

**National Council on Federal Labor-Management Relations  
Seventh Public Meeting, 10/06/2010**

On October 6, 2010, the National Council on Federal Labor-Management Relations held its seventh meeting at the Office of Personnel Management (OPM). Mr. John Berry (Director, OPM) chaired the meeting.

The following Council members also attended:

Member Name	Member Title
Ms. Carol Bonosaro	President, Senior Executives Association
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
Ms. Colleen Kelley	National President, National Treasury Employees Union
Ms. Patricia Niehaus	National President, Federal Managers Association
Ms. Carol Waller Pope	Chair, Federal Labor Relations Authority

Ms. Rhonda Diaz, Acting Deputy Under Secretary of Defense for Civilian Personnel Policy, sat in for Mr. William J. Lynn, Deputy Secretary of Defense.

Mr. William D. Fenaughty, National Secretary Treasurer, National Federation of Federal Employees (NFFE) sat in for Mr. William Dougan, President, NFFE.

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

Mr. Jeffrey Neal, Chief Human Capital Officer, Department of Homeland Security (DHS), sat in for Ms. Jane Holl Lute, Deputy Secretary, DHS.

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

Mr. Richard Tarr, Associate General Counsel, Federal Education Association/National Education Association (FEA/NEA), sat in for Mr. H.T. Nguyen, Executive Director, FEA.

More than 50 members of the public also attended the meeting, including 4 representatives from the media.

**Agenda Item I: Welcome and Approval of Minutes from September 20 Meeting**

At 10:03 a.m., Mr. Berry welcomed the Council members and audience. He said he believed the Council had reached a critical mass and could begin the meeting. He said there were a couple of excused absences:

- Mr. Jeffrey Zients (Deputy Director for Management and Chief Performance Officer, Office of Management and Budget (OMB)), who normally co-chairs Council meetings, could not attend today's meeting because he was attending White House meetings in the capacity of Acting Director of OMB.
- Mr. Gregory Junemann (President, International Federation of Professional and Technical Engineers) was on business travel and unable to attend today's meeting.

Mr. Berry reminded everyone that the last Council meeting had been just over two weeks ago, which had not given the working groups time to generate reports that were as deep or substantive as they would be otherwise. He said the Council nevertheless had thought it best to keep today's meeting as scheduled in order to maintain forward momentum. He said the Council would now go back to trying for monthly meeting dates, perhaps the first week of every month, which would give working groups more time to do their work and prepare reports.

Mr. Berry said he hoped that November 3, 2010, would work for the next meeting date. Mr. Gage suggested moving the time for the November 3 meeting from 10:00 a.m. to an afternoon time. Ms. Niehaus proposed that for the December 2010 meeting, the Council meet the second week in December instead of the first week, since she would be unavailable the first week. Mr. Berry said the Council would work out by email the dates and times for the next two meetings.

Mr. Berry suggested a motion to approve the minutes from the previous Council meeting (Council Document 10-07-01). Ms. Bonosaro said that she and Mr. Neal had a discussion prior to the meeting in which they agreed the minutes be changed to indicate that while DHS has existing contracts at FEMA permitting (b)(1) bargaining, FEMA has not previously bargained over (b)(1) subjects. Mr. Berry said the minutes would reflect that change. The Council voted to approve the minutes, and then Mr. Berry turned to Agenda Item II.

## **Agenda Item II: Metrics – Working Group Four Report**

Dr. Shelley Metzenbaum, Associate Director for Performance and Personnel Management, OMB, gave a presentation accompanied by slides entitled "Metrics for Labor-Management Forums," Council document 10-07-02. Her presentation reported the working group's progress since the previous Council meeting, i.e. soliciting comments the Council provided on the working group's last set of draft materials and changing the draft materials in response to the comments. Her presentation also explained what practical application the recent metrics work would have if the Council adopted the working group's recommendations.

Dr. Metzenbaum began by thanking the members of Working Group Four and Ms. Emily Kornegay of her staff for doing a phenomenal job of rolling up their sleeves and working together. She said the work had involved figuring out how to get a measurement system to show what's working and what's not, and how to make improvements where necessary without unduly burdening the field or the product being merely a reporting exercise.

In presenting page two of her slides, Dr. Metzenbaum said that Working Group Four had received many comments on its draft metrics materials, from both management and labor. She

said the comments emphasized beginning with a focus on issues rather than on metrics; easing the reporting burden; and clarifying unspecific language.

Dr. Metzenbaum said the working group had adopted the National Treasury Employees Union's (NTEU's) suggestion of beginning with an issue and letting metrics follow. She said a good question to ask up front is, "What are you trying to fix or improve?"

Dr. Metzenbaum said that the working group's analysis of comments pointed to streamlining the template for reporting metrics down to a single page and requiring reports to the Council only annually, but beginning in December 2011. She said the idea is to simplify the reporting requirements in order to get useful feedback by the end of next year, rather than having to wait much longer. She said data from the first annual report would not cover a full year but will provide helpful feedback indicating to what extent the Council's efforts are getting good results.<sup>1</sup>

Dr. Metzenbaum said the working group had also identified the need to provide (b)(1) guidance in a separate document. She said the working group realized it needed to clarify its purpose in providing the option for reports to include contextual information.

Dr. Metzenbaum's final slide summarized the practical application the recent metrics work would have if the Council adopted the working group's recommendations as follows:

- A. Issue(s)
- B. Goals
- C. Metrics – one per category
- D. Timeline
  - December 31, 2010 baseline established
  - March 31, 2011 initial reports to Council
  - September 30, 2011 forums report to agencies
  - December 31, 2011 agencies report to Council

Dr. Metzenbaum said the working group planned to circulate and consider one more set of draft metrics materials, in order to make sure everyone was comfortable with the draft materials before sending them to the full Council by next week.

Dr. Metzenbaum said the working group wasn't expecting perfection by the first annual report to the Council. She said the Council could use the data to make the process better over time. She mentioned that OPM and OMB were discussing possible use of a software tool for reporting and analyzing metrics, and were discussing the feasibility of this tool.

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<sup>1</sup> Under the working group's current plan, a) forums are to have identified issues, goals and metrics internally for reporting by December 31, 2010, and b) agencies must report to the Council by March 31, 2011 on what their forums intend to measure as a baseline. The data for that baseline would be reported to agencies by September 30, 2011, and agencies would then report the data to the Council by December 31, 2011.

Mr. Gage asked for clarification regarding the March 31 initial report. Dr. Metzenbaum said that what's due then is a report of what the metrics will be for the baseline rather than actual data. She said that actual data (the baseline) would be provided to the Council by December 31, 2011.

Mr. Berry commented that he liked the simplified approach. He said he didn't want red tape impeding progress. He also told Ms. Kelley he appreciated the NTEU idea of beginning with the issue and letting metrics follow. He said he believed the working group had brought metrics to a productive place.

Mr. Fenaughty expressed his and Mr. Dougan's concern about the number and volume of reports that might flow from the metrics plan and how the Council could reduce it to something meaningful. He also wondered whether the timeline was a problem: Would data be available to the forums and Council soon enough so that the process doesn't go too far in the wrong direction?

Dr. Metzenbaum returned briefly to her earlier discussion of a software tool that might be developed for reporting and analyzing metrics. She said the working group was exploring whether data from the initial report (March 2011) and subsequent reports could be entered into a computer system that would allow forums access to the data and the ability for forums to see what others are doing. She said there would be an effort to take advantage of existing technology to share data between forums and keep people updated. She said the Council doesn't just want a lot of forms, and the hope is the Council will be able to look across forums and get a real sense of whether there has been progress. She said that VA, DHS, and DOD could be tapped for their experience in data mining.

Ms. Bonosaro said that large agencies would need to roll up their data in some way, so that the Council would be able to digest the data.

Mr. Holway asked whether the reports would be mandatory, and Dr. Metzenbaum confirmed that they would be.

Mr. Neal said he liked the metrics proposal, and that he thought it would produce informative results without imposing excessively burdensome reporting requirements.

Mr. Berry said that while the Council wouldn't be putting the metrics proposal to a vote today, the work so far was good progress. He said the metrics task was a tough one, and that reaching consensus on this issue would be great.

Ms. Bonosaro asked for clarification on what would happen with respect to metrics prior to the next Council meeting, and whether there would be time for the Council to do what it needs to do. She suggested the Council consider whether voting on the draft metrics by email and prior to the next meeting would be an option. Mr. Berry said the Council could explore working out remaining issues by email, and then either vote on approving the metrics in email or in the next Council meeting.

Dr. Metzenbaum said there had been multiple iterations of the draft metrics over the past two weeks. She said she urged the Council to ask when reviewing the draft metrics guidance whether it could live with this version of the draft metrics instead of editing words so that the process could move forward.

Mr. Berry said that Ms. Bonosaro wanted to know whether approving the metrics electronically was an option, and that he wanted to present that to the Council by email as a possibility. Otherwise, the draft metrics can be brought back to the next meeting for final action. Ms. Bonosaro said that if remaining issues were identified, she hoped the Council would be able to figure out what to do to move forward soon.

Mr. Fenaughty asked whether there would be standard metrics. Dr. Metzenbaum said that one metric would be selected to cover each of three categories. She said the plan was not “one size fits all,” but that selection of one metric for each of the three categories would be mandatory. She added that selection of the one metric would be from standard options within each category.

Since there were no further issues raised with respect to metrics, Mr. Berry turned to Agenda Item III.

### **Agenda Item III: Key Terms and Phrases – Working Group One Report**

Mr. Gould gave a presentation accompanied by slides entitled “Key Terms and Phrases: Working Group One Report,” Council Document 10-07-03. He said that in the last meeting the Council discussed the concern that lack of a common understanding of some key terms and phrases in Executive Order (EO) 13522 might be impeding progress in Federal agencies.

Mr. Gould said the task of exploring the “key terms” issue had been assigned to the Implementation Plans Working Group. Mr. Gould said he was reporting to the Council for Mr. Dougan, who had volunteered to lead a team to explore the issue. Mr. Gould said that the issue generated a great deal of interest<sup>2</sup>. He said the team produced a draft report, circulated it for comments, and then held a group discussion.

Mr. Gould said that in preparing the report the team decided to clarify the problem in two stages: what the problem seemed to be initially, and then the team’s deeper understanding of it after further discussion and analysis. He presented this “problem clarification” on pages 4 and 5 of his slides.

Mr. Gould said that initially the concern had been that not having further definition and guidance on key terms and phrases from the EO might lead to problems, including inconsistent outcomes among agencies, unproductive debate between labor and management, work teams being frozen due to “old school” thinking, and delay in applying predecisional involvement because of differences in interpretation of the EO.

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<sup>2</sup> Page 3 of Mr. Gould’s slides showed that the team consisted of 14 members, representing 4 agencies and 5 unions.

Mr. Gould said after discussing the “key terms” problem further, the team reached a deeper understanding. He said the team acknowledged that the EO contains broad language by design, and that the potential for variation by agency is an asset because it allows each agency to deal with its unique mission and culture. He said the team understood there are risks in sitting down at the National level and clarifying terms, including agencies losing flexibility. He expressed concern about potentially rewriting an EO that is already signed by the President.

Mr. Gould said the team agreed that the most powerful statement of success for the Council’s efforts is better mission accomplishment, an improved work environment for all employees, and better labor management relations. He said the team affirmed that both labor and management have to get past the statutory and labor contract interpretation of predecisional involvement. He said the goal is to get from “Once I decide, then I share” to “As I develop certain issues for decision, I include.”

Mr. Gould said the working group had acknowledged that it is a considerable challenge to do all the preparation and training necessary to fully implement the EO, and that full implementation would require a cultural change. He said that so far VA had trained 20,000 people, which he realized was a drop in the bucket but was progress nonetheless. He said he was an “old Navy guy of 26 years,” and that it takes a while to see the bow move after an order is given for an aircraft carrier to change course.

Mr. Gould asked whether Mr. Gage cared to comment. Had he presented a fair summary of the problem? Mr. Berry asked whether Mr. Gage or any working group members had comments.

Mr. Gage said some people see predecisional involvement almost as a pilot, and think it’s sufficient to try predecisional involvement on just one issue. He said, “We want predecisional involvement on *all* issues.” He said he didn’t think predecisional involvement has been happening, which he saw as a major problem.

Ms. Kelley agreed with Mr. Gage. She said that predecisional involvement is really a new way of doing business across the board. She said the idea is for labor and management to talk sooner rather than later. She said it was about the process, about getting people to recognize that predecisional involvement is a smart way of doing business. She said it’s easier to resolve issues when labor and management work together with predecisional involvement. She said everyone in agencies wants to talk about what predecisional involvement means. She said, “We are having a hard time making PDI a new way of doing business.”

Mr. Berry read from Section 3 of EO 13522, “Implementation of Labor-Management Forums Throughout the Executive Branch,” which reads as follows:

*The head of each executive department or agency that is subject to the provisions of the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.), or any other authority permitting employees of such department or agency to select an exclusive representative shall, to the extent permitted by law...allow employees and their union representatives to have pre-decisional involvement in all workplace matters to the fullest extent practicable....*

Mr. Berry said if some agencies were operating from the perspective that predecisional involvement is something to be done in only one place, they were not in keeping with the spirit of the EO. He said it was pretty clear to him what the President wants with respect to predecisional involvement. He said, "To the extent we lack clarity...and I know we're still working one on one with agencies...let us know." He said he believed the EO was quite clear, and that it wasn't a question of how to define, but it was a question of properly implementing the spirit of the EO. He said, "We don't need to re-debate the EO. We need to make sure it's fully implemented."

Mr. Holway said that maybe a letter should go out explaining what the EO requires. "Let them know what the order says."

Mr. Berry said he was reminded of his school days, when the majority of students did their homework but were punished anyway just because of two bums. He said he really didn't want the Council to proceed that way. Mr. Holway responded that Mr. Berry was a talented person who undoubtedly would find a way for the Council to take action.

Mr. Berry agreed the Council could send a signal, but asked whether the problem was isolated or across the board. Mr. Gage responded that very few places had fully implemented predecisional involvement. He said that forums, which often only meet every 2-3 months, aren't really the place to work on pre-decisional issues.

Ms. Kelley agreed with Mr. Berry that the EO was clear. She said she never expected predecisional involvement to be implemented overnight. She said the Council needed to give it a jump start with a collaborative message, while recognizing that implementation is different in different contexts.

Mr. Berry said that OPM's forum meets every two weeks, and that all his Associate Directors are in attendance. He said, "We look at what's coming." He said the process at OPM was working well with respect to items of major concern.

Ms. Kelley said she didn't think all forums meet every two weeks, and she didn't think she would want that to be a goal. She said the issue is really a change in the way labor and management do business.

Mr. Gould said agencies can send out memoranda making it clear that "this is a must-do." He said that VA had sent out such a memorandum. Ms. Diaz said DOD had also sent out a similar memorandum. Mr. Berry said that maybe the Council could include agency best practices in its letter.

Mr. Fenaughty said that it's frustrating that some agencies think predecisional involvement releases them from having to negotiate, which is not the case.

Mr. Berry said the Council would work on a letter to address implementing predecisional involvement.

Ms. Bonosaro said she was concerned the Council doesn't have a sense of where it is in terms of getting the forums up and running. She said she was impressed with Mr. Gould's report of progress in VA, and was wondering whether the Council can get a report of progress from other agencies.

Mr. Berry said the end of the year would be a good time to assess, that December might be a good time to take a look. He said that maybe between now and then the Council could take a look.

Ms. Bonosaro said she also wondered where (b)(1) pilots are. Mr. Berry said there had been progress with DOL and the Department of Treasury.

Mr. Gould said it was a considerable task to pull data out. He asked that people remember the goal is to train 200,000 people in a new process, in VA alone. He said it takes time and money, and that it would just take a while to see results at the ground level. He said the Council would have some awareness when it sees results at the end of the year.

Mr. Berry said he would work with the Implementation Plans Working Group on the letter to address implementing predecisional involvement.

Mr. Gage said he heard what Mr. Gould was saying, but that Mr. Gould was talking about longer term changes to ways of doing business. Mr. Gage said there were some things happening now, e.g. the DOD budget and (b)(1). He said, "We don't want to wait." He said the letter needs to stress the immediacy of the need for predecisional involvement, which needs to happen *now*, not after a year of training. He said a lot of people were soured that predecisional involvement isn't happening. He said, "PDI is easy to do. Let's get PDI moving."

Mr. Berry said he believed there's a lot going on now. He said the Council also needed to showcase progress, but that he agreed the letter should stress the immediacy of the need for predecisional involvement. He repeated that the Council would develop the letter, and then he turned to Agenda Item IV.

#### **Agenda Item IV: Telework Mobile Workday– Working Group Six Report**

Ms. Niehaus presented the Working Group Six report. She said that 10 Council members had volunteered themselves or their staff to serve on the working group, which on October 8, 2010, would be meeting with "worklife folks." She said the working group also would hold a teleconference on October 22, 2010, to discuss the plans and goals of the working group.

Mr. Gage said he had met with the General Services Administration (GSA), which had been given a mandate to increase teleworking. He said the meeting was very good, and that GSA could discuss a lot of bugaboos. He suggested that the working group talk to GSA. Ms. Niehaus asked Mr. Gage for a contact at GSA, and Mr. Gage said he would get her that information.

Mr. Berry said that GSA was renovating its facility across the street, which accommodates about 2,500 employees. He said that GSA plans to consolidate all its operations in the metropolitan

area into that facility after renovations are complete in 2-3 years. He said the plan would call for increased teleworking, as well as hotelling and sharing office space. He said the goal is to save taxpayer dollars by getting GSA out of leased space. He said GSA was very innovative in this effort, and he knew that GSA Chief Martha Johnson would be happy to share knowledge with the working group.

Mr. Berry asked if anyone on the Council wished to raise other topics before opening the floor for public comment. Since there were no additional topics, he opened the floor for public comment.

**Agenda Item V: Acknowledgment/Receipt of Public Submissions**

Mr. Frank Milman of the Department of Commerce said his agency planned to turn over one (b)(1) project this week, with the possibility of a second one to follow next week.

Ms. Maggie Weber of GSA said that GSA employees are currently teleworking 2 days a week and would soon be teleworking 3 days a week. She said that not everyone liked the hoteling aspect of telework and that some people were having trouble adjusting. Mr. Gage joked, “They don’t like the three days off?”

Mr. Berry noted that the GSA program was a work in progress. He said that GSA Chief Martha Johnson would have to continue working with the unions and moving forward.

Since there were no additional comments, Mr. Berry concluded by mentioning the OPM Farmer’s Market going on outside. He invited everyone to stay and enjoy it.

**Agenda Item VI: Adjournment**

Mr. Berry thanked everyone for their comments, and adjourned the meeting at 10:57 a.m.

**CERTIFIED**

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John Berry  
Co-Chair

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Jeffrey Zients  
Co-Chair