition to doing this."

The Chairman thanked Ms. Simon. He said the record would reflect her remarks and that he would respond to them shortly. He first asked her to confirm that she would agree that the Council had no legal obligation to use and are not legally bound to accept the OMB definitions. She agreed, but reiterated her point that the Council is not legally bound to use OES data either.⁵

The Chairman said he understood Ms. Simon's points and would now like to hear from other employee organization representatives who would want to speak up and/or offer their support to her position. Members Erwin and Reardon reiterated their support of AFGE's position on the issue and said they agreed with the remarks Ms. Simon had just made.

The Chairman said he would now try to articulate the opposing point of view and would then ask again if any of the remaining Council members would like to weigh in. He reiterated that the origins of the opposing point of view actually were not related to a desire to cut pay but rather what the Council should do after reaching the unanimous conclusion that it was not legally bound by the OMB redefinitions; then the next thought after reaching that conclusion had been that the Council would need to make an independent determination on its own. He said it now appeared, however, that some Council members were seeing that need to make an independent determination differently.

The Chairman said he did appreciate the views of Ms. Simon, Mr. Erwin, and Mr. Reardon on this issue, but that he would take an employers' perspective: The OMB definitions are taken to represent an expanding labor market in some areas, and through OPM's good offices the Council had been able to identify the number of Federal employees that were affected by such expansion and in other cases that some counties were excluded from the redefinition of those MSAs, which if accepted by the Council would be treated as a redefinition of those labor markets.

The Chairman added that the Council had also been able to consider the impact on the GS population in those areas as well. He said that, based on information previously provided by OPM staff, no one would lose pay, at least in the short term, as a result of the Council choosing to reject OMB definitions in some cases. He said that employees whose locality pay designation would change to that for a lower-paying area would go on saved pay, and that if necessary OPM could provide a technical explanation in this meeting of what that would mean. He noted that the locality pay program was created not simply to give employees more pay but rather to help Federal agencies recruit and retain talent where disparities between Federal and non-Federal pay impede Federal recruitment and retention. He said that the Working Group's review of counties that would be excluded as a result of the OMB definitions showed that in many instances the number of GS employees that could be impacted would be very small. He said that, from a Federal employer's perspective, there would no longer be any need to offer locality differentials to employees in those now excluded counties because the labor market was sufficiently robust in what would be newly re-designated counties to recruit and retain talented civil servants in those counties.

⁵ The law requires the use of non-Federal salary survey data collected by BLS to set locality pay but does not require the use of OES data specifically.

The Chairman said the Working Group had gone through each of the areas that would be impacted, and that both the employee organization members and the HR expert members painfully and laboriously tried to identify the impact. He said he would not bore Council members or the audience with details on how that analysis shook out, except to say he thought that in the case of the employee organizations that advocated following past practice, it would be easier to see the impact of their recommendation. He said that was because their recommendation was simply that (1) where OMB definitions expand the labor market, employees in those expanded counties will get a locality pay differential and (2) where the OMB definitions would exclude certain counties from the labor market where those employees were receiving locality pay, they would nevertheless continue to receive the same locality pay differential.

The Chairman said he thought the view contrary to the “follow past practice” view simply says adopting the OMB updates is not automatic, that where some counties are now excluded from the labor market the Council needs to take a look at those counties to determine whether the Federal agencies that draw employees from those counties need to pay them a locality differential in order to recruit and retain. He said, “Not so much for those employees because those employees are going to be on saved pay, but for new employees. And I’ll give a hypothetical example where the labor market has moved east and expanded to include a number of counties where there are hundreds and in a couple of cases potentially even thousands of Federal employees who are in the labor market and receiving locality pay. Personally, I was uncomfortable in saying that Federal agencies needed to continue to pay locality pay to those now excluded counties when the numbers were so low on that side of the equation and so high on the other. Again, this is not an attempt to cut Federal employee pay, far from it; it’s rather, I think, to remain true to the original purpose of the locality pay program. Having said that, I’m going to stop and let others weigh in, but I think there’s even a way to affirm what I just said and I’m going to offer it up as a proposal here before we move on. Before we do that does anybody on the management side want to weigh in, and certainly I’ll give the employee organization side a chance to respond.”

Ms. Bullock commented, “Ron, I thank you for straightening this out because what Jacque represented is not what was decided. We never said to cut anybody’s pay or we don’t care if they lose pay. Nobody is going to lose pay. So thank you for clarifying it. You did it very, very well. Thank you.”

Addressing the Chairman, Mr. Fehrer commented, “I am with you on this as well, and I do think that it’s important that we look at how we can move forward on this.”

Addressing Mr. Creighton and Mr. Rakowsky, the Chairman said, “Bob? Andy? Andy, you had a different set of case-by-case recommendations, and you’re welcome to go through them. I do think that they are reflected in the attachment, but I want to make sure that you have the option, and Bob if you have any point of view on this you are welcome to add it as well.”

Mr. Creighton responded, “We spent a lot of time deliberating this over the year in the virtual Working Group meetings, and I was of the opinion that we had reached a consensus. Look, if

locality pay is going to be legitimate, we have to be able to address changes in the workforce and in the statistics. You just can't imagine that pay would just remain static. New programs, new issues come up with the United States Government. Federal employers require certain talent, and locality pay has been a very good feature. But if you don't amend it, it's going to devolve. I was a little surprised that we were not all satisfied with what we accomplished on this issue during this past year."

Mr. Rakowsky said, "As one of the new kids on the block here with this Council, I'm very impressed with the work ethic from Joe on up—and down—as far as the work that the Council does. Obviously, I'm still learning a lot of things. What I meant by a case-by-case basis is this: I use the Berkshire area of Massachusetts as an example. I happened to reside and I was employed in Albany, NY, with Homeland Security as a Special Agent. Albany had its own locality pay, and the rest of Massachusetts had its own locality pay tied in with Boston, Springfield, and so on. Berkshire County was kind of sandwiched in the middle. So that's kind of what I meant by case-by-case. I like to think it's a commonsense approach. I don't think that we can use a cookie-cutter approach on every single area. So, again, my understanding of locality pay has kind of changed since I've been with you guys the past few months."

Mr. Rakowsky continued, "But we have to take a commonsense approach. For example, let's take Berkshire County. That's the western part of Massachusetts that borders New York State and Vermont and Connecticut. Let's say some giant company moves in a year from now, and the pay of everybody has skyrocketed, so does that mean that Berkshire County will have a right to come back to the Federal Salary Council and say, 'Hey, listen, we have this new company that's driving up costs from everything from a loaf of bread to a gallon of milk to housing.' And obviously we realize we don't take living costs such as housing into consideration. It is all based on the job market. So, with that being said, we as an organization are a living, breathing organization, and we have to look at every single area and ask how has it changed in the past few years or 2, 5, 10 years ago. So, that's where I kind of came from that we have to look on a case-by-case basis. I didn't want to ruffle anybody's feathers. And that's about it. If you guys have any questions for me, I'll try to explain that to you. Hopefully, I did get my message across."

The Chairman said he thought Mr. Rakowsky had offered a great hypothetical. If the new OMB definitions exclude certain counties based on existing circumstances today, and those circumstances then were to change as the example suggested, then the Chairman would view the Council as having the obligation to review all of those areas all of the time, since nothing is static and nothing is forever.

Addressing Mr. Creighton, the Chairman added that he too was disappointed the Working Group had not reached a consensus on the issue. But he said that at this point he wanted to make sure that Council members concurred with respect to the three positions the Working Group report attachment is intended to express. He said that if the Council could agree on that, he believed the Council should simply pass on those separate member recommendations to the President's Pay

Agent, and consistent with Mr. Allen’s statement earlier it would be up to the Pay Agent to make a final decision on what to tentatively approve pending appropriate rulemaking.⁶

The Chairman said he wanted to add two more points and would then like to provide Ms. Simon, Mr. Reardon, and Mr. Erwin an opportunity to respond: “First, I don’t mean to make light of this. This is not about cutting Federal employees’ pay; it is a matter of defining labor markets. Frankly, I think you can find Federal employees in every county in the United States, and in some cases they may travel to a Federal job two or three or four counties over, and I just worry about where we draw those boundaries. That’s why I think we’ve articulated this *de minimis* standard from an employer’s perspective. But again, this is not about cutting Federal employees’ pay; it’s about the Federal Government’s ability to recruit and retain talent.”

The Chairman’s second point was that the Council or Pay Agent could ask Federal agencies in potentially impacted areas to provide input from the standpoint of agency staffing needs.

Ms. Simon asked the Chairman whether he was now proposing (1) that for those counties where he agreed to follow past practice, the recommendation would be to add them to or keep them in the impacted locality pay area but (2) that for the other locations, “reject” would be changed to “under consideration.”

The Chairman responded that Ms. Simon was correct regarding (1). Regarding (2), he said, “Let me tweak that a little bit. I think I would suggest given the amount of time we put into this that we *reject subject to other input*, and the agencies or the employees or whatever can provide that input directly to the Pay Agent because the Pay Agent’s going to have to issue rules, I think. But I think it’s *reject absent some circumstance we’re not aware of*.”

Ms. Simon responded, “Anything is better than reject. AFGE wants to accept the changes that would be additions and reject the changes that would be deletions—and follow past practice. But if you are willing to consider accepting some of the additions that you previously were rejecting, and instead of the outright rejection of the addition you would study it further—that’s better than outright rejection.”

The Chairman clarified that he was not suggesting studying the issue further but rather that the Council send the three separate views in the Working Group report attachment to the Pay Agent, and then if the Pay Agent adopts a recommendation other than maintaining the status quo and someone later wants to make a case to the Council for doing something different, the Council could hear relevant testimony.

Ms. Bullock and Mr. Fehrer said they agreed with the Chairman on the points he had just made.

Ms. Simon said that in her view what the Chairman had just described was similar to the status quo in that any county excluded from a locality pay area would be free to petition the Federal Salary Council for inclusion. She added, “Of course they can always come to us.”

⁶ Changing the definition of a locality pay area requires a regulatory process, including publication of a proposed rule in the *Federal Register*, a period for public comment, and publication of a final rule in the *Federal Register* that considers comments received during that period for public comment.

The Chairman agreed with Ms. Simon that such a location as she described would be free to petition the Council. He added that the Council had been looking at the issue now under discussion for a very long time. Expressing agreement with the Chairman, Ms. Bullock said, "We've got to move on."

Mr. Erwin commented that the real problem is evident in the pay disparities the Council reviews each year. He said there are significant pay disparities in the range of 30 percent (with some variation) across the Country. He emphasized that those pay disparities should be kept in mind as the Council focuses on the issue of whether to apply MSA and CSA updates. He said that the pay levels in areas that already have such significant pay disparities are a lifeline to Federal employees and agencies trying to recruit and retain the talent needed to do the work of the American people.

The Chairman said he agreed with Mr. Erwin in part. He added that locality pay is broken and that he did not believe a broken system can be fixed by adding to the brokenness, and that part of fixing a broken system would be considering data that indicate a labor market has moved on and potential employees there no longer need to look to the Federal Government for employment nor does the Federal Government need to look to them for talent.

The Chairman proposed that the Council accept the Working Group recommendation to submit the separate Council member views on this issue to the Pay Agent. Hearing no objections, the Chairman proceeded to the next agenda item:

Agenda Item 3. Report of the Bureau of Labor Statistics

Mr. Ratcliffe noted that the Working Group recommended that this time be reserved for a presentation by Bureau of Labor Statistics (BLS) staff. The Chairman turned the floor over to Mr. Mike Lettau, Labor Economist, Office of Compensation and Working Conditions, BLS. He read the following statement into the record.

I am Michael Lettau of the Bureau of Labor Statistics, Office of Compensation and Working Conditions. I am pleased to present the work that the Bureau of Labor Statistics does in support of the President's Pay Agent and the Federal Salary Council. The BLS provides estimates of annual earnings for workers in private industry and state and local government to the Federal Salary Council for broad categories of professional, administrative, technical, clerical, and officer jobs, known as PATCO groups, at the various General Schedule (GS) work levels. These estimates are based on the combined data from the Bureau's National Compensation Survey (NCS) and the Occupational Employment Statistics (OES) programs.

The BLS uses a statistical process to combine the data from the NCS and OES programs to produce estimates of annual earnings by area, occupation, and work level. The BLS aggregates these estimates across the occupations into broad categories of jobs according to Federal employment weights provided by the Office of Personnel Management (OPM). OPM then aggregates the resulting estimates to create a single pay gap for each area for use in Federal pay comparisons.

For the 2020 delivery, the BLS produced PATCO estimates for 95 areas, including the 53 current locality pay areas, one recommended locality pay area (Des Moines-Ames-West Des Moines, Iowa Combined Statistical Area), as well as a number of areas of interest. Again for this year's

delivery, the Federal Salary Council requested that the BLS deliver PATCO estimates based on OMB Core Based Statistical Area (or CBSA) definitions and including any Areas of Application in the area's definition. At the Council's request, the definition for the Birmingham-Hoover-Talladega Combined Statistical Area was changed to include Calhoun County, Alabama, as an Area of Application. As in prior years, BLS provided separate estimates including and excluding the effect of incentive earnings.

The PATCO estimates for the 2020 delivery used a Federal employment weight file based on the 2018 version of the Standard Occupational Classification (SOC) for the first time. The PATCO estimates were previously based on the 2000 version of the SOC codes. To remind the Council, the BLS delivered a test set of PATCO estimates in September 2019 that used a Federal employment weight file based on the 2018 SOC codes for comparison with estimates for the same time period based on the 2000 SOC codes. The BLS observed that the two sets of estimates were generally similar.

It is important to note that the OES program will complete its transition to the 2018 SOC codes over a 3-year timeframe. Therefore, two-thirds of the OES data used for this year's delivery were collected using the 2010 version of the SOC codes. Because the entire OES sample does not yet contain the full detail of the 2018 codes, the PATCO estimates for this year's delivery had to combine detailed occupations for 35 of the 257 occupations in the Federal employment weight file. For example, if the 2018 SOC revision divided a SOC 2010 occupation into two separate occupations, about two-thirds of the OES data will have information only for these two SOC 2018 occupations combined. Thus, the PATCO estimates will reflect this transitioning to SOC 2018, with roughly two-thirds of the data reflecting the occupation's SOC 2010 definition. The OES program will complete its transition to the 2018 SOC codes by the delivery of the 2022 PATCO estimates, at which time the PATCO estimates will be based on the full detail of the SOC 2018 codes as collected by the OES.

The BLS would also like to note that the wage rates in the NCS and OES data that underlie the PATCO estimates for this year's delivery were collected for reference periods that occurred prior to the major reductions in U.S. employment because of the coronavirus pandemic. Therefore, the BLS does not believe that the pandemic had any significant impact on the PATCO estimates for 2020.

Over the last two years, the BLS has observed that a significant number of areas have shown a decrease in the PATCO estimates compared with their PATCO estimates for the previous year. Because the PATCO estimates are based on BLS survey data, variations in the annual sample will influence the estimates for both the average annual earnings by area and occupation from the OES and the factors for the work levels from the NCS. BLS has initiated a research project to analyze the effect of NCS data, OES data, and the statistical model on changes in the PATCO estimates over time. This research will include assessments of the relatively small sample sizes of workers at work levels 14 and 15 in the NCS sample, as well as the effect of the NCS sample weights in the statistical model overall. The BLS will report its findings to the Working Group of the Federal Salary Council upon its completion.

At the request of the Working Group of the Federal Salary Council, the BLS agreed to deliver 2020 PATCO estimates for an additional 10 areas of interest to the Council, provided that they meet the BLS standards for confidentiality and reliability for release. OPM has provided a list of the areas along with their county definitions. BLS is targeting delivery of these estimates by the end of calendar year 2020.

Finally, the BLS would like to remind the Federal Salary Council that the OES program continues to explore a model-based method for the calculation of its estimates of annual earnings by area and occupation. Model-based estimates for May 2015 through May 2018 are currently available on the BLS web site for public review and comment. An article entitled “Model-based estimates for the Occupational Employment Statistics program” in the August 2019 Monthly Labor Review provides a summary of the model. This model-based method has the potential to improve the accuracy and reliability of the annual earnings estimates over the current OES estimation method. The BLS will continue to keep the Federal Salary Council informed about this research effort and its implications for the calculation of the PATCO estimates.

I will be happy to answer any questions you may have.

The Chairman asked Mr. Lettau to tell the Council more about the Federal Government’s response to COVID-19. He noted that Council members had discussed at the level of the Working Group whether that had any impact on the locality pay program at all, especially given the rise in unemployment, which could be an unfortunate anomaly that hopefully will wring itself out of the economy over time.

Mr. Lettau replied, “Well, again, my expertise is in the data side and the data collection side so I’ll note that for this year—as I noted in [my foregoing] testimony, the data was collected really before the shutdowns. Additionally, we’re using Federal weights in much of the calculations for periods before the shutdown, so we don’t think there’s any effect this year. I think it would just be speculation about what the effect for the delivery would be next year. I will say that, for the National Compensation Survey and the Occupational Employment Statistics survey, we did not change our collection procedures or methods of things like our definitions and how we draw our sample. We’re not changing those based on the pandemic, with the exception that we are limiting personal visits in the collection of data, but otherwise we are not changing concepts or procedures. But beyond that, I think it would just be speculating what the effect would be on the estimates for next year, so I’m going to withhold doing that.”

The Chairman asked Mr. Lettau whether, if there were to be an effect from COVID-19 on the BLS salary survey data, the Council could expect it to be observable in next year’s NCS/OES salary estimates.

Mr. Lettau responded that answering that question would be speculating on what the world might look like in the future. He added, “But again, I do want to emphasize that in the calculation of the estimates themselves a lot of the weighting that goes in how the different workers are counted comes from the Federal files that we receive from OPM.”

The Chairman replied, “I’m assuming minimal COVID-19 impact on the Federal workforce; that’s just from reading the headlines, but it seems like the Federal Government has largely been able to weather that particular storm. Mike, can you go back to—and I may have gotten this wrong—you’re doing a study that will attempt to gauge whether the up-and-down variability of some of the numbers is simply a statistical artifact or whether it’s real. Do I have that right?”

Mr. Lettau responded, “Yeah, though we believe the design of the model is at a point in time to be able to make the comparison across areas—so that we can look at the relative pay for one area

versus another. We believe that the model is performing that function but we also know that people invariably are going to look at how the PATCO estimates change over time. And what we noticed in the last 2 years is that kind of on average—again, there is variation—but on average, we haven't seen much growth in these wages. And so we have an internal research project that's trying to understand this based on the input data. We are analyzing the way that the model weights different workers and occupations in the calculations. So, we think that this analysis will give us a better understanding of the time pattern of the PATCO estimates.”

The Chairman asked if BLS had an estimate for when the study could be shared. Mr. Lettau responded that BLS was aiming for the end of the calendar year for completion of a draft but that he did not believe BLS could make a promise on when the study could be shared. The Chairman then asked if BLS had any comments on the earlier Council discussion regarding the GS employment threshold for Rest of US research areas.

Mr. Lettau noted that the Council had asked BLS earlier in the year about its capabilities for delivering additional salary estimates for Rest of US locations and that discussions regarding that had led to an agreement that BLS would provide salary estimates for 10 additional areas. He said that BLS had received from OPM the county definitions for the 10 areas plus an additional 5 areas, with the idea that if we need to expand to produce estimates for 10 areas BLS would have some backups. He added that BLS would have to test the salary estimates to ensure their consistency with the design of the BLS samples and to make sure they maintain the confidentiality for our respondents, so for our workload, BLS agreed to deliver the 10 by the end of the calendar year. He added that BLS was on track to do that.

The Chairman responded, “Okay, great. Well, I'll offer you and Frances and Hilery two warnings. Warning Number 1: as you drive towards that deadline—and obviously if you need to change it that's fine—but sometime around the end of the year, as you get back to us on the 10 areas, we would love to hear your recommendations on where that threshold ought to be placed because your capabilities in that regard—your ability to collect the data and model it—are going to be an important consideration for where we establish that threshold. The second warning has to do with the future of this program, and I just wanted to give you a very quick prelude of what you're going to hear from me. I personally think that BLS does the best job that it can with the resources it's been provided to gather data and model them for locality pay purposes, but as Jacque and others have pointed out the data you give us were not specifically designed for Federal locality pay. And so one of the things I'm going to suggest for the future of this program is that we ask BLS exactly what it would take to come up with a methodology that would provide more accuracy and precision when it comes to the specifics of the Federal locality pay program. Not as an add on to something else, but I think we deserve our own methodology. So just be thinking about that. I'm not going to be putting you on the spot today, but I am going to at least suggest to the President's Pay Agent that they come back to BLS and say, ‘All right, what would it take?’ So, fair warning.”

The Chairman provided his fellow Council members an opportunity to ask further questions of Mr. Lettau. Hearing none, he turned to the next item on the agenda, which Mr. Ratcliffe presented. He started by reading the following from the Working Group report:

Agenda Item 4. Report and Recommendations of the Federal Salary Council Working Group, present business:

The Working Group recommended the Council turn to present business at this time and made the following recommendations for the Council to consider.

Agenda Item 4a: What locality pay rates should the Council recommend that the President’s Pay Agent adopt as those that would go into effect in 2022 under the Federal Employees Pay Comparability Act of 1990 (FEPCA), absent some other provision of law?

Working Group Recommendation 4a. The Council should recommend locality pay adjustments as listed in Attachment 2 of this report.

Background and Rationale: The Federal Salary Council’s Working Group reviewed comparisons of General Schedule (GS) and non-Federal pay based on data from two Bureau of Labor Statistics (BLS) surveys, the National Compensation Survey (NCS) and the Occupational Employment Statistics (OES) program. BLS uses NCS data to assess the impact of level of work on occupational earnings, and applies factors derived from the NCS sample to occupational average salaries from OES to estimate occupational earnings by level of work in each locality pay area.

Taken together, these data comprise the NCS/OES Model (see Attachment 1 for a detailed description of that model), which is the methodology currently employed by the Council. Note that certain members of the Council have recommended changes in that methodology to the President’s Pay Agent.

Based on that BLS model, OPM staff calculated a weighted average of the estimated locality pay disparities as of March 2020.⁷ According to those calculations, the estimated overall disparity between (1) base GS average salaries and (2) non-Federal average salaries as estimated by BLS in current locality pay areas was 52.17 percent.⁸ Using these data, the amount needed to reduce the pay disparity to 5 percent—the target disparity established by FEPCA—averages 44.92 percent. When existing locality pay adjustments (averaging 23.60 percent as of March 2020) are taken into account, the overall remaining pay disparity is estimated at 23.11 percent.

Using data from the current salary survey and pay comparison methodology described above, the Working Group recommends that the Council advise the Pay Agent to adopt the locality rates in Attachment 2 as those that, absent some other provision of law, would go into effect under FEPCA in January 2022. These locality rates would be in addition to the increase in GS base rates under 5 U.S.C. 5303(a). This provision calls for increases in basic pay equal to the percentage increase in the Employment Cost Index (ECI), wages and salaries, private industry workers, between September 2019 and September 2020,

⁷ Those calculations excluded such additions as GS special rates and existing locality payments.

⁸ Regarding Item (2) in this sentence from the Working Group report, BLS staff noted after the meeting that the following language would have been more accurate: “(2) non-Federal average salaries as calculated by OPM based on the estimates by BLS in current locality pay areas was 52.17 percent.”

minus half a percentage point. The ECI for September 2020 will not be published until October 30, 2020, so the amount is not yet known.⁹

The Working Group notes that, under the current methodology, the average March 2020 pay disparity for current and planned locality pay areas is 3.48 percentage points lower than the average March 2019 pay disparity for those areas, with most of those pay disparities decreasing.¹⁰

This year, the pay disparity for Laredo decreased by 23.17 percentage points. However, because Laredo has a relatively small GS payroll, that decrease for Laredo did not significantly affect the average pay gap. Pay gaps excluding Laredo decreased by 3.44 percentage points on average, which is close to the year-to-year percentage point decrease observed last year in the average pay gap including Laredo.

The Chairman thanked Mr. Ratcliffe. The Council members then unanimously agreed to recommend locality pay adjustments as listed in Attachment 2 of the Working Group report as those that would go into effect under FEPCA absent another provision of law.

The Chairman moved to the next agenda item:

Agenda Item 4b. Should the Council recommend the Pay Agent establish new locality pay areas for 2022 based on the results of the NCS/OES Model?

Working Group Recommendation 4b. No, not at this time.

Background and Rationale: Attachment 6 lists locations, most in the RUS locality pay area, from which groups or individuals have contacted the Council or OPM staff to express concerns about pay levels or the geographic boundaries of locality pay areas. The RUS locations listed do not meet criteria approved by the Pay Agent for a change in their locality pay area designation, yet representatives from some of these locations report that Federal agencies in their area have recruiting and/or retention problems. For locations listed that are already in locality pay areas separate from RUS, the petitioners ask that the Council recommend a higher locality pay percentage for one or more locations in the locality pay area.

Some of these locations are in metropolitan areas monitored using the NCS/OES Model, but none of the metropolitan areas monitored meet the standard for establishing a new locality pay area based on NCS/OES Model results. More specifically, the Council is now monitoring pay disparities in 38 RUS research areas not approved for establishment as separate locality pay areas. We studied pay disparities for these areas, compared to the RUS pay disparity, over a 3-year period (2018-2020), and the results are shown in Attachment 3. Using the Council's current methodology, none of the 38 research areas had a pay disparity exceeding that for the RUS locality pay area by more than 10 percentage points on average over the 3-year period studied, the standard established by

⁹ December 2020 update on ECI: The ECI increased 2.7 percent between September 2019 and September 2020, so the base GS increase in 2022 would be 2.2 percent under current law.

¹⁰ Last year, the Working Group noted that the March 2019 pay disparity for Laredo had increased by 25.41 percentage points and asked BLS for further analysis. In that regard, BLS noted that the increase was likely a statistical variation.

the Council to trigger a Council recommendation to establish a research area as a new locality pay area.

Regarding locations that have contacted the Council and OPM staff, we appreciate the input we have received. However, we urge agencies that are having staffing problems in a locality pay area to consider gathering Human Capital Indicators (HCI) data so that they can identify and quantify staffing issues in a geographic area of concern. Such data might be helpful in addressing staffing issues that are detrimental to agency missions.

We recognize that some agencies may have significant staffing problems requiring solutions in the near term. Regarding such situations, we recommend OPM continue to encourage agencies to consider using pay flexibilities such as recruitment, retention, and relocation payments, and special salary rates to ease any staffing problems that may exist in RUS locations or elsewhere.

The Chairman thanked Mr. Ratcliffe and said he would like to elaborate a bit on the issue: “The precise language has to do with the NCS/OES model, and if you base our decision strictly on that model, no research areas currently meet the tests that we have established to qualify as a locality pay area for 2022. I believe the Council has said that, the formulaic approach notwithstanding, we reserve the right to consider and recommend additional locality pay areas that do not meet the NCS/OES model test. We are going to talk about that in a second. But this particular recommendation focuses exclusively on the results of that NCS/OES model, and based exclusively on those results, none of the other areas qualify. Let me ask if any other Council member sees it differently, and again that’s not the same as asking whether we want to consider other areas, that fact notwithstanding. That’s the next question we need to address. This question is do we recommend that the Pay Agent establish a new locality pay area based on the results of the NCS/OES model. And based on the results of that model no other locales qualify. So again I’ll ask Council members to weigh in. Does anyone see it differently than that?”

Ms. Simon clarified that the Working Group recommendation did not mean that particular counties couldn’t be added to existing localities as areas of application—but that as far as establishing new localities under the Council’s current rules, AFGE concurred with that recommendation.

The Chairman agreed with Ms. Simon’s interpretation and added that, as a general matter, the Working Group recommendation concerned making recommendations “by the numbers,” and that in this case the numbers did not support any recommendations for new locality pay areas.

The Council agreed to recommend that the Pay Agent not establish new locality pay areas for 2022 based on the results of the NCS/OES Model.

The Chairman moved to the next agenda item:

Agenda Item 4c. Should the Council recommend any action be taken for locations that do not meet approved criteria for a change in their locality pay area designation?

The Chairman summarized the following text from the Working Group report.

Working Group Recommendation 4c. As discussed below, we recommend that the Council strongly endorse the approval of all appropriate pay flexibilities—such as recruiting and retention incentives and/or special pay rates—to the agencies that employ Federal workers in two areas that submitted Human Capital Indicators (HCI) data that were sufficient to support further Council consideration.

Background and Rationale: The Council and OPM staff receive numerous requests each year to establish or change locality pay areas for locations that do not meet established criteria for doing so. Those requests run the gamut from simple phone calls or emails from individual employees to detailed petitions and presentations by local representatives and organizations at Council public meetings, all trying to make the case that their particular location warrants a locality adjustment, notwithstanding the fact that that location does not meet the NCS/OES criteria.¹¹

In an effort to establish a more disciplined and data-driven response to such requests, the Chairman and Ms. Bullock proposed in the Council’s April 2020 report to the Pay Agent that the Council require such representatives to support their requests with detailed HCI data that make a more quantitative case for coverage. That same report indicates that Council members Erwin, Reardon, and Simon would be open to considering HCI data but do not support a hard-and-fast policy that such data be required.

Since the Council’s April 2020 report was issued, groups from four geographic areas—Charleston, SC; Nashville, TN; Orlando/Central Florida; and Southern NJ¹²—have stated that they would try to support their requests with detailed HCI data. OPM staff has since received HCI submissions from Charleston and Southern NJ that were sufficient to support further Council consideration.

Commending the work done by those two locales, the Working Group analyzed their submissions and concluded that while the HCI data submitted by Charleston and Southern NJ indicated severe recruiting and retention difficulties sufficient to warrant some sort of additional pay adjustment, the evidence showed that those difficulties were limited to and/or varied significantly among certain occupational categories and/or grade levels. Accordingly, because the Council’s current statutory authority limits it to recommendations that cover all occupations and grades in a particular location, the Working Group has concluded that Council cannot recommend that the Pay Agent designate those areas for a locality pay adjustment.

Nevertheless, while the Working Group cannot recommend that the Council consider locality pay adjustments for these two areas to the Council, its members are sympathetic to the challenges they face, and they recommend that the Council strongly endorse the approval of all appropriate pay flexibilities—such as recruiting and retention incentives and/or special pay rates—to the agencies that employ Federal workers in these two areas.

The Working Group notes that while the submissions by Central Florida and Nashville are not yet sufficient to make a determination with respect to locality pay, they too should be commended for their efforts and encouraged to continue them. However, in so doing, the Working Group recommends that the Council apprise those two areas of its statutory

¹¹ Regarding the portion of this sentence from the Working Group report reading “notwithstanding the fact that that location does not meet the NCS/OES criteria,” BLS staff commented after the meeting that the following language would have been more accurate: “notwithstanding the fact that that location does not meet criteria based on the estimates from the NCS/OES model”.

¹² None of these areas meets current criteria for being included in a higher-paying locality pay area.

limitations—that is, that it can only recommend that a geographic area be recommended for a locality pay adjustment if its recruiting and retention challenges are across-the-board in nature. In that regard, the petitioners are also encouraged to explore the use of the various pay flexibilities as a way of addressing any staffing issues they may have.

The Chairman said he understood that his fellow Council members were prepared to approve new locality pay areas or areas of application notwithstanding the results of the NCS/OES model. He said he would, nevertheless, entertain any contrary view from any Council member.

Ms. Simon commented that there are other deviations besides the NCS/OES data—specifically, deviations regarding the GS employment criterion or deviations regarding the employment interchange rate.

The Chairman responded that he and Ms. Simon had the same understanding regarding considerations other than the NCS/OES model, and he reminded his fellow Council members of the recommendation he supported last year regarding Wayne County, PA, which met the employment interchange criterion but not the GS employment criterion to be included as an area of application to the New York locality pay area; in that case, a Federal facility in that county told the Council that not meeting the GS employment criterion was due to vacancies that persisted due to the facility not being included in the New York locality pay area.

Ms. Simon noted that the case the Chairman was referring to involved a recommendation to establish an area of application rather than an entire new locality pay area. She added that the Council would hear later today from witnesses that there are adequate numbers of GS positions authorized to meet the GS employment criterion, but that some positions are not filled because of pay levels being substantially below New York locality pay. She said the testimony would show Catch-22 situations where the GS employment criterion is not met because pay is too low, and pay is too low because the GS employment criterion is not met.

The Chairman agreed such a situation as Ms. Simon had just described would be a classic Catch-22 situation and that he looked forward to the testimony she had referred to. He then asked for OPM staff to confirm his understanding that the proposal regarding Southern New Jersey was that certain New Jersey counties be moved to a higher-paying locality pay area. Mr. Ratcliffe responded that the locations the proposal covers were in the Philadelphia locality pay area, but the petitioners felt it would be more appropriate to include those counties in the New York locality pay area.

The Chairman noted that the four areas discussed in the Working Group report under 4c had all testified before in Council meetings. He said, “We really appreciate their passion and interest in this. I apologize for what is going to be a fairly longwinded explanation, so please bear with me. We went back to those four areas and said you now have an opportunity to make your case. You do not currently qualify under existing criteria, but the Council has said we can grant exceptions, and now is your opportunity to make your case. At least a couple of members including myself and Katja Bullock and I believe Doug Fehrer have said we want to see the numbers.”

The Chairman continued, “Charleston and Southern New Jersey both did a pretty credible job of providing us those numbers. I think Orlando and Nashville are still a work in progress. So,

Orlando and Nashville, I don't want you to leave thinking there's no hope, but I do want to be realistic with you and suggest that the bar is high. In the case of Charleston and Southern New Jersey, let me speak to Charleston first: Charleston presented in relative terms a significant amount of human capital data and what they showed us—I think what they proved to us empirically—was that for some occupations and/or grade levels there was a sufficient pay disparity to warrant corrective action. I believe Southern New Jersey made the same case, again not to become a locality pay area, but to switch their locality pay area.”

The Chairman continued, “So, both Southern New Jersey and Charleston did the heavy lifting to the extent they were able, and in both cases they were able to prove spot differences for certain grades, certain occupations, etc. Unfortunately, after a lot of legal research and soul-searching, the staff and I have concluded—and I want the Council to pay attention and weigh in on this—that we do not have the legal authority to grant other than across-the-board locality pay adjustments, and in the case of Charleston the evidence they provided do not warrant an across-the-board locality pay adjustment. They've made the case for certain grades and certain occupations, but we don't have the legal authority to deal with those spot disparities, and we can only say we can only deal in across-the-board problems and there is not sufficient evidence of an across-the-board problem. Again, we're sympathetic and what I would put before the Council is to affirm that conclusion that they provided data that does not warrant an across-the-board increase, that we don't have the legal authority to grant anything other than an across-the-board increase, and then lastly that we would strongly endorse the need for pay flexibilities to deal with the recruiting and retention challenges they've identified, and we would make that endorsement to their agencies and strongly encourage those agencies to provide them the pay flexibilities that they need to deal with the problem. Let me stop there and see if OPM has anything they want to add to that, and if any Council members have any views in that regard. OPM first.”

Mr. Allen said he had nothing to add to the comments the Chairman had just provided. He added, “I think you captured everything exactly the way that we were viewing the information that we received on the human capital indicators as well.”

In response to a question from Mr. Creighton, Mr. Ratcliffe said that in 2020 the New York locality pay percentage was 33.98 percent, that the Philadelphia locality pay percentage was 26.04 percent, and that pay rates in New York are about 6.3 percent higher than in Philadelphia.

In response to a question from Mr. Creighton, Mr. Ratcliffe explained why the Southern New Jersey counties of interest were in the Philadelphia locality pay area: “Locality pay area definitions are based primarily on the definitions of metropolitan statistical areas and combined statistical areas as defined by OMB (as the Council was discussing earlier in this meeting), and the locations of concern are part of the Philadelphia basic locality pay area because they are part of the Philadelphia combined statistical area on which the Philadelphia locality pay area is based. So, applying the criteria that has been in use by the locality pay program since the beginning, geographically the locations are placed, following those criteria, in the Philadelphia locality pay area rather than in the New York locality pay area.”

Mr. Creighton said he believed the Council was obligated to be careful with locality pay, particularly for law enforcement positions, since observers could get the impression that something like gerrymandering or shopping had been going on. He said he obviously supports higher pay for law enforcement, but that the request to make an exception to established criteria in this case seemed strange. He added that from what he had just heard, it seemed that the locations of concern were already receiving a significant locality pay adjustment.

The Chairman said that the potential hazards Mr. Creighton suggested had been a concern. He said that it is human nature to seek higher pay. He added, “So, we were concerned as you suggested about gerrymandering, and that’s why we gave them the opportunity to submit the data. And again I’ll give them and Charleston a gold star for the effort. But they weren’t able to show that there is an across-the-board impact, so there’s really nothing we can do. I think that’s the rationale.”

The Chairman continued, “So, let me try to reiterate the Working Group recommendation as something I would ask the Council to weigh in on. We can do this en masse and/or individually, but I think at least with Charleston and Southern New Jersey, we all agreed they should be given the opportunity to make the case to be a locality pay area or to be an area of application for a different locality pay area. We gave them that opportunity, and they took advantage of it; unfortunately, they were not able to provide empirical evidence that either of those situations should occur. So, the best we can do as a Council is to thank them for their efforts, note that we are without legal authority to recommend other than an across-the-board change, and strongly encourage their home agencies to help them. So, do any Council members see that differently, want to take exception to that, or does that reflect the Council’s point of view here? On this one it’s probably important that I make sure everybody weighs in so let me just go around and ask.”

The Council members expressed agreement with the Chairman’s conclusion regarding the areas that submitted HCI data. Some made further comments:

- Ms. Simon said she was not necessarily in favor of the Chairman’s HCI model but did agree that the areas that have submitted data have not met even that standard and that accordingly she would have no objection to the recommendation.
- Mr. Creighton said he thought it was the right thing to do to allow the areas to make their case, but that the Council needed to be diligent. He added, “We all know we’re going into times where pay issues are going to be looked at very closely as the economy continues to deal with a virus and other things. So I think that was fine; I’m not saying that I don’t agree that they should make an application. I think that it should be done fairly and we should look at it fairly and call it as it should be. And I think that was done.”
- Member Rakowsky said, “Listen, I agree with that, but whoever is crunching out the numbers needs to make sure those numbers are correct, and again with any kind of project you can crunch out numbers to your advantage—or disadvantage for that matter. So, I guess I would have to look at them a little more in depth. And I always find that if I’m talking to people from that area I get a better feel of what they’re going through, what their issues are,

and so on, so it's not just the numbers, which is basically what we have to go by you have to look in a holistic way.”

The Chairman said, “Let me stress to Orlando and Nashville, don't give up, but we want to be realistic. Let me just add some of you may be asking why these agencies or these locales can't just use pay flexibilities and not worry about becoming a locality pay area or moving to a different locality pay area. My understanding is that locality pay gets built into a location's budget and pay flexibilities do not. So if somebody wanted to get the authority to offer recruiting incentives and retention allowances and that sort of thing they would have to pay for it out of hide. And, Bob, as you suggested we are in a period of very austere budgets, particularly at the local level. However, if they qualify to be a locality pay area my understanding is that gets built into their budget and they don't have to pay for it out of hide so there is some incentive for them to come before us and try to make the case.”

Mr. Allen said that it was his understanding from talking to people over the years that one issue is that recruitment and retention incentives would normally come out of a local budget, whereas base salaries, including locality pay, would be funded by mandate so they are required to pay those. He added that special rates when initially established may be different and that there may be some requirement, depending on what agency is involved, to fund those locally.”

The Chairman thanked Mr. Allen. The Council agreed to strongly endorse the approval of all appropriate pay flexibilities—such as recruiting and retention incentives and/or special pay rates—to the agencies that employ Federal workers in the two areas that submitted HCI data that were sufficient to support further Council consideration (i.e., Charleston, SC, and Southern New Jersey).

Agenda Item 5: Testimony regarding certain proposed locality pay areas

The Council heard testimony regarding locality pay applicable for the following nine areas: Charleston, SC; Southern New Jersey; Nashville, TN; Central Florida; Pine County, MN; Rochester, MN, CSA/Olmsted County, MN; Carroll County, IL; Austin, TX; and Salt Lake City, UT. Each petitioner represented a locale that did not meet the Council's existing standards with regard to changing its designation as a locality pay area or an area of application; however, each petition proposed an exception to those standards, citing significant staffing challenges in that area.

Below are a brief summary of testimony the Council heard regarding those nine areas and highlights of Council discussions of that testimony.

Charleston, SC

Mr. Scott Isaacks, Director/CEO of Ralph H. Johnson VA Medical Center, provided testimony regarding Charleston, SC, a Rest of US research area that does not meet the pay disparity criterion. (As discussed earlier in the meeting, the Council considered HCI data submitted for Charleston but did not find that the data warranted an across-the-board locality pay adjustment for the area.)

Southern New Jersey

Mr. Matthew Skahill, Deputy U.S. Attorney for the District of NJ, provided testimony on certain New Jersey counties in the Philadelphia basic locality pay area and proposing, as discussed earlier in the meeting, that those counties be included in the New York locality pay area. (As discussed earlier in the meeting, the Council considered HCI data submitted for the counties of concern but did not find that the data warranted making an exception to the longstanding practice of defining basic locality pay areas based on the definitions of OMB-defined MSAs and CSAs.)

Nashville, TN

Ms. Jennifer Vedral-Baron, VA Health System Director, provided testimony concerning Nashville, TN, a Rest of US research area that does not meet the pay disparity criterion. (As discussed earlier in the meeting, the Council considered HCI data submitted for Nashville but did not find those data sufficient to make an exception to the criteria for defining a locality pay area separate from the Rest of US.)

Central Florida

Mr. John Daly, Director of Command Operations for the Naval Air Warfare Center Training Systems Division, provided testimony regarding Central Florida, a Rest of US research area that does not meet the pay disparity criterion. (As discussed earlier in the meeting, the Council considered HCI data submitted for Central Florida but did not find those data sufficient to make an exception to the criteria for defining a locality pay area separate from the Rest of US.)

Pine County, MN

AFGE Local President Bill Schoonmaker provided testimony on Pine County, MN, which meets the employment interchange criterion but not the GS employment criterion to be included in the Minneapolis locality pay area as an area of application.

Rochester, MN, CSA/Olmsted County, MN

The Council considered testimony from Mr. Mike Squibb, BOP Warehouse Foreman and Chief Steward, AFGE Local 3947, regarding Olmsted County, MN, which is part of the Rochester-Austin, MN CSA as defined under OMB Bulletin No. 18-03. He proposed that Olmsted County and/or the Rochester-Austin, MN CSA be included in the Minneapolis locality pay areas as an area of application even though the locations of concern did not meet the employment interchange or GS employment criteria for such inclusion.

Carroll County, IL

AFGE Local 4070 representative Jon Zumkehr provided testimony on Carroll County, IL, which meets the employment interchange criterion but not the GS employment criterion to be included in the Davenport locality pay area as an area of application.

Austin, TX

Chief Human Capital Officer Kate Kelley provided testimony concerning the locality pay percentage applicable in the Austin locality pay area (18.17 percent in 2020 compared to 15.95 percent for the Rest of US), which Ms. Kelley said has not helped with the local staffing issues she highlighted.

Note: Mr. Allen explained that Federal employers in Austin were considering developing a special salary rate request, and that his understanding was that part of the issue with respect to Austin was that the area had not been established for a very long period as a separate locality pay area, so its locality pay percentage had not caught up to the pay disparity in the area to the degree that other locality pay areas have that have existed for a much longer period.

Salt Lake City, UT

Mr. Michael Moore, Director of Staff, Hill Air Force Base, provided testimony regarding Salt Lake City, UT, a Rest of US research area that does not meet the pay disparity criterion.

Highlights of Council Discussions of Testimony

Highlights of Council discussion of testimony regarding the nine areas are presented below.

- During his testimony of the discussion on Charleston, Mr. Isaacks asked that the Council “incorporate economic factors such as cost of living into the methodology for determining special locality pay areas.” The Chairman asked OPM staff to confirm his understanding that a change in law would be required in order for living costs to be considered directly, and then Mr. Allen confirmed that to be correct.
- For Charleston and Southern New Jersey—the two areas for which petitioners submitted HCI data that were sufficient to support further Council consideration—the Council members agreed to strongly endorse the approval of all appropriate pay flexibilities.
- For Nashville, Central Florida, and Salt Lake City—which had not yet submitted HCI data sufficient to support further Council consideration of those HCI data—the Chairman said the Council could review such data when available, but he clarified that by law, the Council could recommend a geographic area for a locality pay adjustment only if its staffing challenges were across-the-board in nature. However, the Chairman also encouraged the petitioners to explore the use of the various pay flexibilities as a way of addressing any staffing issues agencies in those areas may have.
- For Austin, the Chairman concluded that the best the Council could do regarding staffing issues in the area would be to encourage and endorse the use of pay flexibilities such as special rates, but that ultimately it would be up to agencies in Austin to decide whether to request special rates. He added that he would be willing to look at data and weigh in as to whether special rates might be warranted.

- Regarding Pine County, MN, and Rochester, MN, CSA/Olmsted County, MN, the Chairman and OPM staff reminded the petitioners that some members of the Council had recommended last year that the GS employment criterion be waived for these two locations and for Wayne County, PA, and that the Pay Agent’s views on that recommendation were forthcoming.
- For Carroll County and other areas that can demonstrate that the only reason they do not meet the GS employment criterion is because they have vacancies that keep them below the threshold, the Council members agreed to recommend that the GS employment criterion be waived.
- Chairman Sanders indicated during the testimony regarding Nashville that he would be willing to explore with BLS whether the NCS/OES Model would be able to produce salary estimates for subsets of the Nashville CSA such as the three counties the petitioners proposed using in their petition (Council Document FSC-20-1-6).
- As a reminder to the Council, BLS Labor Economist Mike Lettau commented during Council discussion regarding the Central Florida petition that earlier in 2020 the Council Working Group had asked BLS to provide its opinion on the idea of excluding particular industries from salary estimates for a particular geographic area, to which BLS staff had responded (in an email message BLS sent to OPM staff earlier in the year) as follows:

The BLS believes that would not be consistent with the design of the PATCO estimation procedure to produce PATCO estimates for an area excluding a particular industry from their calculation. The PATCO estimation procedure is designed to apply the effects for grade levels to average rates by area and occupation uniformly for all areas. The effects for the grade levels are estimated nationally using data from all industries. Therefore, it would be inconsistent with the design of the method to exclude certain industries from the estimates for an area when data from these industries were included in the estimation of the level effects.

Moreover, the PATCO estimation procedure only uses wage data for the subset of jobs from the approximately 250 occupations in the Federal weight file. The gap calculation for an area then uses a combination of the national and local Federal employment weights for an area to match Federal employment for these occupations by grade level. As a consequence, industries with fewer employees in the Federal occupations will have less influence on the area’s PATCO estimates and its gap calculation. In the particular case of Nashville, workers from Leisure and Hospitality (which contains the Entertainment industry) make up more than ten percent of Nashville’s total employment. However, their effective employment weight on the PATCO estimates and gap calculation is much smaller at less than two percent. This is because workers in the Leisure and Hospitality industries are not nearly as prevalent in occupations and grade levels that have high Federal employment compared to their employment in Nashville overall.

- In response to Mr. Lettau’s remarks regarding the idea of excluding certain industries from PATCO estimates for areas such as Central Florida and Nashville, the Chairman said he would still like to find a way to tell what the labor market would look like without the entertainment industry included in the estimates for either Nashville or Orlando. He said, “It may be that BLS can’t do it, but there may be other ways to do it. I’m not suggesting to

anybody that you give up. I'm glad to hear that Nashville and Orlando haven't given up, and the same goes to Charleston and Southern New Jersey. If you keep trying, we'll keep trying. I just want to make sure that you know that at some point we're going to run out of statutory authority and there's only so much we can do."

- Regarding Salt Lake City, Chairman Sanders made the following remarks: "This is the start of the journey. We'll be happy to work with you and see if there are grounds for an exception. I'll just note as we did with Charleston and Southern New Jersey and Nashville and Orlando that we are, at least at present, powerless if the HCI data suggest that those pay disparities are most acute in relatively few occupations like STEM occupations and/or concentrated in a few grades. We can express sympathy, but that's about the best we can do. But again, happy to work with you."

When the Council finished hearing and discussing the testimony regarding the nine areas that had requested in advance that time be reserved for speakers to provide testimony, the Council turned to the next agenda item.

Agenda Item 6. Future of Federal Pay

The Chairman reminded everyone that the Council had reserved time for Council members to provide their views on the future of Federal pay, and then presented his own:

Having been Chairman now for over 2 years, I think the system is broken. It's broken in more ways than we can count and in more ways than we have time to address this afternoon. The employee organizations have their reasons for thinking it's broken, and in many cases I'm personally sympathetic. I have an additional set of reasons why I think it's broken, and others may not be so sympathetic, but I'm going to give them to you anyway.

First of all, I think the methodology that we're using is the product of budget cuts. It's the best that BLS and OPM can buy given their current budgets. We deserve our own methodology tailored to the Federal locality pay program. Not as an add-on to what OMB is doing or what BLS is doing; it's not that they're not doing good work, but they're doing things that we piggyback on rather than looking at the Federal locality pay program and all of the hundreds of millions of dollars it can potentially represent. So, we deserve our own methodology. We can do that within current law. I would encourage BLS to give us ideas. I'm happy to make those recommendations to the Pay Agent and to the Congress if that's what it takes. That's within current law.

There are some other things that I think can only be rectified by statute. We just addressed a couple of them today. We are without statutory authority to make spot recommendations on locality pay for some jobs and some grades but not for others. We are forced to make a one-size-fits-all decision that covers everyone across the board whether the numbers or other exigencies justify them or not. I would like to see the Council be given the authority to make recommendations to the Pay Agent, and for the Pay Agent to have statutory authority to also decide on spot locality pay adjustments for certain grades, certain occupations, what have you. We've seen what happens when we try to force fit situations like Charleston and Orlando and Hill Air Force Base and others into a one-size-fits-all cookie cutter, it just doesn't work. I'd like us to be able to, by law, take things like cost of living into account. We are legally bound to ignore that, we have

to look at cost of labor. And even though cost of living may have a lot to do with the reason for the pay disparities.

I think we ought to take total compensation into account. I know that the employee organizations take exception to that, but if we don't count benefits, which are a cost of doing business and particularly where Federal benefits are relatively more generous, I think we are missing the boat. So, I think we need to take a total compensation approach to determining comparability. I also think we ought to be able to take things like high unemployment rates and other things into account.

We've set the precedent that we are willing to grant exceptions over and above and beyond the NCS/OES model or whatever methodology we're using. So, I think if we can be given statutory authority to do that where we need it, and for the Pay Agent to do that where it needs it, I think that would be great.

And then lastly, and you've heard me say this before: I think like the Defense Department does with the military, we need at least a quadrennial review of civil service compensation and benefits, so that we can look at the labor market, look at Federal jobs, which are changing all the time, and we can adjust accordingly. Let that bipartisan/bilateral commission make recommendations to the Congress and to the Executive branch as to the changes that need to be made, because I have to tell you even looking at the way the world worked when FEPCA was passed, much less when the General Schedule was created way back in the middle of last century, Federal jobs, Federal work, and competition the Federal Government had with other employers have changed dramatically.

Mr. Fehrer commented: "I definitely concur with most of what you are saying here, particularly the methodology and criteria issue. Cost of living is a variable we should look at as well. With regard to total compensation, the Federal Government puts together a pretty good package, and that needs to be considered. The unemployment rate is worth taking a look at too. The other thing I want to note is back in April of 2002, OPM put out a white paper 'A Fresh Start for Federal Pay - A Case for Modernization.' I think that could be a good starting point, a jump start if you will, to review the greater issue. It's kind of troubling that this was issued 18 years ago and it seems like the problems with the pay system have only gotten worse or more strained over those years. That's all I have."

Ms. Bullock said, "I don't want to add, but I just want to reemphasize the methodology needs to be changed, and I like the idea of a quadrennial review commission. I love it! I think that is a great idea. I don't know how that can happen, but I love it."

Ms. Simon commented, "I don't think that the system is broken, I think the system is underfunded. We had a Wage Survey component of the NCS that was cut for budgetary reasons. I'm glad, Ron, that you support restoring that so that we have our own data that really does job matches to the Federal Government, so that we can have a more solid basis on which to make our calculation of pay gaps. We do not really want any kind of pay system that gives vast new discretion to managers. I think that if the Trump Administration experience has taught us anything, it's the dangers of allowing our agencies and the treatment of the Federal workforce to be corrupted by political influence. And I think that creating a pay system that is not rule-based and is not consistent, and allows all kinds of discretion on the part of agency heads, managers, and supervisors is inviting trouble; it's inviting corruption, and even if the intentions are just the best and meeting the market and providing better pay for the Federal workforce, opening it up to

discretion is opening it up to discrimination, and we would strongly oppose any change that opens up the Federal pay system to more discrimination and more corruption.”

Mr. Reardon provided his views:

I have quite a lot to say, so I'll try to be somewhat brief. I really see two possible futures regarding Federal pay.

In the first scenario, I think the future looks somewhat bleak. In this version of my future, I'm talking about the repeated attempts to freeze pay, slow down step increases, and force employees to pay more towards their retirement, with no increase in their benefits. So, in other words, they experience a pay cut. In this future, so-called Government reformists dismantle the General Schedule, introducing favoritism and discrimination into a system that is supposed to be, as we all know, based on merit. So it becomes really a race to the bottom for the Federal workforce. I think this future is bad for Federal employees, it's bad for agencies, and it makes it a lot harder to recruit and retain workers that are needed to serve the American people.

In the second version, I think it's considerably better, so let's first note and underscore that the pay disparity between Federal employees and their private sector counterparts is now at 23.11 percent. In this particular future of pay, that sizable gap is narrowed with regular pay increases for Federal workers. Instead of slashing pay, the Government is focused on fair pay and workplace policies that encourage the best and brightest to become public servants and compensate them fairly and appropriately for their service. And the General Schedule is fully utilized, not abandoned, preserving and implementing its ability to reward good performance and thoughtfully utilize available pay flexibilities such as recruiting and retention incentives and special rates I heard mentioned earlier, while also providing salary equity to the Federal workforce.

Clearly this second version that I just articulated is the future that is supported by NTEU, but I want to be clear about something: We do not oppose performance pay. For an organization that is dedicated to maintaining and strengthening their merit system principals, we fully embrace a pay system that recognizes merit, skill, and performance. And any attempt to imply otherwise, I think, is disingenuous. So, in a nutshell, the General Schedule has rules, standards, and evaluations that are transparent. It has both merit-based and market-based components and is a performance-based system. Nonperformers can be denied merit pay increases, while outstanding performers can be provided a variety of rewards including quality step increases, as well as retention and recruitment awards. So, with these rules, there is limited ability for favoritism, discrimination, or other non-merit determinations to come into play. When they are applied fairly and consistently by managers who are adequately trained to use the tools it contains, the General Schedule is a model pay system. So NTEU stands ready to assist with efforts to fully utilize the General Schedule and make sure it lives up to its promise of incentivizing and rewarding good performance and dealing appropriately with poor performers.

I do want to touch quickly on the issue of the locality pay program since the Chairman mentioned it. We do not share the view that the locality pay program is broken. We do, though, believe that it needs to be properly funded including adequate funding for BLS to do the work that it needs to do to provide the best data possible on pay gaps.

Unfortunately, too much of our time and resources these last 4 years have been spent fighting off proposals to freeze pay, limit step increases, cut benefits, and weaken Federal employee rights. So NTEU would like to see a future where our collective energy and

resources are redirected toward applying the pay system that Federal employees deserve. That's it out of me.

Mr. Erwin commented, "I got an opportunity to be on my soap box for a little while earlier before this spot on the agenda so I'm not going to say anything much more, but the big problem is that Federal employees overall are so underpaid, when that is so much the elephant in the room and is controlling so much of people's ability to have satisfaction on the job and to recruit and retain when you don't pay people fairly it has a cascading effect of negative consequences. My hat goes off to everybody who participates on this committee, the staff, the leadership, all the members of the committee. I've been associated with it for almost 20 years now. We're doing the best we can to operate within the system, but when the pay gaps are so large the problems are bigger than we're able to address at this level. So I agree very much with what my peers were just saying there, but we've got to do more on that end, but I'm glad we're doing what we can on this committee, so, thank you."

Mr. Creighton provided his views: "As you know, when I joined this year I immediately came to the conclusion that what the Council works on is quite complex. I was quite surprised as we move forward in virtual meetings this complex data that we're reviewing and the decisions that had to be made. I think that the Council worked extremely well this year, probably as well as it did in previous years. And I think it's due to the bright and motivated Council members that I've come to know and work with, and also the leadership of Dr. Sanders and OPM supporting all the things that need to be done."

Mr. Creighton continued, "But going forward we're not out of this; we're all optimistic about the virus, but it's going to continue next year and we're going to continue in the virtual mode. And if you listened to conversations today, the subject of locality pay is complex, and it could be endangered. I believe that the Salary Council is one of the mechanisms that keeps it straight. What could well happen in the next year or so: If coming out of the virus we go into a recession or depression, this will be looked at very closely. And any attempts to use locality pay to keep up or maintain in an incorrect manner could have dire consequences on the entire subject of Federal salary and Federal pay. So I believe that the Council has a lot of responsibility and I'm very pleased to work with all of you. Thank you."

Mr. Rakowsky commented, "Well, Bob took the words right out of my mouth. As a former Federal agent and a 30-year retiree of the Federal Government, obviously I see a different perspective now that I am retired, as opposed to having been in the system and an active employee. But, again, this is the first year the Federal Law Enforcement Officer Association held a presence on this Council. I'm very proud of that fact. Obviously there are some issues, and I think that's one of the reasons why we volunteered to the White House. We said, listen, pick us. We'd like a seat at the table, and we'd like to help out and move forward in a positive and a progressive manner on how to resolve some of these issues. So, again on behalf of FLEOA, we look forward to working with you guys and improving a system that obviously has some issues, and hopefully in our lifetime we'll still be able to fix things. And of course I agree with the other folks on the need to be properly funded. So, that being said, thank you very much for the last word.

Agenda Item 7: Public Comment

The Council did not receive further public comment during the time the phone line was available for the meeting.

Agenda Item 8: Adjournment

The meeting concluded at 5:00 p.m.

CERTIFIED

SIGNED

Douglas G. Fehrer
Vice Chairman