

**National Council on Federal Labor-Management Relations
24th Public Meeting
January 16, 2013**

On January 16, 2013, the National Council on Federal Labor-Management Relations held its 24th meeting at the Office of Personnel Management (OPM). OPM Director John Berry and Office of Management and Budget Controller Daniel Werfel co-chaired the meeting, with the following Council members present:

Council Member	Title
Mr. J. David Cox	National President, American Federation of Government Employees
Mr. William Dougan	President, National Federation of Federal Employees
Mr. Ernest DuBester	Chair, Federal Labor Relations Authority
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 Kelley	National President, National Treasury Employees Union
Ms. Patricia Niehaus	National President, Federal Managers Association

The following individuals sat in for absent Council members:

- Mr. Rafael Borrás, Under Secretary for Management, Department of Homeland Security (DHS), for DHS Deputy Secretary Jane Holl Lute;
- Mr. Oscar Gonzales Jr., Deputy Assistant Secretary for Administration, U.S. Department of Agriculture (USDA), for Ms. Kathleen Merrigan, Deputy Secretary, USDA;
- Mr. T. Michael Kerr, Assistant Secretary for Administration and Management, Department of Labor (DOL), for DOL Deputy Secretary Seth David Harris;
- Ms. Jennifer Mattingley, Director of Government Affairs, Senior Executives Association (SEA) for Ms. Carol Bonosaro, President, SEA.
- Mr. Richard Tarr, Associate General Counsel, Federal Education Association (FEA), for Mr. H.T. Nguyen, FEA Executive Director; and
- Mr. Frederick Vollrath, Principal Deputy Assistant Secretary of Defense for Readiness and Force Management, for Deputy Secretary of Defense Ashton B. Carter;

The Designated Federal Officer, Mr. Tim Curry, OPM Deputy Associate Director, Partnership and Labor Relations, was present, as were about 35 members of the public, including 3 media representatives.

Agenda Item I: Welcome

Mr. Berry began the meeting at 10:08 a.m., wishing everyone a good morning and a Happy New Year. He said, "Welcome back to a new year, a new term, and an exciting future!" He said that although some people were running late due to traffic problems around town, the meeting would begin with the hope that those on their way would arrive soon.

Mr. Berry said he would like to recognize a few new faces around the table, and he first introduced Mr. DuBester, and then Mr. Vollrath. He said, "Member DuBester has a long and distinguished career of over 35 years in the field of labor-management relations, and has served the FLRA since August 2009. Yesterday, the President designated Member DuBester as Chairman of the FLRA. Welcome, Mr. DuBester and thank you for joining us today."

Mr. DuBester said, "Thanks. The entire leadership of FLRA will continue to support the work of the Council. It's great to be here."

Introducing Mr. Vollrath, Mr. Berry said, "Next, we have Frederick Vollrath representing the Department of Defense. Mr. Vollrath was appointed as the Principal Deputy Assistant Secretary of Defense for Readiness and Force Management on March 26, 2012. In addition, he is also performing the duties of the Assistant Secretary of Defense for Readiness and Force Management. He has responsibility for all matters related to civilian and military personnel policy."

Mr. Vollrath said, "Thanks, it's a pleasure to be here." He said that he already had work experience with some Council members, and that he looked forward to contributing to the Council's productive meetings.

Mr. Berry explained that the Council is a committee under the Federal Advisory Committee Act, and always provides a specific time to meet the Act's requirement to provide an opportunity for public comment. He asked that anyone who is not a Council member hold any comments or questions until the Council calls for public comment. He then asked whether Mr. Werfel cared to make introductory remarks.

Mr. Werfel said, "I'd like to reinforce Mr. Berry's energy regarding opportunities in the New Year and new term. We should be bold and aggressive. I also want to welcome the new faces." He added that he felt energized and excited, and was looking forward to the work ahead.

Before proceeding with the agenda, Mr. Berry said the draft minutes of the previous meeting included all of the Council's edits to date, and asked if there were recommendations for additional changes. The Council unanimously approved the minutes without further revision, and Mr. Berry turned to the next agenda item.

Agenda Item II: Council Business for 2013

Mr. Berry began, "Since this is a new year and President Obama has been reelected, this is an ideal opportunity to reenergize our efforts to support the President's Executive Order. I can assure everyone around this table that the President remains committed to working with employees through their representatives in improving the productivity and effectiveness of the

Federal Government. Executive Order 13522 calls for management and labor to discuss workplace challenges and problems with labor and endeavor to develop solutions jointly, rather than advise unions of predetermined solutions and then engage in collective bargaining.

“As you know, the focus of this Council during 2010 and 2011 was on setting up and establishing processes to establish, advance, and measure the impact of labor-management forums. In 2012, with the framework for labor-management forums established, the Council began to shift its focus to mission driven outcomes for forums. In other words, we began to see some examples of the positive impact of establishing labor-management forums and engaging unions in pre-decisional involvement.

“Even with the success stories we have seen, we realize that we still have a lot of work ahead of us. In some organizations, labor-management forums have never been established. In other organizations, labor-management forums were established but are struggling to be effective. We think the New Year brings a new opportunity for us to do it right and drill down through all of Government. With this in mind, we would like to discuss some new approaches for how this Council operates and how we can further support the labor-management forums across the Government.”

Turning the floor over to Mr. Curry, Mr. Berry said, “We’ve asked Tim Curry to brief us on these new approaches. Once Tim has briefed us, we will have time to discuss the ideas and then we will ask you to adopt them. Tim, what do you have to share with us today?”

MR. CURRY’S PRESENTATION

Mr. Curry said, “Good morning and Happy New Year,” and then began his presentation using slides labeled “Council Business for 2013.” The presentation proposed that the Council decide a meeting schedule for 2013 and establish two Council committees, an Agenda Committee and a Problem Resolution Committee.¹ The presentation also addressed the shorter term goal of optimally planning the next Council meeting in the context of what the Council might decide about the Agenda Committee or other strategies for planning Council business. Major topics of Mr. Curry’s presentation and ensuing Council discussions are summarized below.

Meeting Schedule for 2013

Mr. Curry reminded everyone that the Council has a history of meeting the third Wednesday of each month except for August and December. He said that meeting schedule often creates logistical challenges for Council committees trying to complete work in time for the full Council’s public meetings. He advanced a proposal for the Council to meet every other month, in order to ensure the Council’s committees will have enough time between Council meetings to develop substantive recommendations on Council initiatives. With this approach, Mr. Curry explained, the Council’s public meetings would be more productive.

¹ Note: In the beginning of his presentation, Mr. Curry noted Mr. Berry’s preference to replace, in Council documents and discussions, use of the terms *working group* and *workgroup* with the term *committee*.

Mr. Vollrath said having fewer public meetings makes sense provided that Council committees use the time between meetings to prepare reports and recommendations of substance for presentation and discussion in the public meetings.

Mr. Dougan added his support of the proposal, saying, “The time between meetings is crucial. We need to give the committees enough time to do their work and report back to the Council with substantive recommendations.”

Mr. Filler commented, “The proposal is fine for what the Council can and should do for this year. We don’t want to lose sight, however, that we’re an oversight group. The real work is in forums, and we have to make sure that work continues.”

Responding to Mr. Filler, Mr. Berry said, “When you see the proposals, it will become clear we provide for oversight of forums.”

Regarding the proposed meeting dates listed on page 3 of Mr. Curry’s slides, Mr. Junemann proposed the May 15 date be changed. Mr. Curry responded that proposed revisions to the tentative dates listed in the slides can be worked out in email among Council members, and then a final meeting schedule will be developed. Mr. Berry added that the final meeting dates would be published in the *Federal Register*, and then turned the floor back over to Mr. Curry, who continued with his presentation.

Proposal to Establish an Agenda Committee

Mr. Curry said the Council had always developed its meeting agendas with ad hoc input from Council members and staff, but that through this approach meeting agendas were not as robust as desired. He advanced a proposal to establish an Agenda Committee whereby—

- All Council members would have an opportunity either to participate on a committee or designate a representative to do so, and
- The Agenda Committee would develop recommended agenda items for the remainder of 2013, and provide recommendations at the next Council meeting in March 2013.

Before kicking off Council discussion of the Agenda Committee idea, Mr. Berry added a few remarks. “Since this would be a standing committee, it would be available throughout the year should adjustment to agenda items become necessary. Major items can be developed up front, with any needed revision made as issues arise.” He added that management and labor representation on the committee should be equal, and that, to Mr. Vollrath’s earlier point, the goal is to produce substantive recommendations and maximize progress.

Mr. Dougan remarked, “I think it’s good to have both labor and management actively engaged. We’ve been hit or miss on that up to this point. We can list topics we know will come up throughout the year.” He added that time could be provided for the agenda committee’s continual development and fine-tuning of agenda items.

Mr. Filler asked to what extent agenda topics would provide guidance for labor-management forums. Mr. Berry responded that the Agenda Committee could develop agenda items on a wide

range of issues, including broad guidance applicable in general or across many forums, as well as more targeted, context-specific strategies.

Mr. Filler commented that, as much as possible, in conducting its business the Council needs to serve as a positive role model for forums. Ms. Kelley agreed, and said, “Maybe a way to do that is at the end of each agenda item, address next steps. We should commit to having next steps as part of every agenda item.” She added that, in issuing guidance or recommendations, the Council should be clear in distinguishing between mandatory and recommended behavior.

As a concluding point to initial discussion of the proposed Agenda Committee, Mr. Berry asked that everyone keep in mind the overarching principle that the work of the Council is to maximize progress toward the goals of Executive Order 13522. He said Council meeting agendas should reflect commitment to that goal. He then turned the floor back over to Mr. Curry, who presented ideas for developing an agenda for the next Council meeting.

Proposals for the Next Council Meeting’s Agenda

Mr. Curry said that, if formed and operating as envisioned, the Agenda Committee would be ready in March with proposed agenda topics for the remainder of 2013, but may not have enough time to formulate and clear an agenda for the March meeting. He then put forth the proposal that the Council decide today on at least one major topic for the March meeting, and he listed potential topics he referred to as “a top three:”

- Best Practices in Pre-Decisional Involvement (PDI);
- Frontline Wisdom: Saving Time and Money by Streamlining Processes and Procedures; and
- Career Development and Retraining Opportunities.

Mr. Berry said, “The Agenda Committee can get started right after this meeting, but if the Council is comfortable with at least one of the top three, then we can get started.” He added that the order in which the topics were presented was based on informal polling of Council members on which of the three is most important, and clarified that selection of agenda items would not be limited to the top three. He said, “You could pick one, or you could pick none.”

Mr. Junemann commented, “The frontline wisdom one is important. The reason I wanted the President to issue the EO was that I wanted labor and management to work together to save time and money. We have to show everyone we’re doing that, and it has to be measurable. Instead of speechmaking, we need spreadsheets with data showing progress. How do you think item two will be presented?”

In response to Mr. Junemann, Mr. Berry said, “These are just three draft topics. If adopted, we’d get volunteers to start shaping the concept and move toward something substantive, as Mr. Vollrath suggested. I think you are saying let’s pick number two. We could do that, and it wouldn’t mean the other two aren’t important or can’t be topics.”

Mr. Junemann said, “Two is why we’re here. We have to show results. We’ve had difficulty doing that in the past. The point of success stories is to show others how they can succeed.”

Mr. Werfel commented that Mr. Junemann raised a good point, that showing and applying what the Council has learned is important. “What have we learned? In an example of best practices, what applicability do we see for other situations across Government?” He expressed agreement with Mr. Berry’s earlier comment that the Agenda Committee’s tasks would be multidimensional, with scope and applicability ranging from Governmentwide down to forum-specific. He emphasized the importance of the committee operating under the Council’s overarching principles to provide the best possible oversight in support and furtherance of EO 13522.

Mr. Dougan commented, “I think PDI is most important for the March meeting because, as Mr. Berry said earlier, we recognize that forums vary in their success, and some aren’t running yet. Regarding savings of time and money, the forums are where the rubber meets the road. It’s in the individual forums where the work is being done. Those doing the work are the ones who can best determine how to save money. We can have ideas, but they can’t get far if forums aren’t up and running successfully.”

Mr. Holway said two major functions in support of EO 13522 are getting forums up and running and making the most of best practices. Regarding forums, he said, “We always address successful ones, but never the underbelly. There are problematic forums with the source of problems on both sides, labor and management, and we need to address that. We need a mechanism so that, if there’s a problem in an agency, it can be resolved through a designee from the Secretariat, so I’m not talking to the Deputy Secretary.”

In response to Mr. Holway, Mr. Berry said, “Tim will go on and hit some of your concerns with the proposal for a Problem Resolution Committee.”

Proposal to Establish a Problem Resolution Committee

Mr. Curry said the idea for a Problem Resolution Committee originated in a conversation with Ms. Julia Clark, General Counsel, Federal Labor Relations Authority (FLRA); and Mr. George Cohen, Director, Federal Mediation and Conciliation Service (FMCS). He added, “FLRA and FMCS have been helpful from the first day, but we know there are still challenges.”

Mr. Curry said that, while there have been many success stories in implementing EO 13522, the Council continues to hear about challenges in establishing and maintaining labor-management forums, and in fully applying PDI. He presented the recommendation that the Council reenergize its efforts in implementing EO 13522 by establishing a Problem Resolution Committee with a focus on leveraging the expertise of FLRA and FMCS. He said the committee would—

- Assist management and labor in establishing forums; help existing forums; and provide other assistance;
- Serve as a training and facilitation clearinghouse that relies on the expertise of the FLRA and FMCS and facilitate communication with the FLRA and FMCS; and

- Gather best practices and actively promote them.

Mr. Berry said the Problem Resolution Committee could deal with problems in a targeted way. He said that, when necessary, the committee can escalate a problem to the level of the full Council.

Mr. Gould said the comments by Mr. Holway and Mr. Junemann about PDI and accountability were great, and added, “Our ability to succeed depends on accountability.” He then commented, “I’d like to touch on a second point: What does a home run look like? What is a big thing we can do, a major topic area where we can have a productive discussion?”

Mr. Berry said, “We might have had many managers who were holding back, hoping the election would go differently. But we will close the remaining 10 percent. We will take this hill.” He said the Committee would not only leverage FLRA and FMCS, but would also use the informal power of the Council as needed. “We’ve come a long way, but we want to hit 100 percent.”

Mr. Werfel commented, “We need to be strategic regarding the 10 percent. What are the issues? The problems might have different root causes in different agencies. Sometimes it may be individuals, while other times it may just be the situation.” As in the earlier discussions about the Agenda Committee, he stressed the importance of using a multidimensional approach, and remembering that one size does not fit all.

Mr. Berry said the Problem Resolution Committee would be a standing committee, and would be available throughout the year to unravel difficult problems and move forward in a positive way in order to “take the hill.”

Mr. Junemann asked for clarification on the process for use of the Problem Resolution Committee. He asked whether, for example, for a problem with DOD he would go to Mr. Vollrath first before involving the proposed committee. Mr. Berry responded that the first step would be to reach out to fellow Council members, and then as needed take problems to the committee in order to add the collective power of other colleagues, and maybe FLRA and FMCS also. “We’ll look at the whole panoply of options.”

Mr. Junemann asked what the solution would be if the Problem Resolution Committee found that an agency head was the source of a problem. “Where’s the clout?” Mr. Berry responded that the idea of having a Problem Resolution Committee would be to create a toolbox and a whole array of options to present to agencies needing help.

Mr. Vollrath said, “This body can have its greatest effect if we can handle issues within the agencies. If we have a fundamental problem, we can resolve it in the agencies, but I would hope my fellow Council members would engage one another.” Mr. Berry replied, “I agree, but sometimes, if there’s a difficult problem, our colleagues on the committee can help by sharing experiences and best practices. A colleague who hears about a problem might be able to say, ‘You know, we had that problem, and this is what we did.’”

Having joined the meeting late, Mr. Cox apologized and cited problems with Metrorail, and then said, “PDI has to start at the top and work its way down.” Addressing Mr. Berry, Mr. Cox continued, “I commend you and Danny for your efforts over the past couple of months in

working on that. With all the problems ahead—furloughs, shutdowns, sequestration—PDI will be critical. We have shared before that about 70 percent of Government expenditures on service delivery is on work done by contractors. We have to be around to talk about things like that. One advantage management has over unions is you can fire people and take disciplinary action, and unions lack that ability. We can still take people to task, but it has to begin at upper levels.”

Mr. Berry thanked everyone for their input, and said he would now ask for the Council’s decisions on the foregoing proposals for 2013 (the two proposed working groups and agenda topics for the next meeting).

Council Decisions on Proposals for 2013

The Council agreed to the following:

- To hold public meetings of the full Council every other month, with a final schedule to be worked out among Council members in the near future;
- To establish the Agenda Committee, which will serve as a standing committee to help manage the Council’s agenda;
- To establish the Problem Resolution Committee, which will serve as a standing committee to solve problems as needed through collaboration; and
- To assign development of topics for the March 2013 meeting to the Agenda Committee.²

Mr. Berry said each committee should have equal representation of management and labor, and that he would like every Council member to serve on at least one of the committees. He asked that Council members let Mr. Curry know by the end of the week their first and second choices for which committees they wish to join. Mr. Curry said he would send out an email reminder to Council members. The Council then turned to the next agenda item.

Agenda Item III: Federal Aviation Administration Labor-Management Forum Success

Mr. Berry said the Council would now hear from a group that has made significant improvements in labor-management relations.

He said, “Some have said that the Federal Aviation Administration (FAA) and the National Air Traffic Controllers Association (NATCA) have transformed a poor labor-management environment into a model of collaboration. Employees, managers, and union representatives now work together on a variety of issues that improve the safety and efficiency of the National air space. This highlights that management and unions at the FAA have embraced the President’s Executive Order as a means to deliver the highest quality services to the American people. We are pleased to find out more today about what FAA is accomplishing. Representing FAA management is Mr. Jim Linney, the Deputy Director for Air Traffic Systems, Air Traffic

² Just prior to the Council agreeing to defer development of topics for the March 2013 until the Agenda Committee was up and running, Mr. Holway said he would like the Council to call for a report from each agency on the number of forums in each agency, and the number fully functioning. Mr. Berry said that suggestion would be good for discussion in the Agenda Committee; and Mr. Junemann suggested deferring agreement on actual agenda items until the committee has a chance to meet.

Organization–Program Management Office. Representing the National Air Traffic Controllers Association is Mr. Jim Ullmann, NATCA Northwest Mountain Regional Vice President.” He thanked Mr. Linney and Mr. Ullman for agreeing to share their story with the Council.

Mr. Linney and Mr. Ullman began their presentation, which was accompanied by slides labeled “Success Story: Collaboration with NATCA on ERAM.” The presentation told the story of the effectiveness of labor-management collaboration in implementing FAA’s [En-Route Modernization system \(ERAM\)](#), which replaces 40-year-old En Route Host computer and backup system used at 20 FAA air route traffic control centers Nationwide. In providing a quick overview of ERAM, Mr. Linney said that–

- ERAM is at the core of everything that happens with air traffic in the country. As the backbone of the National airspace system, ERAM processes radar data, communication, and flight information, and displays tracks for aircraft flying at high altitudes to controllers;
- ERAM is a foundational Next Generation Air Transportation System (NextGen) system key for achieving NextGen’s primary goals, such as increasing air capacity and reducing flight delays; and
- The En Route Host system is tremendously complex, and the ERAM replacement project is one of the largest efforts FAA has ever undertaken.

Mr. Linney said while there have been challenges and obstacles in implementing ERAM, FAA has undertaken a series of management initiatives that are helping to get the project back on track, and he provided a summary of developments in the ERAM project since early 2011:³

- In 2011, ERAM program was restructured, with a \$330 million variance in funding and a 3-year, 8-month variance in schedule.
- At that time, the FAA appointed a new management team within the ERAM program who improved relationships with the NATCA and Professional Aviation Safety Specialists unions, and creating collaborative work groups.
- New program governance/oversight was put in place in early 2011, which included the labor unions, a steering committee and regular program management reviews.
- FAA and union working group standardized procedures resolved technical and training challenges and prioritized necessary fixes to the system.
- Over time, these process improvements were implemented to enhance how software is released, tested, and deployed – reducing the number of problems with software code.

Mr. Linney displayed a map showing the status of ERAM implementation for each of FAA’s 20 air route traffic control centers, with 5 centers at the *Operational Readiness Demonstration* level,

³ Some of the challenges in implementing ERAM are described in a February 16, 2011, [statement](#) before the House Committee on Science, Space, and Technology by the U.S. Department of Transportation’s Inspector General Calvin L. Scovel III.

two centers at the *Continuous Operations* level, 7 centers at the *Initial Operating Capability* level, and 8 centers for which FAA plans to achieve *Initial Operating Capability* during Fiscal Year (FY) 2013. (Here the control centers' operational statuses are listed in descending order of operating capability. At the *Operational Readiness Demonstration* level, FAA is no longer required to maintain the En Route Host system as a backup.)

Mr. Linney attributed much of ERAM's success so far to the collaborative governance structure shown on page 5 of the presentation slides. He explained that the core of the governance structure is the Article 48/11 Work Group, which meets weekly and is co-chaired by the FAA Director and the NATCA National Implementation representative. The organizational diagram Mr. Linney displayed showed that each team in the governance structure is co-chaired by labor and management.

Mr. Linney said that collaborative labor-management workgroups established the National User Team and Computer Human Interface Design Team so that labor and management could work together to—

- Agree on problem statements for changes to the automation system with an operational impact;
- Assign task teams to support detailed analysis of operational capabilities for select requirement changes; and
- Agree on desired behavior recommendations to the Program Management Organization's Engineers for requirement changes.

Mr. Linney explained how labor and management collaborated to develop communication and site transition strategies to facilitate ERAM implementation. He said:

- That the "team" construct intentionally leveraged a joint management and union approach to enhance collaboration and overall buy-in to local planning and implementation practices;
- That site orientation and pre-operational transition activities were collaboratively designed and presented to end-user management and workforce personnel consistently;
- That collaboratively reviewed National-level communications to FAA facilities improved the ability of the program to speak with 'one voice' to the field; and
- That collaboration in transition efforts improved workforce engagement.

Mr. Linney said that labor-management collaboration has helped get ERAM back on track, and can help elsewhere in the Government. He listed the following positive outcomes:

- That sustained and proactive engagement with pre-operational facilities through a collaboration-based approach improves readiness and maturity of sites prior to deployment;

- That 14 of 20 ERAM sites are now operational, with 7 in continuous operations and over 45,000 hours of operational run-time nationwide on ERAM since December 2011;
- That collaborative requirements validation, operational evaluation, and deployment procedures will continue to enhance the quality and effectiveness of future ERAM deployments planned to support the FAA's NextGen goals and objectives; and
- That lessons learned are now being leveraged on other programs to seek similar successes.

Mr. Linney invited Mr. Ullman to comment. Mr. Ullman said he had been involved long enough in the ERAM project to see how much difference a collaborative approach can make. He said, "I've seen the bad side and the good side. I've been involved since ERAM first came online in 2007 or 2008." He said that while collaboration is hard work, and traditional management is ostensibly easier, the rewards of collaboration are clear. "It takes trust, time, and energy, but it eventually proves itself in value, especially when we see in the field that everyone's engaged and there are no fights." As a tip for success, Mr. Ullman said, "Process, process, process! Take the time and energy needed to build collaboratively and reexamine on a regular basis."

Mr. Filler said, "I think it's obvious the labor-management relationship hasn't always been this good. How did this change happen?" Mr. Ullman replied, "The easy answer is Administration changes, on both the labor side and the management side. We have an Administration that cares about frontline workers' ideas and thoughts." He said he had seen many changes over the past 24 years of his career, and reiterated that labor-management collaboration ultimately proves its value.

Mr. Berry said, "As someone who flies, I'm very grateful. I didn't know that if I flew to Seattle from DC, I'd be taking off under one system and landing under another!" Mr. Linney responded, "You've hit on a key point. Seamlessness is our goal, and that's tough to do with continuous changes being part of the upgrade." He said labor-management collaboration had made FAA's success possible.

Mr. Junemann commented, "I look at our air traffic control system as one of the genuine gems of what the Government does. You need to blow your trumpet more. Two-thirds of all air traffic occurs between our borders. Some people have been talking about privatizing air traffic control because France did it, and then we find out there's more air traffic in and out of Cleveland than in all of France. You really need to blow your trumpet more."

Responding to Mr. Junemann, Mr. Linney said, "I appreciate that. It's a fair criticism. Our communications office has been doing a good job, but I agree. We welcome ideas on how to communicate better."

Ms. Kelley commented, "Going back to the earlier discussion about the Agenda Committee, I'd like us to think about using this as a model and creating next steps. System changes occur all the time throughout the Government, and at times there's a resistance to involving labor."

Before moving to the next agenda item, Mr. Berry said to Mr. Linney and Mr. Ullman, “Thanks for the presentation, and for keeping us all safe. God bless you!”

Agenda Item IV: U.S. Patent and Trademark Office Labor-Management Forum Success

Introducing the next success story, Mr. Berry said, “Our next presentation comes from an organization that has its foundation in Article 1, Section 8, of the U.S. Constitution. The United States Patent and Trademark Office continues its mission of fostering innovation, competitiveness and economic growth, domestically and abroad. What better way is there to deliver high quality services to the American people?”

Mr. Berry continued, “We are pleased to have guests with us today from the U.S. Patent and Trademark Office. Joining us is Mr. David Kappos. Mr. Kappos is the Under Secretary of Commerce for Intellectual Property and the Director of the United States Patent and Trademark Office (USPTO). Along with Mr. Kappos is Mr. Robert Budens. Mr. Budens is the President of the Patent Office Professional Association or POPA. POPA represents patent examiners, classifiers, computer scientists, and other patent professionals. David and Robert, thank you for coming today. We are excited about hearing your story.”

The speakers discussed the challenges USPTO faces in processing the many patent applications it receives this year, and the transformation that was required to reduce the backlog of unexamined patents from over 750,000 in 2009 to 602,846 as of January 11, 2013. (See page 2 of slides). Mr. Kappos said, “There’s an ongoing transformation at USPTO, and Big Data’s at the heart of it—measuring, tracking, and reporting. There’s been a big shift from management organized around leadership to management organized around productivity.” He said honest communication was central to the transformation, and resulted in the workforce internalizing the idea that everyone is on the same team.

Mr. Budens said, “We’ll see some similarities between this presentation and FAA’s.” He stressed the importance of partnership, and said introducing it in a workplace as a new concept requires a complete paradigm shift.

Mr. Kappos said that USPTO realizes quality is just as important as quantity to mission, and that the agency has worked hard to improve its quality metrics. He displayed a chart showing seven quality metrics, from the first quarter of FY2009 to the first quarter of FY2013, with improvement clearly shown for each of the quality metrics and the composite score to which they contribute.

Mr. Kappos displayed the graphic on page 4 of his slides, which shows USPTO going from 172nd place in 2007 to 5th place in 2012 on the *Best Places to Work in the Federal Government* metric list from the Employee Viewpoint Survey. He said the graphic itself exemplifies employee engagement because it was created by operations staff in the patents department. He added that the graphic shows commitment to the best possible performance, and pointed out that the scooter rider depicted is shown climbing up the rankings bearing a sign indicating the goal to reach first place.

Mr. Kappos explained how USPTO has aligned performance appraisal plans to agency goals, which is shown in a graphic on page 5 of the slides. He said the agency has reorganized around

line workers, i.e. patent examiners, after figuring out what those workers needed in order to do their jobs optimally. He explained how the agency has developed objectives for quality, pendency, and productivity, with separate standards for frontline patent examiners, supervisory patent examiners, and Technical Center Directors. With its new organizational structure, he explained, USPTO sees senior managers as “Leaders in Service to the Workforce” whose focus is on providing the leadership, coaching, and development needed to reach agency goals efficiently. In their role in the new USPTO, senior managers frequently communicate agency objectives and priorities, and continually focus on the developmental needs and growth of employees.

Mr. Budens commented, “One of the big changes was the change in Administration, as Mr. Ullman said earlier. Mr. Kappos and I came in. I hate traditional bargaining because it represents a fundamental failure to communicate. That changed at PTO when Dave came on board. The day the announcement was made that Dave would be heading the agency, he called me the first thing in the morning, as I was walking into my office, to begin a dialogue. We met at the Reagan Airport and talked for a couple of hours. We realized that, at PTO, labor and management hadn’t agreed on a performance plan in 40 years plus. Dave said that what we really needed to do was lock people in a room and solve our problems. I didn’t know he meant really lock people in a room, but that’s just what he meant! We started working on our recruitment issue, and Dave locked us in a room. And we made progress.” He added, “Patent examiners are the ones who do the mission of the agency. The rest is just support.”

Using a sample performance report (Page 6 of slides), for a hypothetical employee, Mr. Kappos showed how, under the new USPTO performance system, employees regularly receive data comparing their outputs and patent application results to those of their overall workgroup. He stressed that it is very important to provide such data and any accompanying feedback in a non-punitive way, and that the idea is for the employee and manager to collaborate to achieve the best possible results. He said, “People do performance discussions, evaluation, and coaching almost continuously,” and added that employees will often look at the data and initiate conversations with supervisors about the meaning or significance of a particular metric, or how best to improve performance.

Mr. Kappos displayed a snapshot of the [USPTO Patents Dashboard](#), one of [four USPTO dashboards](#) from which visitors can download data on the agency’s performance. He said the Patents Dashboard on the website is updated monthly. Regarding the current metrics, he said, “Some are going in the right direction. Some we wish were better. But the problems are no longer labor’s problems or management’s problems; they’re our problems together.” He then listed the following as the main takeaways from the presentation:

1. Data can be your friend when meaningfully related to goals.
2. Agencies should be organized not around leadership, but around the frontline workers, whom management should be serving in the interest of performance.

Mr. Budens said, “If you get workers on board, you will have a productive agency. The real take-home lesson is if we’re really talking and working together, we can make this work, and

have a much more efficient Government.” He added that he liked Mr. Ullman’s earlier comment that collaboration is difficult but worthwhile.

Mr. Junemann commented, “Your chart on page 2 is phenomenal. I know patent examiners work hard. Everyone should be asking what to do to emulate this success. I’d be interested to know the throughput time, or about any reduction between initiation and completion of a patent.” Mr. Zappos responded that USPTO workforce is hard at work on its pendency goals, and that labor and management are striving to get the First Office Action Pendency average time down to 10 months and the Final Action Pendency down to 20 months. (Note: In addition to current pendency data, the [Patents Dashboard](#) also provides data for the last 2 years so that users can look at progress over time.)

Mr. Berry thanked the presenters, and said, “Two great examples to start us off for the New Year and the new term!” Mr. Berry then provided an opportunity for Council members to raise any new business.

Agenda Item V: New Business, Public Submissions, Adjournment

Mr. Dubester said the [Association of Labor Relations Agencies](#) (ALRA), which consist of U.S. and Canada Government agencies, and is responsible for administering labor-management relations laws and services, is having its 61st annual conference in Montreal, in July 2013. He said he and Mr. Cohen agreed that the conference presented an ideal opportunity to highlight the great work the Council does. “So, if you have suggestions or volunteers, please bring them to my attention,” he suggested.

Mr. Cox said he was sad to announce that Mr. Dwight Bowman, Vice President of AFGE’s 14th district, unexpectedly passed away this morning. Mr. Berry expressed his condolences.

Mr. Berry offered the floor for public comment. Hearing none, Mr. Berry adjourned the meeting at 12:04 p.m.

CERTIFIED

John Berry
Co-Chair

Daniel Werfel
Acting Co-Chair