

**National Council on Federal Labor-Management Relations
Eighth Public Meeting, 11/03/2010**

On November 3, 2010, the National Council on Federal Labor-Management Relations held its eighth meeting at the Office of Personnel Management (OPM). Mr. John Berry (Director, 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. John Gage	National President, American Federation of Government Employees
Mr. W. Scott Gould	Deputy Secretary, Department of Veterans Affairs
Mr. Seth David Harris	Deputy Secretary, Department of Labor
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. Patricia Niehaus	National President, Federal Managers 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.

Dr. Clifford L. Stanley, Under Secretary of Defense 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.

More than 50 members of the public also attended the meeting, including 5 representatives from the media.

Agenda Item I: Welcome and Approval of Minutes from October 6 Meeting

At 10:03 a.m., Mr. Berry said he believed all the Council members or their alternates were present, so he would begin the meeting. He said that due to renovation projects in the OPM building, the Council was looking for other space in which to hold Council meetings. He said he was exploring either renting space nearby, possibly in a nearby American Institute of Architects facility, or that the Council might discuss rotation of the hosting responsibility.

Mr. Berry asked whether the Council approved of the minutes from the previous Council meeting (Council Document 10-08-01). The Council unanimously approved the minutes, and Mr. Berry turned to Agenda Item II.

Agenda Item II: Implementation Plans

Mr. Berry discussed the draft implementation plan for the Social Security Administration (SSA), the only remaining implementation plan not yet approved by the Council. He said, “This is one we have been wrestling with.” He said he wanted to thank labor, management, and Mr. George Cohen, Director of the Federal Mediation and Conciliation Service (FMCS) for their hard work on the draft plan. He said lots of good discussion over the last week had brought the effort to “good consensus.” He told the Council members that the materials in their meeting included a copy of the draft plan (Council Document 10-08-02). He said that he and Mr. Zients were comfortable with the draft plan and were bringing it to the Council for approval. He asked if the Council would like to discuss the draft plan.

Mr. Gould said the draft plan looked great, and he made a motion to approve it. The motion was seconded, and the Council unanimously approved the SSA Implementation Plan.

Mr. Berry said this was a good step forward, and he turned to Agenda Item III.

Agenda Item III: Draft Letter to Agencies Regarding Forum Establishment and Pre-Decisional Involvement

Mr. Berry reminded the Council that in the last meeting he agreed to draft a letter to agencies regarding forum establishment and predecisional involvement (PDI). He said that his “homework assignment” was not quite complete, but he said that a draft letter is in motion. He said he hoped to have a draft letter soon.

Ms. Bonosaro asked whether the draft letter would be circulated to the Council members for review. Mr. Berry said that it would and then turned to Agenda Item IV.

Agenda Item IV: Metrics Guidance

Dr. Shelley Metzenbaum, Associate Director for Performance and Personnel Management, OMB, said the draft metrics guidance (Council Document 10-08-03) was circulated to the Council members for comments. She said that so far, she had received no substantive comments and had corrected typos based on the comments. She said that two Council members had already said they would approve the revised draft guidance (Council Document 10-08-04), and she said she hoped to get approval from everyone else today.

Mr. Berry asked who was chairing the working group, and Dr. Metzenbaum said the group was operating with no formal chair. Mr. Zients added that everyone involved had worked well together.

Dr. Metzenbaum said the work so far was the result of many meetings, with labor and management working well together and trying to build measurement standards with outcomes in mind. She said that the group wanted simple, useful, and practical guidance while keeping in mind the need to get started, with the understanding that adjustments can be made over time if needed.

Ms. Bonosaro said the support of OMB had been very good. To the Council's amusement, Mr. Zients asked whether she could repeat that.

Mr. Berry commended the working group, and he said the progress had resulted from "great partnership."

Mr. Holway asked when the guidance would be circulated. Mr. Berry said that he hoped the guidance would be approved today and would go out as soon as possible after Council approval.

Mr. Berry thanked the team for its hard work. The Council made a motion to approve the draft guidance, the motion was seconded, and the Council unanimously approved.

Mr. Holway asked if the guidance would be sent to agencies or to individual forums. Mr. Berry said it would be sent to both. The Council agreed the guidance would also be posted on the Council Web site.

Mr. Berry turned to agenda item V.

Agenda Item V: Telework Mobile Workday – Working Group Six Report

Ms. Niehaus presented a report of Working Group Six, the Mobile Workforce Working Group. Her presentation was accompanied by slides, Council Document 10-08-05.

Ms. Niehaus listed the membership of the working group¹. She noted that since her slides were prepared, Mr. Charles Bernhardt (Labor Relations Specialist, American Federation of Government Employees (AFGE)) had replaced Mr. Brian DeWyngaert (Chief of Staff, AFGE) as the working group's AFGE representative.

Ms. Niehaus summarized the working group's activity so far. She said the working group met with OPM staff on October 8, 2010; held a conference call on October 22, 2010; and will meet right after today's meeting.

Ms. Niehaus said that the working group had discussed the possibility of offering unscheduled telework in conjunction with an announcement of unscheduled annual leave. She said this would provide employees with the benefit of having a choice to telework or take annual leave. She said the employing agencies would also benefit, since they would gain teleworking employees' productivity for the day. She said unscheduled telework could also be offered in conjunction with a delayed arrival announcement. She pointed out that some current telework agreements

¹ See page 2 of her slides for the list.

require teleworking employees to work at home during a scheduled telework day when in the event of an emergency Government offices are closed.

Ms. Niehaus summarized issues the working group discussed in the conference call on October 22, 2010. She said that most of the discussion was about barriers to implementing a mobile workday, which the working group agreed included the following:

- Communication of expectations;
- Lack of knowledge on how to work remotely;
- Lack of sufficient infrastructure in place for participants;
- Funding;
- How to implement without a larger telework policy in place;
- Security concerns, i.e. use of classified information;
- Issues of perceived fairness, e.g. people who can't telework;
- Inability to compel employees to telework; and
- Management resistance to telework overall.

Ms. Niehaus said the working group agreed that figuring out how to overcome these barriers would be critical.

Ms. Niehaus said the working group members disagreed on their charter: Was the purpose to have a mobile workday or to contribute to the development of a Governmentwide telework policy? She said a question emerging from the working group's discussions was whether the Council could recommend an unscheduled telework day independent of a discussion of broader telework policy. She said some members of the working group believed it would be difficult to implement a telework day without a larger policy in place. She said that at this point the working group would welcome feedback from the Council: Should the Council proceed with the narrow focus of a telework day or broaden the scope to include the issues of a Governmentwide telework policy?

Ms. Bonosaro said that her recollection from the previous meeting was that the working group would consider how the Government might have a mobile workday. Mr. Dougan said his impression was that some Council members wanted the narrower focus, a mobile workday, while others wanted the broader one, Governmentwide telework policy. He said he did not believe the Council had reached closure on the issue.

Mr. Zients said that a Governmentwide telework policy is a Presidential decision and is quite different from a mobile workday. He said there is a lot going on at the level of a

Governmentwide telework policy, while developing recommendations for a mobile workday is appropriate at the Council level. He said he had expressed concerns up front about the Council dealing with Governmentwide telework policy². He said that once there is a Governmentwide telework policy in place, it might then be appropriate for the Council to have a role in Governmentwide telework issues, but not now.

Mr. Junemann asked Mr. Berry if what was meant by a “telework day” was something like a “snow day.” He said his understanding was this would be a “crawl before you walk, before you run” exercise. He said maybe something could be learned from planning for one telework day.

Mr. Berry said he agreed with Mr. Junemann’s thinking, that “one day would make us aware of issues with broader teleworking.” He said that maybe as Mr. Junemann was suggesting one telework day could be used as an exemplar. He said the rate of teleworking for a mobile workday might be less than the 80 percent the President would like to see, that it might be closer to 50 percent or 60 percent, but at least it would be a step in the direction the President wants to take.

Mr. Dougan said he believed the President’s interest is in having a broader policy, and that a first step in developing a broader policy might be to figure out which positions would be good for telework and which would not. He said that a narrow focus, such as just imagining a telework day in the event of a snow day or natural disaster, might limit the Council’s thinking and cause it to miss issues that would be important to a broader discussion. He said that any important issues missed due to a narrow focus might need to be revisited anyway if the Council needs to “go broader” in the future.

Mr. Gage said he was not interested in talking about a mobile work day. He added, “It sounds like you just want to charge employees leave.” He said the larger question is how to break down the barriers to telework and get through the “nonsense” that has held back telework for the past 20 years.

Ms. Kelley raised the point that the success of a telework day would be limited significantly by current teleworking capability and the extent of implementation across agencies, important issues in the planning of a mobile work day. She said that employees who are not set up to telework regularly would not be able to choose telework on a day where the choice is to telework or take administrative leave. She said the Council might not be in a position to do much more at this point than measure telework capabilities. She said that under current teleworking circumstances, “It’s almost an exercise in determining how many employees can work at home versus taking leave.”

Ms. Bonosaro asked where the Administration stands on telework policies. Mr. Zients replied that there had been discussions in the Administration, and he said the Council should wait until a

² See the minutes of the October 6, 2010, meeting, which read “Mr. Zients expressed concern about the Council taking on the mobile workday issue, as that might lead into addressing telework Governmentwide, and teleworking becoming a signature issue for the Council. He said the Council should keep in mind how different teleworking is across different agencies and Government functions.”

telework policy emerges before weighing in on broader telework issues. He warned that discussing issues that have Governmentwide budget and policy implications might be counter to the Administration's desires and amount to a waste of time and resources.

Mr. Gage said that Council involvement in broader telework issues might advance telework, and that increased telework could increase productivity and employee satisfaction in the Government. He said he did not see the harm in a broader focus.

Mr. Tangherlini said that employees' access to telework and associated technological challenges are considerations, but that many Federal workers do have the ability to log into workplace computer systems from home. He said there may be some utility in experimenting with a subset of the Federal workforce, e.g. within the Washington, DC, metropolitan area.

Mr. Berry said that, within OPM, there were mobile employees who had been able to move to a docking station model, allowing them to have a secure portable computer, while staying within the budget and 3-year equipment replacement cycle. He said that in the case of these employees, OPM was working with their management to empower the employees to be mobile rather than deskbound. He said this example is a microcosm of how telework can be. He said he was hoping the working group could figure out some way to help the President. He said he thought a mobile work day would be somewhere to start, and that lessons learned from the effort might be useful in helping the President move towards his goal of having a more flexible, mobile Federal workforce.

Mr. Gage said the Government would not be starting from ground zero with respect to telework. He said the Government had been trying to advance telework for 20 years, and that there are "contracts out there" that serve as examples of success. He said productivity had soared wherever the Government had tried telework. He said given the successes to date with telework, "a snow day is an insult." He said he thought the working group should "grab contracts" and draw on the experience of agencies that have tried teleworking. He said, "If we're just fooling around and talking about a snow day, that doesn't reflect all the progress we've made." As an example of an agency experienced in dealing with perceptual barriers to telework, he said that the General Services Administration "has addressed myths about security and other myths." He said that the Council looking at the possibility of a mobile work day would be ducking the larger issue of Governmentwide telework. He said the Council "should look at what's out there already," and that doing so would further the President's goals. He added, "It needs to come through this Council anyway. The White house can't do it without labor input."

Mr. Berry said that Mr. Gage was right that there had been progress and examples of success in the Government with telework, but he said, "All that has enabled is 20-30 percent, so something is still blocking it." He reiterated a point Mr. Junemann had made earlier, that maybe something conducive to overall telework efforts could be learned from having a mobile work day. He said that having a mobile work day is meant to be a test with results that can be analyzed and used in furtherance of broader discussions in the future.

Mr. Junemann said that the Council might use the scenario of an “emergency day,” and avoid the term “snow day.” He said the real need for a mobile workday might be any day in June. He said, “It didn’t snow on 9-11.”

Mr. Junemann said he was still nervous about telework. He said, “As I said before, I’m not a big fan of telework³. He said he thought increased teleworking could make employers think more about outsourcing jobs, and he said the impact of increased outsourcing on mission is an important concern. He said one need only compare “old school” resolution of problems with a purchased item to the modern experience of the problem being handled by someone in Bangalore with a keypad. Mr. Junemann said that part of him felt the Council needed to protect the workforce. He said that maybe Mr. Berry is right that teleworking is a good thing, but that “yesterday politicians who ran against us won.” He expressed concern that if the public already thought Federal employees are not working, how would it look to broadcast a day of them not having to show up for work? He said increased teleworking might be something to accomplish at the bargaining table rather than in a forum.

Ms. Niehaus said she thought if the message behind the announcement of a mobile work day stressed that the intention was to keep the Government moving rather than let employees stay home, the perception problem Mr. Junemann was concerned about might be avoided. Mr. Junemann agreed that such an emphasis should be attached to the announcement of a mobile work day if there is one.

Ms. Kelley said that teleworking is something the private sector does all the time, though different terminology might be used. She said that having a mobile workforce is the direction in which Federal agencies should go, but that the question is whether the Council is the appropriate forum in which to try to move Governmentwide teleworking forward. She said that maybe the Council could study agencies’ continuity of operations plans, that “after 9-11 everyone had to figure it out.” She said maybe the next goal for teleworking should be to go from the current 20-30 percent to 40 percent, before trying to go all the way to the 80 percent Mr. Berry had identified as the President’s goal. She said, “Saying we want continuity of operations in an emergency but can’t telework other days of the year, there’s the rub.” She said she would like to see how many employees currently have the ability to telework. She said she understood the concerns Mr. Zients had raised with respect to a Governmentwide focus, but that she believed the Council needed to move forward.

Mr. Nguyen said he had heard suggestions that the Council take a look at existing telework agreements. He said the Department of Defense Education Activity (DODEA) might have some information the Council could use in such an exercise. He said that last year, in preparation for the possibility of having to close DODEA schools in the event of an H1N1 outbreak, DODEA schools had considered what would be involved in order to continue classroom instruction online for a limited period. He said that labor and management had agreed to a plan, which the Council could study in support of its efforts.

Mr. Berry said the Council seemed to agree that collecting data and establishing a baseline were advisable. He said that such work would lead to identification of constraints. He said that while

³ See Mr. Junemann’s comments in the minutes from the Council meeting of September 20, 2010.

there might be a view that constraints have already been addressed, something is still impeding telework capability. He said the Council is not at this point setting a long-term target so much as trying to find a way forward. He told Mr. Gage that efforts now that lead to identifying impediments to telework would inform the Council and be a smart way to begin. He said a way to get started could be to “find out which contracts are underway and what the impediments are.”

Mr Gage said that trying to do anything through a mobile work day would be setting the Council up for failure. He said that people think of the Council as bureaucratic, but that people’s eyes lit up whenever he mentioned Mr. Berry had proposed that the Council focus on telework. Mr. Gage said that if the Council pushed agencies to try telework, productivity would soar; he said, “It has every place we’ve tried it.” Mr. Gage said a mobile work day is “half stepping it.” He said he believed that the Council could find all objections to telework answered in existing contracts. He said that one impediment to telework is that managers are afraid that if they have no one to watch over, they will no longer be needed, and said, “We have to bust through it.” He reiterated, “A snow day is nothing. I can’t get behind it.”

Mr. Berry said he thought the Council had gone about as far as it could today in the telework discussions. He said to Ms. Niehaus, “Pat, we’ll work with you to see if we can move forward.”

Mr. Zients said that telework was a very complex and nuanced issue, that not everyone wants it, and that a policy would need to emerge before the Council could start working on telework with a Governmentwide focus.

Mr. Dougan asked whether it would be useful for the Council to gather data and identify constraints, then provide the results of the Council’s study to the Administration. Mr Zients said that could be helpful and that it would be appropriate for the working group to handle rather than involving all the forums.

Mr. Holway said he was still sensing disagreement about whether the Council should defer further work on telework until a policy emerges or be proactive and provide data to the White House as soon as data can be gathered and analyzed.

Mr. Gage said the Council would need to get down specifically to what *telework* means, e.g. an episodic teleworker versus a full-time one. He said there were many different cuts, not just five days a week and eight hours a day of teleworking. He said many managers may not look at telework schedules as allowing for many different possibilities.

Mr. Holway said it made sense to have the working group do a study and ask what percent of their workforce could telework. He said that percentages of entire workforces would be different from percentages of positions for which telework is possible, which he stressed as an important distinction.

Mr. Berry said there already had been much good work done on which positions can telework. He said that OPM could get that information to the working group. Mr. Berry said that getting data as discussed today would help management and labor get to the same place. He told Ms. Niehaus that he would have OPM staff provide the working group with information on telework

capabilities, and he asked that the working group work with labor representatives on the Council to gather contracts for the study of telework as discussed today.

At the conclusion of the Council's discussion of telework issues, Mr. Berry turned to other issues that were not on the agenda but needed to be discussed. These topics included the current list of (b)(1) projects and Council meetings in 2011.

Other Issues

List of (b)(1) Pilot Projects

Mr. Berry called the Council's attention to Council Document 10-08-06, "5 U.S.C. 7106 (b)(1) Pilot Projects – Agreed to by Management and Unions."

Mr. Berry said that the list of (b)(1) pilots was growing and now included the Departments of Treasury and Labor. He said over 12,000 employees would be covered in the current list of pilots.

Mr. Gage said the list of (b)(1) pilots was weak, and he said he objected to the pilot listed for DHS. He said that the Federal Emergency Management Agency (FEMA) contracts had been in place for 10 years and that calling these a pilot is "running away." He pointed out that the FEMA contracts had been in place since before Executive Order 13522 was signed.

Mr. Zients pointed out that the (b)(1) provisions in the FEMA contracts had never been used. Ms. Bonosaro asked Mr. Gage if he was saying he was not interested in seeing (b)(1) bargaining enforced at FEMA.

Mr. Gage said, "It's not a pilot." He said he was disappointed in DHS that these were the results after a good discussion. He said he had objected before to the idea of using the FEMA contracts as a DHS (b)(1) pilot, and he said that DHS should go back to the drawing board.

Ms. Metzenbaum said that to the extent the Council wanted to learn something from the pilots, leaving the DHS pilot as is might be advisable. Mr. Borrás agreed, and he said it would help inform the Council's discussions.

Mr. Nguyen said that he agreed with Mr. Gage's comments with respect to the DHS pilot. He said he wanted, however, to go to discussion of the predecisional involvement (PDI) process. He said that at DODEA the union had been working with management to advance PDI, with good results. He said PDI improves morale and increases productivity. He said "(b)(1) is great if we can get there, but in the absence of (b)(1) I would recommend a PDI process."

Mr. Berry said that the letter regarding forum establishment and PDI should help, and he said the draft letter would be circulated to the Council members soon. He then said he would like to talk about the schedule and frequency of Council meetings in 2011.

Council Meetings in 2011

Mr. Berry said there had been some discussion among staff about the schedule of meetings for next year. He said he would like to get a sense from the Council members about how often they would like to meet. He asked whether anyone cared to comment; would the Council like to meet monthly or more or less often?

Ms. Bonosaro said that maybe for the time being the Council could schedule monthly meetings for the entire year, then if need be the Council could always revise the schedule. Mr. Zients said one possibility would be to find 10 dates on the calendar and exclude August and September, then as meetings approach let the Council know if the times or locations need to change.

Mr. Berry said the Council would work on the schedule and possible locations for next year, and would circulate a calendar and possibilities for places to hold the meetings. He then turned to Agenda Item VI.

Agenda Item VI: New Business

Mr. Berry asked whether anyone had new business. Mr. Filler said he had a concern regarding joint Federal Mediation and Conciliation Service/Federal Labor Relations Authority (FLRA/FMCS) training, and that since a training update was not on the agenda he would raise his concern as new business.

Mr. Filler said he was in Jacksonville recently, and that he thought he would have an opportunity to observe a joint FLRA/FMCS training at the Jacksonville Navy Depot until management at the facility objected to his attendance. He said he did not understand why he as a Council member would not be allowed to attend, and that participation in partnership-related training sessions should not be looked at as a labor-management activity. He said that people who want to attend such training should be viewed as allies to the cause of advancing the Executive order.

Mr. Berry said his view would be that any Council member should be allowed to go where they want to go. Mr. Holway said that maybe something about access to training should be put into the letter Mr. Berry was drafting. Mr. Junemann said that to tell someone they cannot attend a training session is bad, and he said the whole purpose is that management and labor are trying to get along. Mr. Berry said someone trying to attend a training session would probably not want to take over the agenda. Mr. Zients agreed. He said maybe it would help next time to give senior management a heads up about wanting to attend.

Ms. Pope said the Council has a need for greater visibility outside the beltway. She said that while she did not know if the Council could hold a meeting outside the beltway, the Council might avail itself of opportunities to be more visible as such opportunities arise. Ms. Pope added that FLRA had been continuing its training efforts in furtherance of the Executive order. She said that in addition to the joint training with FMCS, FLRA also offered training on (b)(1) pilots. She said FLRA also was considering how to tailor training more to individual forums. She said FLRA was working with the Department of Veterans Affairs on an electronic training module.

Mr. Junemann said Ms. Pope had made a good point about greater visibility. He said the Council could consider making a short presentation and putting it on Youtube. Mr. Berry agreed the Council should take advantage of technology to further its efforts.

Mr. Berry told Mr. Filler he was sorry for the bad experience in Jacksonville. He said the Council would work on that. He then turned to the next item on the agenda.

Agenda Item VII: Acknowledgement/Receipt of Public Submissions

Mr. Berry opened the floor for public comment. There were no questions or comments from the public.

Agenda Item VIII: Adjournment

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

CERTIFIED

John Berry
Co-Chair

Jeffrey Zients
Co-Chair