

**National Council on Federal Labor-Management Relations
15th Public Meeting
October 19, 2011**

The National Council on Federal Labor-Management Relations (NCFLMR) held its 15th meeting on October 19, 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)) and Mr. Jeffrey Zients (Deputy Director for Management and Chief Performance Officer, Office of Management and Budget (OMB)) co-chaired the meeting.

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. 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
Ms. Colleen M. Kelley	National President, National Treasury Employees Union
Mr. H.T. Nguyen	Executive Director, Federal Education Association
Ms. Carol Waller Pope	Chair, Federal Labor Relations Authority

Mr. Rafael Borrás, Under Secretary for Management, Department of Homeland Security (DHS), sat in for Ms. Jane Holl Lute, Deputy Secretary, DHS.

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

Ms. Shelley Metzenbaum, Associate Director for Performance and Personnel Management, OMB, briefly sat in for Mr. Zients early in the meeting.

Ms. Terry Rosen, Labor Relations Specialist, American Federation of Government Employees (AFGE), sat in for Mr. John Gage, National President, AFGE.

Mr. Gene Sexton, Deputy Chief Human Capital Officer, Department of Labor, sat in for Mr. Seth David Harris, Deputy Secretary of Labor.

Ms. Lynn Simpson, Chief of Staff, Office of the Under Secretary of Defense for Personnel and Readiness, sat in for Mr. Ashton B. Carter, 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 43 members of the public attended the meeting, including 4 representatives from the media.

Agenda Item I: Welcome

Mr. Berry began the meeting at 10:08 a.m. He said he was pleased to have such good attendance today. He noted that Mr. Zients was delayed but expected soon, and that Ms. Metzenbaum would substitute in the meantime.

Mr. Berry said that today the Council would hear updates on metrics reports from the (b)(1) bargaining pilots, and also hear a report on the Employee Performance Management Working Group's latest efforts.

Mr. Berry said that, before getting started with the meeting agenda, he wanted to bring up the recent launching of USAJOBS 3.0. He said that over the past 18 months OPM collaborated with the Chief Human Capital Officers (CHCO) Council to build a website that would better meet the needs of agencies and job applicants. He said the project was highly complex, and that the website serves millions of people and ties into many different back-end systems. He said that, as in any transition of this magnitude, there have been bumps in the road. He said, "I apologize for the inconvenience, but the good news is we're well underway."

Mr. Berry said one of the challenges with the new website was that its launch resulted in a lot of new interest, so that the site has been subject to unprecedented demand. He said OPM is working to add additional server capacity to handle the extremely high volume, and that during the expansion of server capacity the site is serving as many users as possible. He said the site is consistently serving 94 percent of users, and that the other 6 percent get a message asking them to try again in a few minutes. He said OPM is getting feedback on the quality of searches, reading user postings, and answering the most common questions.

Mr. Berry said that, as of Monday, over 100,000 applications had been submitted through the new system. He added that, as of 4:00 pm Tuesday, the number of applications was up to 141,289. He said the system is working for a lot of people, but that he knows it is cold comfort for those who experience delays. He said that is why OPM is working with the CHCO Council to extend non-emergency job openings for 3 weeks. He said OPM hopes to solve most issues as it wrestles with problems resulting from the unprecedented demand on the site. He said OPM will not rest until the site delivers 100 percent service and accuracy.

Mr. Berry asked the Council if it had any questions about USAJOBS 3.0. There were no questions. Ms. Metzenbaum commented that she thought there had been great progress in getting the new website up and running, and she thanked those involved for their hard work.

Mr. Berry asked whether any Council members cared to propose edits to the draft minutes of the previous meeting. The Council proposed no edits, unanimously approved the minutes, and proceeded to the next agenda item.

Agenda Item II: Status of (b)(1) Pilots' Metrics Reports

Mr. Tim Curry, OPM Deputy Associate Director, Partnership and Labor Relations, provided an update on (b)(1) bargaining pilots. His presentation was accompanied by slides entitled "Metrics Submissions from Collective Bargaining Pilots." He listed the 12 bargaining pilots (see page 1 of slides) that submitted the 6-month metrics reports that were due by September 30, 2011. He said the 12 pilot projects now cover 14,000 employees, and he added that employee coverage just increased because one of the Department of Defense (DOD) pilots doubled its coverage from 1,200 to 2,400 employees.

Mr. Curry said most of the pilot projects have developed baseline measurements, but that many of the pilots need more time to report concrete results. He said that, while all the pilots are moving forward, where the pilots are in the collective bargaining process varies. He then provided a summary and 6-month report highlights for each pilot.

Mr. Curry updated the Council on the two DOD (b)(1) pilots. He said that the Camp Pendleton pilot, which involves bargaining on numbers and types of employees/positions assigned during reorganization, has been slowed by a hiring freeze. For the Albany Maintenance Center pilot, he said this was the pilot he said was expanded to include 1,200 more employees. He said that the goal of this pilot is to make improvements in customer service and production, and that while it is too early to see results now he hoped the pilot could report good news soon.

Mr. Curry reported that the National Credit Union Administration (NCUA) pilot, which involves an Information Technology (IT) refresh, reported that labor and management spent 18 hours in negotiations from January 2011 through September 2011. He said the pilot provided baseline metrics for savings in cost and time from the refresh, and that the pilot would report results once the refresh concludes in early 2012.

Mr. Curry said the Treasury pilot is in Treasury's new Financial Management Service organization, and involves the numbers of employees in the new organization, numbers and grades of positions in one of the new components, and use of technology. He said significant results will not be available until the new organization is operational, but that both Treasury and the National Treasury Employees Union reflected positively on the outcome of the pilot project and its impact on labor-management relations. He said there were no results to report yet, since labor and management reached agreement only recently. He said that while it is early for this pilot to report results, cost savings should result from a debt collection process the new organization will perform.

Mr. Curry reminded everyone that the Council heard from the Agriculture pilot in the March 11, 2011, Council meeting. He said the pilot involves the technology, means, and methods of performing work, specifically automation to establish a centralized case tracking software system for the Office of General Counsel (OGC). He said that labor and management had spent 40 hours in negotiations as of September 30, 2011. He said the pilot covered 15 percent of Agriculture OGC staff, and that the pilot office just started evaluating the new software last month. He said the pilot was gathering data now to provide feedback, and will start reporting on the software later this month.

Mr. Curry said OPM's pilot covers all (b)(1) topics subject to pilot projects. He said there were successes in implementing the Telework Enhancement Act of 2010, and that the 2011 Employee Viewpoint Survey shows increased employee satisfaction with telework implementation. He also noted successes in labor and management working together to replace OPM's telephone system, which was over 20 years old. He said projected annual savings from the new telephone system are \$1.5 to \$2 million.

Mr. Curry reported progress on the pilot to establish and implement a skills certification program for vocational rehabilitation counselors and counseling psychologists in the Vocational Rehabilitation and Employment Service (VR&E), Veterans Benefits Administration, Department of Veterans Affairs. He said test questions for the skills certification program are being drafted now and should be completed by December 2011, prior to formal negotiation and bargaining. He said the pilot plans to conduct a trial administration of the test in the field by May 2012.

Mr. Curry provided updates on two pilots underway at the Department of Labor: the Office of Labor Management Standards establishing an *Operations Manual for Investigations* and the Occupational Safety and Health Administration establishing a *Safety and Health Management System Manual*. He reported that it was too early to report concrete results from either effort, but that considerable progress was reported for both pilots.

Mr. Curry reported progress on the DHS pilots. He said that Immigration and Customs Enforcement's pilot to hardwire Internet access ports in Executive Office of Immigration Review courts was coming along, and should produce reportable results by early next calendar year. He said the parties will meet after the initial 90-day pilot, which ends in December 2011, to see if expansion of the pilot to other courtrooms seems warranted and can be funded. He said the Federal Emergency Management Agency reported substantial increases in employees with telework applications, a large increase in teleworking during the February 2011 snowstorm, and projected savings of \$10 million from a "1-1-1 project" (one Blackberry, one laptop, and one data drive key.)

For an update on (b)(1) pilots at the Department of Commerce, Mr. Curry turned the floor over to Mr. Scott Quehl, Commerce CHCO and Chief Financial Officer and Assistant Secretary of Commerce for Administration.

Mr. Quehl thanked Mr. Curry and began his presentation. He said that, like other agencies, Commerce faces the prospect of large-scale workforce restructuring. He discussed acquisition reform efforts underway at Commerce and the need for large-scale changes that will require labor-management trust and collaboration. He said that for a pilot to identify and test collaborative strategies needed for the challenges ahead, the agency needed something that could be done quickly and produce tangible results. He said it was fortuitous that two bureau heads complained when they did about high travel costs for trips arranged through AdTrav compared to what is available through websites like Orbitz.

Mr. Quehl said that labor and management talked to the Office of Administrative Services, and learned that it would be possible to change travel procedures and realize substantial savings with no change in law. He said labor and management then collaborated to set up a process whereby

travelers would select the most cost effective ways to travel rather than always going through AdTrav. He said that, as a result, the process was now in effect agencywide, and Commerce saved \$231,572 in Fiscal Year (FY) 2011.

Mr. Curry thanked Mr. Quehl, and said the good news is that parties to the pilots are definitely making progress while dealing with some tough issues. He said the Council should see concrete results of the efforts over the next few months.

Mr. Berry said, “It’s clear there’s a lot underway.” He said it was great that the pilots were already reporting savings resulting from labor-management collaboration. He said he was glad the pilots are off and running, and able to report growth and progress. He said, “Hats off to everybody on both sides of the table,” and added that he believed the Council would have good results to report to the President.

Ms. Bonosaro said that, since the Council owes a report to the President on (b)(1) pilots by the end of April 2012, she had told Mr. Curry the Council needs to formulate a plan for that report. Mr. Berry said this was a great point, and that Mr. Curry should work backwards from the deadline to figure out a timeline for the report. Mr. Berry said, “Obviously, we’ll need a draft in March, but we’ll also need time to comment.”

Mr. Zients asked for clarification on the due date that Ms. Bonosaro mentioned. Mr. Curry said the report is due 18 months after the pilot plans are implemented.¹ Mr. Berry then turned to the next agenda item.

Agenda Item III: Employee Performance Management Workgroup

Mr. Justin Johnson, OPM Deputy Chief of Staff, provided a report of the Employee Performance Management Working Group. His presentation was accompanied by slides entitled “The Performance Management Accountability Framework (PMAF).” He reported changes the working group made in response to Council comments on its report “Report to the National Council on Federal Labor Management Relations on Employee Performance Management,” which the working group presented in the last Council meeting.

Mr. Johnson reminded everyone that, in the previous Council meeting, the working group presented a report to the Council with five recommendations—

1. Articulate a High-Performance Culture;
2. Align Employee Performance Management with Organizational Performance Management;
3. Implement Accountability at All Levels;
4. Create a Culture of Engagement; and

¹Executive Order 13522 specifies, “No later than 18 months after implementation of the pilot projects, the Council shall submit a report to the President evaluating the results of the pilots and recommending appropriate next steps with respect to agency bargaining over the subjects set forth in 5 U.S.C. 7106(b)(1).”

5. Improve the Assessment, Selection, Development and Training of Supervisors.

Mr. Johnson said the working group received comments on the report from most Council members, and he displayed a list of commenters. (See page 2 of slides.)

Mr. Johnson said many of the Council's changes to the report were very minor, while others were more complex and intended to clarify meaning. He said the simpler edits were incorporated immediately, but that the more complex revisions will take more time to review and incorporate. He said the working group planned to reconvene to work on incorporating Council edits. He said that overall the working group expected that revisions based on Council comments would leave the substance of the report mostly unchanged.

Mr Johnson provided these examples of significant Council additions to the working group's draft report:

- Language added to clarify that agencies may vest authorities of recommended Performance Management Integration Board into existing boards or use other mechanisms to ensure that PIO and CHCO leadership continuously communicate and align goals;
- Language added to further clarify agencies should ensure the perspectives of employee representatives are incorporated into mechanism used to align employee and organizational performance;
- Language added in appropriate places to ensure the perspectives of management associations are considered; and
- Language added to address accountability of supervisors and managers to hold poor performers accountable while noting importance of a culture of continuous feedback and efforts to rehabilitate the employee.

Mr. Johnson stressed the last bullet above. He said that, with the proposed addition, "The report doesn't make it sound like we want to throw everyone overboard."

Mr. Johnson provided these examples of Council suggestions and comments the working group still needs to incorporate in the report (once the working group meets and figures out how to revise the draft report accordingly):

- Culture Policy Statement should be accompanied by a practical approach paper which would remain a living document that serves as a resource;
- While report includes discussion of aligning employee performance with organizational performance, more is needed in report on---
 - How to do that well; and
 - Avoiding serious risks of making invalid appraisals of employee performance when organizational metric is impacted by other matters.

- Administration should actively support and communicate expectation to agency heads to implement the report right away.
- Performance Management Integration Board--
 - How best to get labor representative participation?
 - How best to get non-management employee participation?
- Quarterly reviews may be administratively burdensome and may provide another “check the box” compliance task if not implemented well. However, there may be benefit for supervisors and employees in probationary periods.

In covering issues the working group recommended the Council keep in mind (page 6 of slides), Mr. Johnson stressed that the report will represent recommendations for agencies to consider rather than policy that agencies must follow. He added, however, that 1) the Council will be encouraging all Executive Branch agencies to adopt the recommendations at the earliest opportunity and 2) that the Department of Energy and OPM have already agreed to adopt the recommendations.

Mr. Johnson reiterated that the working group will reconvene to figure out how to complete revisions of the report based on the input of the full Council, and he said the working group would provide another briefing on the report in the next Council meeting. He then invited questions from the Council.

Referring to the quarterly reviews that Mr. Johnson said might be administratively burdensome if not implemented well, Mr. Zients asked which quarterly reviews he meant. Mr. Johnson responded that the working group meant quarterly reviews that would be built into employees’ annual performance cycles. Mr. Zients asked if the quarterly reviews would be for everyone or just poor performers, and Mr. Johnson responded that the quarterly reviews would be for everyone. Mr. Zients then agreed that such reviews could unduly burden agencies as an unintended consequence, and Mr. Johnson said, “Yes, if not implemented well.”

Ms. Bonosaro asked if the idea is that the Council will be given sufficient time to review the report after the working group revises it, so that at the November meeting the Council can vote to endorse or accept the report. Mr. Johnson confirmed the working group will submit the revised report to the Council. He said that since the Council would be issuing recommendations rather than setting policy, the Council should not try to tweak everything in the report as if once the Council approves the report it constitutes a mandate.

Mr. Berry said, “This is a great product,” and emphasized the importance of the labor-management collaboration that had brought the effort to this point. He said the Council ultimately wants to accept the report as a final product, but that at the same time agencies need to move forward and improve performance. He said that a good way of doing that would be to set up a pilot test of the recommendations, and that Energy and OPM have decided to do so. He said, “We at OPM are taking this back to our performance management council, and Energy will do the exact same thing.” He added that the recommendations were very good, and that to the extent agencies want to get started on adopting the guidance they can do so.

Mr. Berry said the idea with respect to the working group report is that the Council will receive it as a Council document that states Council recommendations. He said his preference would be for the Council to adopt the report as Council guidance at the November Council meeting.

In response to a question from Ms. Kelley about next steps once the guidance is adopted, Mr. Berry said, “Obviously, it will continue to remain a high priority for agencies and OMB.” He said that, as the Council learns from the pilots, it can consider what practices should be taken Governmentwide, and what regulatory changes are needed, if any. He said the Council’s final product will be an outstanding framework, but that agencies have different needs and may want to adopt the guidance in many different ways to meet their own needs. He stressed that the Council is not attempting to create rigid policy, but does want to endorse critical elements of good performance management, e.g. ensuring good communication between supervisors and employees.

Mr. Zients said that if the Council’s guidance and further efforts on performance might lead to changes in law, the performance pilots will be critical and the working group should be continued so it can study the results of the pilots.

Mr. Berry said it would be great if there could be more than two pilots, and that he knew the Department of Labor and other agencies were thinking about participating. He said that four or five more pilots would be great, and that he encourages other agencies to consider volunteering.

Mr. Tangherlini commended the working group. He said the Council could treat its accomplishments on performance as a series of building blocks. He said he was not sure why Treasury is not yet on the list of pilots, and Ms. Kelley jokingly interjected he needed to talk to his labor partners first. Mr. Tangherlini added, “We have to recognize this is not a monolithic thing, and we need to be careful about how to adopt it.”

Referring to the fourth major bullet on page 5 of the working group slides, Ms. Bonosaro asked about the meaning of the sub-bullet reading “How best to get non-management employee participation.” Mr. Curry said his office had asked about that sub-bullet, and learned it originated from a union comment, and that the intent was to ensure non-management employees participate through their exclusive representative. With that clarification, Mr. Curry suggested the sub-bullet be removed from the slide.

Regarding page 5 of the working group slides, which provides examples of work the report still needs, a Council member addressed the second bullet, which calls for further development of the report’s treatment of aligning employee and organizational performance. The Council member raised a concern about employees being held accountable for things outside their control. Ms. Rosen agreed that AFGC hoped to avoid the risk of employees being held accountable for circumstances beyond their control. She said that communication between the organizational performance people and the employee performance people in an agency should help prevent that. Ms. Rosen felt the document should be strengthened to stress the importance of the alignment of these parts of the organization.

Ms. Rosen said she believed the Council would need to write guidance for labor-management forums, and that she saw another working group in her future. She said that, throughout the report, the working group calls for input from labor-management forums, and that to provide good input the forums need guidance from the Council. She added that, in order to see if the recommended performance strategies are working, the Council would probably also need to develop metrics.

Mr. Berry said it may well turn out that OPM and OMB decide that Governmentwide guidance is needed on aligning individual and organizational performance, but that this issue goes to Mr. Tangherlini's point about the Council not wanting to establish anything monolithic since agencies' needs for guidance vary.

Mr. Dougan referred to the third bullet on page 5 of the working group slides, which reads "Administration should actively support and communicate expectation to agency heads to implement the report right away." He said that language may not need to be in the report, but that once the Council accepts the document perhaps the working group can identify the most critical pieces of the guidance, and what aspects agencies should implement first. He said that perhaps Mr. Berry and Mr. Zients can then go to the Administration with the findings and figure out a way forward for implementation.

Mr. Berry responded to Mr. Dougan that it is a great idea to keep the working group together. He said the working group can be very helpful if some of the guidance is adopted as part of a Governmentwide approach to performance management. He said, "The President will remain committed to this. I think it needs to remain core." He added, "This is Phase I as we move forward on this issue."

Mr. Zients said that he would be in meetings of the President's Management Council (PMC) this week and next week, and that he intended to brief the PMC on the Council's efforts on performance. Mr. Berry then turned to the next agenda item.

Agenda Item IV: New Business

Mr. Berry asked whether anyone cared to bring up new business. Ms. Kelley mentioned she would be absent next meeting, but she said she was comfortable with the Council going forward.

Mr. Junemann said he would be absent during the next Council meeting, but that he would send a substitute. He mentioned recent testimony in a Senate Subcommittee about the cost of Council meetings.² He joked that, if claims about meeting costs are true, then each Council meeting must cost about \$85,000.

Mr. Berry said the assertions about cost that Mr. Junemann mentioned were incorrect. Mr. Berry said he believes the annual cost of Council meetings is about \$200,000. He said that, compared to costs during the previous two Administrations, whether one looks at the cost of running the Council or the cost of bargaining throughout the Government, the current Administration's costs

²Mr. George Nesterchuk said in his testimony before the Subcommittee, "Since its inception last year, the National Council overseeing the labor-management forums has already spent over \$1 million in holding monthly meetings."

are lower. He said the Council can handle charges of excessive cost, and that he can bring in data to share with the Council.

Ms. Rosen said she very much appreciated the testimony before the Senate Subcommittee, and she thanked Mr. Berry, Mr. Junemann, Mr. Tamburrino, Mr. Gould, Mr. Dougan and Ms. Niehaus for their testimony. Mr. Zients said he also appreciated the testimony, and regretted that he was on travel and unable to participate.

Mr. Junemann said he believes the Council is conducting its business as frugally as possible. Mr. Berry agreed, said partnership pays for itself, and added that just the \$231,572 Commerce's pilot saved in FY 2011 would pay for the Council to operate for a year. He said the Council's business is all about delivering better services to taxpayers at lower cost. Addressing Mr. Curry, Mr. Berry added, "Tim, we will submit cost data next meeting in the interest of transparency."

Mr. Dougan mentioned the earlier discussions about the report to the President on (b)(1) pilots, and asked whether there would be a report to the President on the Council's *overall* efforts, and when that report is due. Mr. Berry responded, "We're looking at that. The EO has a natural expiration date. We're looking at that, and will be discussing it in upcoming meetings."

Mr. Dougan said the Council would be well served if it could get the word out to the taxpayer about what the Council is doing and how the efforts to promote partnership are making the Government more effective.

Mr. Berry said, "This is all done with existing resources. This is why we're keeping our eye so closely on the ball." He added that costs will be even lower once renovations at OPM are complete and the Council can start holding meetings there again. Mr. Berry turned to the next agenda item.

Agenda Item V: Acknowledgement/Receipt of Public Submissions

Mr. Berry provided an opportunity for public submissions. No one came forward.

Agenda Item VI: Adjournment

Mr. Berry adjourned the meeting at 11:05 a.m.

CERTIFIED

John Berry
Co-Chair

Jeffrey Zients
Co-Chair