

**National Council on Federal Labor-Management Relations  
13th Public Meeting  
July 20, 2011**

The National Council on Federal Labor-Management Relations (NCFLMR) held its 13th meeting on July 20, 2011, at the American Institute of Architects building at 1725 New York Avenue NW., Washington, D.C. Mr. John Berry (Director, Office of Personnel Management (OPM)) chaired the meeting. Co-Chair Jeffrey Zients (Deputy Director for Management and Chief Performance Officer, Office of Management and Budget) was unable to attend, but Dr. Shelley Metzenbaum (Associate Director for Performance and Personnel Management, Office of Management and Budget) sat in for him.

The following Council members also attended:

Member Name	Member Title
Ms. Carol Bonosaro	President, Senior Executives Association
Mr. William Dougan	President, National Federation of Federal Employees
Mr. Michael Filler	Director of Public Services, International Brotherhood of Teamsters
Mr. John Gage	National President, American Federation of Government Employees
Mr. W. Scott Gould	Deputy Secretary, Department of Veterans Affairs
Mr. David Holway	National President, National Association of Government Employees
Mr. Gregory Junemann	President, International Federation of Professional and Technical Engineers
Mr. H.T. Nguyen	Executive Director, Federal Education Association
Ms. Carol Waller Pope	Chair, Federal Labor Relations Authority

Mr. Steve Keller, Senior Counsel, National Treasury Employees Union (NTEU), sat in for Ms. Colleen M. Kelley, National President, NTEU.

Mr. T. Michael Kerr, Assistant Secretary for Administration and Management, Department of Labor, sat in for Mr. Seth David Harris, Deputy Secretary of Labor.

Ms. Jessica Klement, Director of Government Affairs, Federal Managers Association (FMA), sat in for Ms. Patricia Niehaus, National President, FMA.

Mr. Vince Micone, Chief of Staff, Under Secretary for Management, Department of Homeland Security (DHS), sat in for Ms. Jane Holl Lute, Deputy Secretary, DHS.

Ms. Lynn Simpson, Chief of Staff for Personnel and Readiness, sat in for Mr. William J. Lynn, Deputy Secretary of Defense.

Mr. Dan Tangherlini, Assistant Secretary for Management and Chief Financial Officer, sat in for Mr. Neal Wolin, Deputy Secretary, Department of the Treasury.

About 44 members of the public also attended the meeting, including 4 representatives from the media.

### **Agenda Item I: Welcome**

Mr. Berry began the meeting at 10:07 a.m. He asked whether any Council members cared to propose edits to the draft minutes of the previous meeting. The Council proposed no edits and unanimously approved the minutes.

Mr. Berry said a number of Council members were on travel and unable to attend the meeting. He named people who were sitting in for absent Council members. (See list of substitutes above.)

Before continuing with the meeting agenda, Mr. Berry took the opportunity to mention an [OPM memorandum](#) issued on the previous day.<sup>1</sup> He said the memorandum provides heads of departments and agencies with guidance on coping with this summer's record-setting heat and humidity. He said that Mr. Justin Johnson, OPM Deputy Chief of Staff, would email the memorandum to the Council members so they could spread the word. He added that the guidance would be particularly important for employees who work outside, and that agencies should use the buddy system to guard against dehydration and heat exhaustion. He called on the Council members to help drive home this important point.

Mr. Berry said another item he wanted to bring up before continuing with the meeting agenda was the "Student Pathways" regulation, which he said would soon be published in the *Federal Register*. He said it would be very important for the Council members to take advantage of the public comment period, and he added, "We want to nail all issues." He said the Council members could let the Co-Chairs know about any concerns with the regulation, and that the Council could make room on the agenda for the next Council meeting to discuss any such concerns. Mr. Berry then asked whether he had forgotten anything or OPM staff had anything to add.

Mr. Tim Curry, OPM Deputy Associate Director, Partnership and Labor Relations, said now might be a good time to mention another memorandum that Mr. Berry would soon issue, a friendly reminder to heads of departments and agencies that they are required to consult with management associations. Mr. Berry thanked Mr. Curry for the reminder, and turned to the next agenda item.

### **Agenda Item II: Report of Employee Performance Management Workgroup**

Mr. Berry said the next agenda item was a report of the Employee Performance Management Working Group. He said he believed Mr. Johnson was presenting the report, but asked whether Mr. Filler had any remarks. Mr. Filler joked that today he thought he would just evaluate Mr. Johnson's performance in giving the presentation on performance.

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<sup>1</sup> The July 19, 2011, memorandum, "Coping with Severe Heat and Humidity," was provided as a handout at the Council meeting.

Mr. Johnson provided an update on the Employee Performance Management Working Group's activities since the last Council meeting. His presentation was accompanied by a handout entitled "Employee Performance Management Workgroup."

Mr. Johnson said he wanted to thank all the members of the working group for their commitment and participation. He said he was the only political appointee participating regularly in the working group's activities, and added that he saw himself mainly as a spokesperson for a very large, important effort involving many hard-working people. He said the progress so far emerged from a joint effort by the NCFLMR Council and the Chief Human Capital Officers (CHCO) Council. He stressed that, while all the people who contributed significantly to the progress so far were too many to name, he very much appreciated everyone's hard work.

Mr. Johnson said the working group met on July 13, 2011, to discuss the progress of the three subgroups the working group had established previously, i.e.—

- Leadership and Culture,
- Employee and Supervisor Engagement, and
- Training and Development.

Mr. Johnson said the three subgroups had been meeting regularly since the previous Council meeting, and that the Leadership and Culture Subgroup had been coordinating the efforts of all three subgroups. He said that it was obvious early on that anything the Leadership and Culture Subgroup did affected the other two subgroups' efforts, and that assignment of the overall coordination role to the Leadership and Culture Subgroup had flowed naturally from the working group's early efforts. He then provided an update on the three subgroups' activities since the previous Council meeting.

#### Leadership and Culture Subgroup

Mr. Johnson said the Leadership and Culture Subgroup had been meeting weekly since June 2011, and had developed a framework document to identify key principles, features, cross-cutting subgroup issues and opportunities, and subsequent recommendations. He said that the Leadership and Culture Subgroup created focus teams to concentrate on—

- Priorities;
- Challenges and how to overcome them, which he said involved a basic barrier analysis;
- Recruiting, selecting, and training front-line managers, which he said was a key point and very challenging because frontline management tends to be a thankless job across Government; and

- Sustainable accountability across all leadership levels, where Mr. Johnson said the question is “How do we build something that will last and be baked into our Government culture?”

### Employee and Supervisor Engagement Subgroup

Mr. Johnson said the Employee and Supervisor Engagement Subgroup had met a number of times since June 2011, and that its discussions had revolved around these five key points:

- Emphasizing clarity of expectations;
- Encouraging ongoing, informal feedback;
- Providing training for managers and employees in giving, receiving, requesting, and using feedback;
- Establishing tools for developing a culture, recognizing the importance of consistent, ongoing feedback; and
- Implementing a team performance evaluation system and a team/individual feedback process.

### Training and Development Subgroup

Mr. Johnson said the Training and Development Subgroup began meeting in early July 2011. He said the group was essentially a “cleanup group” in that once the working group identified desired outcomes related to leadership and culture and employee and supervisor engagement, much of what remained had to do with training and development. He said the subgroup’s discussions so far highlighted the technical aspects of training, soft skills, and related “human” issues, and that the group had been at work on—

- Taking inventory of existing performance management training resources, e.g. HR University’s Management Corner;
- Collecting examples of training used in “Best Places to Work” agencies;<sup>2</sup> and
- Working with the Chief Learning Officers Council on training/development.

Mr. Johnson said that much of the Training and Development Subgroup’s discussions so far had been about how to take advantage of existing resources in order to improve performance across Government.

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<sup>2</sup> Information on the “Best Places to Work” list can be found at [http://www.opm.gov/feddata/GDS/GDS\\_A06.pdf](http://www.opm.gov/feddata/GDS/GDS_A06.pdf).

### Plans for Preparing Recommendations

Mr. Johnson summarized the Employee Performance Management Working Group's schedule for the future up to September 21, 2011. He said the working group's plan for now is that the subgroups will continue to meet weekly and the full working group will meet every other week. He said he hoped that by the end of July or early August, 2011, the full working group would be ready to meet and iron out some recurring issues, which will allow the working group to succeed in its plan for September 2011, i.e.—

- From September 2 to September 9, 2011, the full working group would discuss the subgroups' products;
- By September 9, 2011, the working group will reach consensus on the final product;
- From September 9 to September 21, 2011, vet the final product;
- By September 21, 2011, report recommendations to the Council.

### Council Discussion

Mr. Keller commented that Mr. Johnson had provided a good summary of where the working group was at this point. He added that while the many people involved had worked very well together, much work remained in order for the working group to provide coherent recommendations to the Council.

Mr. Dougan asked Mr. Johnson what interaction there had been between the NCFLMR working group and the DOD design team that is working to reform the DOD performance management system.

Mr. Johnson said that while serving in the working group he had been in contact with DOD CHCO Pat Tamburrino in order to make sure the DOD and NCFLMR efforts were not at cross purposes. He added that the DOD and NCFLMR efforts were on different timelines, and that each group's efforts are informed by an awareness of the other group's timeline. He added that under current plans 1) the working group is to report recommendations to the full Council after the DOD product is finished, and 2) DOD is to send its proposal to the Hill after the NCFLMR working group makes recommendations to the full Council. He assured everyone that the two groups' efforts were not in conflict.

Mr. Dougan asked whether there were any opportunities for working group members to sit down and talk with the DOD design team. He said that while talking to Mr. Tamburrino was a good idea, Mr. Tamburrino's view would be from 30,000 feet, not from down in the trenches. Mr. Dougan said his fear was that DOD might diverge too much from the rest of the Government.

Mr. Johnson said that the working group was pretty well up to speed on the DOD project. He said OPM staff had been supporting the DOD design team and participating in its meetings, and he added that Mr. Benjamin Toyama, International Vice President of the International Federation of Professional and Technical Engineers, Western Federal Area, was both serving on the DOD design team and supporting the efforts of the NCFLMR working group. He said he did not believe the NCFLMR working group and DOD design team are working at cross purposes. He said that the NCFLMR working group is not developing a rigid system but is working on principles and general rules that can be customized for different contexts.

Ms. Simpson agreed that the efforts of the working group and the DOD design team had been very collaborative. She said the intention all along had been to maintain good communication between the two projects, and she added that she would be interested in any ideas to enhance that communication.

Mr. Berry said he had recently met with Dr. Clifford Stanley, Under Secretary of Defense for Personnel and Readiness. Mr. Berry said Dr. Stanley was very interested in maintaining communication between the DOD design team and the NCFLMR working group. Mr. Berry said that Mr. Tamburrino had been a bridge between the two groups, which had been helpful. Mr. Berry said he hoped the two efforts would eventually merge. He added that there were enough OPM employees running back and forth between the two groups for the flow of information between the two efforts to be pretty good, but that he would look into whether communication could be made even better.

Mr. Filler suggested that at the September 2011 Council meeting the Council discuss how the two efforts could be merged, and that a good place to begin might be with a document providing a side-by-side comparison of the two groups' timelines. He added that the CHCO Council had done some great work on performance management, that there had been a lot of good collaboration, and that he thought the end product would be a very good one. He said, "On behalf of labor, we have been pleased to participate."

Mr. Berry said the next 6 weeks would be very important in terms of the Council's efforts to help improve the Government's performance. He said Mr. Filler's idea to do a side-by-side comparison of timelines was very good, and that he would try to have that done in the next Council meeting. He then turned to the next agenda item.

### **Agenda Item III: Report of Metrics Workgroup and Council Member Agency Report**

Mr. Curry provided an update on the Metrics Working Group's progress since the last Council meeting. His presentation was accompanied by a handout entitled "Metrics Submissions from Labor-Management Forums." He provided an update on agency reports on baseline metrics and an update on the Council's plan for a webinar to help agencies with metrics.

### Update on Agency Reports

Mr. Curry reminded everyone that Council guidance required agencies to report to the Council by March 31, 2011, what their forums or pilot projects had chosen to measure as a baseline. He said that, as of July 17, 2011, the Council has received metrics reports from—

- 38 of 51 agencies regarding baseline metrics chosen by forums, and
- 10 of the 12 (b)(1) pilot projects.

Mr. Curry pointed out that, since the last Council meeting, seven more agencies had submitted the required report on baseline metrics. He said OPM staff had reached out to the 13 remaining agencies that had not yet submitted reports. He said these agencies have received all relevant Council guidance on metrics, and he reminded everyone that the guidance included examples of strong, mission focused metrics.

### Update on Webinar

Mr. Curry summarized progress made on the working group's plan for a webinar, which the Council agreed in the last meeting might be a good way of helping agencies that have not submitted metrics reports or whose metrics submissions need improvement. He said the Metrics Working Group met on June 23, 2011, and had made some progress in planning the webinar, e.g. the Department of Treasury, the Department of Veterans Affairs (VA), and the Securities and Exchange Commission (SEC) all planned to make presentations for the webinar. He said that VA and Treasury were planning on recording webinar presentations, and that the SEC was considering doing a live broadcast and/or providing recorded content.

Mr. Curry said OPM would facilitate the filming and logistics required for the webinar, and that development of webinar content was already in progress. He said filming for the VA presentation would probably begin in early August, and that timing for the SEC and Treasury filming was to be determined. He said that recorded broadcasts for the webinar could be posted on the Council website shortly after the filming, and that additional questions and answers would then be added to the Council website materials. Mr. Curry then asked if anyone had questions.

### Council Discussion

Mr. Holway expressed concern about those agencies that had not yet submitted reports on baseline metrics. He reminded everyone that, in the previous Council meeting, Mr. Berry joked that to get the required reports from agencies someone might need to bring in Black Hawk helicopters. Mr. Holway thanked OPM staff for their help in getting an additional 7 agencies on board, but he added that it was “totally outrageous” for 13 agencies to disregard a Presidential order. He said it may be time for the President to replace people who have not complied, and he added that failure to comply shows considerable disrespect. He said it may be time to “fire someone, replace someone, *do* something.” He said the only way to get all the agencies on board might be for people to see someone's head fall.

Mr. Berry said he agreed with Mr. Holway on his focus, and he said he knew Dr. Metzenbaum also agreed that the reports on baseline metrics are important. He said the good news is that, of the 13 agencies still needing to submit reports on baseline metrics, only 1 or 2 of them are large agencies, which meant the Council now had almost all the data from large agencies. He added, however, that the goal is for everyone to be on board and that he and Mr. Zients could write a letter informing the 13 agencies that soon agencies not in compliance will be publicly listed.

Ms. Bonosaro asked Mr. Curry if, from his contacts with the 13 agencies, he had a feel for what is getting in the way of the agencies choosing and reporting baseline metrics. Mr. Curry responded that the answers are different for different agencies, e.g. one is busy negotiating a term bargaining agreement while another simply has not reached labor-management agreement on baseline metrics. He added that OPM staff has been trying very hard to help all the agencies comply.

Mr. Holway said it would be good to get a complete list of reasons by agency so the Council can figure out the best approach for dealing with noncompliance. He said the Council can intervene appropriately when it understands the barriers in each case; for example, if the problem seems to be with the labor side, the union leaders serving on the Council can intervene. Mr. Berry agreed, and added that, likewise, when barriers to compliance seem to be caused by management, management representatives on the Council can intervene.

Mr. Filler suggested that labor and management representatives from each of the 13 agencies be brought into a Council meeting so that the Council can hear what the problems are. Dr. Metzenbaum said that *could* be an approach, but that alternatively such discussions could take place and produce results sooner than in the next Council meeting.

Mr. Holway asked whether the Council could hear more about what the Council thought of the suggestion Mr. Filler had just made. Ms. Bonosaro asked whether the Council really wanted to spend a day to hear from all 13 agencies and suggested it was unnecessary to hear from the small ones.

Mr. Berry said he thought it might be good for the Council to keep working on bringing everyone into compliance, and as Dr. Metzenbaum suggested try to learn all the barriers and begin tackling them before the next Council meeting. He added that it may be helpful for the Council to say it reserves the right to bring the agencies into a public meeting to explain themselves if the noncompliance continues. Dr. Metzenbaum said she liked that approach.

Mr. Junemann said he supported Mr. Filler's idea. He said that, at the same time, while "bringing in the sinners" might be a good idea it might also be productive to say which agencies are doing the best. He said that his union has a competition among its locals for highest membership, and that the top 10 are listed. He said the top-10 list is an incentive for locals not on the list to increase their membership, and that the Council might get similar results if it announced which agencies are doing the best in partnership.

Mr. Berry said Mr. Junemann's suggestion was great. He asked whether anyone opposed it, and no one did. He then asked if anyone opposed the plan for the Council to begin discussions with

the 13 agencies as soon as possible and reserve the right to bring the agencies into a public meeting if noncompliance continues.

Dr. Metzenbaum agreed with Ms. Bonosaro's point that the Council should consider whether it needs to bring in the smaller agencies. She suggested the Council proceed based on the plan for the 13 agencies as Mr. Berry had just described, but also use some discretion. She said the best outcome would be to address the problems right away so that no agencies have to be brought in to explain their noncompliance.

Mr. Holway said he thought that wiggle room could lead to excuses. He said he thought the intent should be that any agencies not in compliance could come and explain themselves. He added that he thought agencies had already had plenty of time to comply.

Mr. Berry agreed that if the foot dragging continues, agencies should come explain themselves, and he agreed the agencies had been given ample time to comply. He repeated his plan for a letter to the 13 agencies.

Mr. Dougan said it would be good if a list of the 13 agencies could be sent out to all the Council members. Mr. Berry said the Council would do it, and that the list was not brought into this meeting because the Co-Chairs wanted to consider how to solve the problem before publicly focusing on a list of the 13 agencies.

Mr. Berry turned to the next agenda item.

#### **Agenda Item IV: (B)(1) Pilot Projects Status Report**

Mr. Curry presented a status report on (b)(1) pilots, an agenda item suggested by Ms. Bonosaro in the previous Council meeting. Mr. Curry's presentation included slides entitled "Survey of (b)(1) Pilot Projects' Status: Results of June 2011 Survey."

Mr. Curry said that, as of July 2011, 12 (b)(1) projects are underway in 9 agencies and cover approximately 13,274 employees. He said none of the 12 projects was new since the March 2011 report.

Mr. Curry said all 12 pilot projects responded to a June 2011 request for an update to March 2011 survey responses. In the interest of providing the bottom line up front, he said the new data seem to show the pilots are making gradual progress in documenting each pilot; establishing issues, goals, and metrics; engaging in (b)(1) bargaining; and reaching formal agreement.

Mr. Curry listed the survey questions, which were the same as for the March 2011 survey, and he summarized the data collected for each question as shown below.

Question 1: Is the pilot operational?

Mr. Curry said all 12 pilot projects continue to report that they are operational, i.e. a bargaining team of agency management and union representatives has been identified, and the team is engaged in efforts to advance the work of the pilot. (No change since March 2011.)

Question 2: Is the pilot documented?

Mr. Curry said all 12 pilot projects were now formally documented in either a charter, memorandum of understanding, letter to employees, or other format. (In March 2011, only 7 of the 12 projects were documented.)

Question 3: Progress in establishing goals and metrics?

Mr. Curry said all 12 pilot projects reported progress in establishing baseline issues, goals, and metrics. He said that 10 of the 12 pilots have submitted goals and metrics to the Council, and that the other 2 pilots are making progress in developing goals and metrics. (In March 2011, only 8 of the 12 pilots reported progress in establishing baseline issues, goals, and metrics.)

Question 4: Has any bargaining involving a (b)(1) topic taken place?

Mr. Curry said that 8 of the 12 pilot projects reported that bargaining had taken place, and that most report additional bargaining since March 2011. (In March 2011, only 5 of the 12 pilots said some bargaining had taken place.)

Question 5: Outcome, including challenges of any bargaining?

Mr. Curry said that of the eight pilot projects where bargaining or discussions have taken place, seven reported reaching formal agreement. No new bargaining challenges were reported. (In March 2011, only 4 of the 12 pilots reported reaching formal agreement.)

Question 6: Have staff received training on (b)(1)?

Mr. Curry said that 10 the 12 pilots reported that staff have received training. He added that the parties for one of the two pilots that have yet to receive training have a history of predecisional involvement. (In March 2011, 9 of 12 pilots reported that staff had received training.)

At the end of his briefing, Mr. Curry asked if anyone had questions. Ms. Klement asked what the bargaining involved for those pilots that had reached agreement. Mr. Curry responded that some examples were—

- Use of noncontract carrier, when cost-effective, for business flights booked at the Department of Commerce;
- The number of welders at the U.S. Marine Corps Maintenance Center in Albany, NY (an example of (b)(1) bargaining over numbers of employees); and

- OPM’s implementation of a new telephone system (an example of (b)(1) bargaining over technology).

Mr. Dougan said that it would be worthwhile to find out if the one pilot that has not yet received (b)(1) training is also a pilot where bargaining has not taken place.<sup>3</sup> He said that if the Council found out that the pilot missing the training piece was also a pilot yet to bargain, the problem might prove to be the parties lacking the proper tools to get somewhere. Mr. Berry agreed, said he would check into this, and then turned to the next agenda item.

**Agenda Item V: New Business**

Mr. Berry said the next meeting will be September 21, 2011. He said the schedule provides some time to allow the Council working groups to dig in deeper. He added that the Council would also have enough time to follow up with the 13 agencies that still owe metrics reports. He then asked if anyone wished to raise new business. No one did.

**Agenda Item VI: Acknowledgement/Receipt of Public Submissions**

Since no one raised new business, Mr. Berry provided an opportunity for public comment. There were no comments from the public.

Mr. Junemann said he wished to comment that he would like to know whose bright idea it was that men should wear dark suits to meetings even during the hottest summer days. He added, “Maybe it was in the fine print when Cornwallis surrendered to Washington.” Mr. Berry said that if he knew who made up that rule he would go after the responsible party with guns blazing.

**Agenda Item VII: Adjournment**

Mr. Berry adjourned the meeting at 10:49 a.m.

**CERTIFIED**

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John Berry  
Co-Chair

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Jeffrey Zients  
Co-Chair

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<sup>3</sup> As indicated above, Mr. Curry actually indicated that two pilots had not yet received training; however, he noted that one of those two has a history of predecisional involvement.