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Federal Pay: FY2003 Salary Adjustments

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Summary

Federal white-collar employees are to receive an annual pay adjustment and a locality-based comparability payment, effective in January of each year, under Section 529 of P.L. 101-509, the Federal Employees Pay Comparability Act (FEPCA) of 1990. In January 2003, they received a 3.1% annual pay adjustment under Executive Order 13282 issued by President Bush on December 31, 2002 and a locality-based comparability payment, averaging about 1.0% of the General Schedule payroll, under Executive Order 13291 issued by the President on March 21, 2003. The locality pay adjustment is retroactive to January 2003. (The December 31, 2002 executive order had frozen the locality-based comparability payments at the levels authorized for January 2002.) The cost of the combined pay adjustments is about $3.8 billion dollars. Although the federal pay adjustments are sometimes referred to as cost-of-living adjustments, neither the annual adjustment nor the locality payment is based on measures of the cost of living.

The annual pay adjustment is based on the Employment Cost Index (ECI), which measures change in private-sector wages and salaries. The index showed that the annual across-the-board increase would be 3.1% in January 2003. The size of the locality payment is determined by the President, and is based on a comparison of non-federal and General Schedule (GS) salaries in 32 pay areas nationwide. By law, the disparity between non-federal and federal salaries was to be gradually reduced to 5% over the years 1994 through 2002; FEPCA requires that amounts payable may not be less than the full amount necessary to reduce the pay disparity to 5% in January 2003. The Federal Salary Council and the Pay Agent recommend that the 2003 locality payments range from 22.41% in the "Rest of the United States" (RUS) pay area to 46.79% in the San Francisco pay area. The payment recommended for the Washington, DC, pay area was 28.93%. Because the new locality rate replaces the existing locality rate, the change in locality rates is derived by comparing 2002 locality payments with those recommended for 2003. This comparison resulted in recommended increases in locality rates from 2002 to 2003 ranging from 16.17% in the RUS pay area to 27.13% in the San Francisco pay area, with a rise of 19.24% in the Washington, DC, pay area. The nationwide average net pay increase, if the ECI and locality-based comparability payments were granted as stipulated in FEPCA, would have been 18.56%. President George Bush's FY2003 budget proposed a 2.6% federal civilian pay adjustment.

FEPCA has never been implemented as originally enacted. Since 1995, locality payments have been much lower than FEPCA requires.

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Federal Pay: FY2003 Salary Adjustments

Introduction

In January 2003, federal white-collar employees received a 3.1% annual pay adjustment under Executive Order 13282 issued by President Bush on December 31, 2002 and a locality-based comparability payment, averaging about 1.0% of the General Schedule payroll, under Executive Order 13291 issued by the President on March 21, 2003. (The December 31, 2002 executive order had frozen the locality-based comparability payments at the levels authorized for January 2002.) The locality pay adjustment is retroactive to January 2003. On February 13, 2003, the Senate and the House of Representatives had agreed to the conference report for H.J.Res. 2, making further continuing appropriations for the fiscal year 2003. Section 637 of H.J. Res. 2 provided for a 4.1% pay adjustment effective as of the first applicable pay period beginning on or after January 1, 2003. President Bush signed H.J. Res. 2 on February 20, 2003 and it became P.L. 108-7. On March 21, 2003, the President issued Executive Order 13291 which allocated the additional 1.0% as locality pay. According to OPM, the cost of the combined 4.1% pay adjustment is about $3.8 billion dollars. OPM issued new salary tables for 2003 to implement the executive order and these are available on the Internet at [http://www.opm.gov]. **Table 1** shows the recommended locality payments, the authorized locality payments, and the net annual and locality pay increases.

Federal white-collar employees are to receive an annual pay adjustment and a locality-based comparability payment, effective in January of each year, under Section 529 of P.L. 101-509, the Federal Employees Pay Comparability Act (FEPCA) of 1990.[1] Although the federal pay adjustments are sometimes referred to as cost-of-living adjustments, neither the annual adjustment nor the locality payment is based on measures of the cost of living. FEPCA has never been implemented as originally enacted. The annual pay adjustment was not made in 1994, and in 1995, 1996, and 1998, reduced amounts of the annual adjustment were provided. For 1995 through 2003, reduced amounts of the locality payments were provided. Federal white-collar employees received a combined annual and locality pay adjustment of 4.6% in January 2002.[2] The nationwide average net pay increase in January 2002, if the Employment Cost Index (ECI) and locality-based comparability payments had been granted as specified by FEPCA, would have been 18.84%. As stated above, in January 2003, federal white-collar employees received a combined annual and locality pay adjustment of 4.1%. The nationwide average net pay increase in January

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[1]104 Stat. 1427.

[2]For the 2002 salary adjustments, see CRS Report RL30744, *Federal Pay: FY2002 Salary Adjustments*, by (name redacted).

2003, if the Employment Cost Index (ECI) and locality-based comparability payments had been granted as specified by FEPCA, would have been 18.56%.

This report discusses the January 2003 annual adjustment and locality payments. It does not cover salary adjustments for federal officials, federal judges, or Members of Congress.[3]

2003 Pay Adjustments

Annual Pay Adjustment

Federal employees under the General Schedule (GS), Foreign Service Schedule, and Veterans Health Administration Schedule receive an annual pay adjustment. The President may extend the annual adjustment to the Senior Executive Service, the Senior Foreign Service, and administrative law judges. Individuals in senior-level (SL) and scientific and professional (ST) positions may receive the annual adjustment at the discretion of agency heads.[4] Annual adjustments for contract appeals board members depend on whether Executive Schedule pay is adjusted.

The annual pay adjustment is based on the Employment Cost Index (ECI), which measures change in private sector wages and salaries. Basic pay rates are to be increased by an amount that is 0.5 percentage points less than the percentage by which the ECI, for the quarter ending September 30 of the year before the preceding calendar year, exceeds the ECI for that same quarter of the second year (if at all). The ECI shows that the annual across-the-board pay adjustment would be 3.1% in January 2003, reflecting the September 2000 to September 2001 change in private sector wages and salaries of 3.6%, minus 0.5%.[5] The pay adjustment is effective as of the first day of the first applicable pay period beginning on or after January 1 of each calendar year.

FEPCA authorizes the President to issue an alternative plan calling for a different percentage than the ECI requires in the event of a national emergency or of serious economic conditions affecting the general welfare. The alternative must be

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[3]See CRS Report 98-53, *Salaries of Federal Officials: A Fact Sheet*; CRS Report RS20114, *Salary of the President Compared with That of Other Federal Officials*; CRS Report RS20115, *Salary of the President: Process for Change*; and CRS Report RS20278, *Judicial Salary-Setting Policy*, all by (name redacted). Also see CRS Report 97-615, *Salaries of Members of Congress: Congressional Votes, 1990-2003*; CRS Report 97-1011, *Salaries of Members of Congress: Payable Rates and Effective Dates, 1789-2003*; CRS Report RL30014, *Salaries of Members of Congress: Current Procedures and Recent Adjustments*; and CRS Report RL30064, *Congressional Salaries and Allowances*, all by (name redacted).

[4]5 U.S.C. 5376: The minimum rate of basic pay for SLs and STs is equal to 120% of the minimum rate of basic pay for GS-15, and the maximum rate of basic pay for SLs and STs is equal to level IV of the Executive Schedule.

[5]U.S. Department of Labor, Bureau of Labor Statistics, *Employment Cost Index-September 2001* (Washington: Oct. 25, 2001), pp. 2, 12.

submitted to Congress before the September 1 preceding the scheduled effective date.[6] President Bush did not issue an alternative plan.

Locality-Based Comparability Payments

GS employees receive the locality-based comparability payments; the Pay Agent[7] may also extend those payments to employees in other pay systems, including the Foreign Service, Senior Foreign Service, Senior Executive Service, and employees in senior-level, scientific and professional, administrative law judge, and contract appeals board member positions.[8] The Pay Agent determines the applicable pay cap level for certain non-General Schedule employees to whom locality pay is extended.[9] OPM has proposed regulations to clarify and redefine the limitations.[10] Blue-collar workers under the Federal Wage System (FWS) receive a prevailing rate adjustment that is generally capped at the average percentage pay adjustment received by federal white-collar employees. Special rate employees receive either the special rate or the locality payment, whichever is higher. Law enforcement officers receiving special rates under Section 403 of FEPCA receive both special rates and

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[6]104 Stat. 1429-1431; 5 U.S.C. 5301-5303.

[7]The Pay Agent comprises the Secretary of Labor (Elaine L. Chao), the Director of the Office of Management and Budget (Mitchell E. Daniels, Jr.), and the Director of the Office of Personnel Management (Kay Coles James).

[8]The President, by Executive Order, delegated to the Pay Agent the authority to extend locality-based comparability payments to certain categories of positions not otherwise covered. U.S. President (Clinton), "Delegating a Federal Pay Administration Authority," Executive Order 12883, *Federal Register*, vol. 58, no. 229, Dec. 1, 1993, p. 63281.

[9]The President, by Executive Order, delegated to the Pay Agent the authority to determine the applicable pay cap level for certain non-General Schedule employees to whom locality pay is extended. U.S. President (Clinton), "Adjustments of Certain Rates of Pay and Delegation of a Federal Pay Administration Authority," Executive Order 13106, *Federal Register*, vol. 63, no. 236, Dec. 9, 1998, p. 68152.

[10]The proposed regulations state: "To provide consistent treatment between General Schedule (GS) and non-GS employees receiving locality payments, OPM proposes to provide that (1) non-GS positions whose maximum scheduled annual rate of pay is less than or equal to the maximum payable scheduled annual rate of pay for GS-15 will be subject to a locality pay cap equal to the rate for level IV of the Executive Schedule, and (2) non-GS positions whose maximum scheduled annual rate of pay exceeds the maximum payable scheduled annual rate of pay for GS-15, but is not more than the rate for level IV of the Executive Schedule, will be subject to a locality pay cap equal to the rate for level III of the Executive Schedule." U.S. Office of Personnel Management, "Locality-Based Comparability Payments," *Federal Register*, vol. 65, March 24, 2000, pp. 15875-15877.

locality pay.[11] Federal employees in Alaska and Hawaii, and outside the continental United States, receive a cost-of-living (COLA) allowance rather than locality pay.

The locality-based comparability payments procedure was established by FEPCA. It provides that payments are to be made within each locality determined to have a non-federal/federal pay disparity greater than 5%. When uniformly applied to GS employees within a locality, the adjustment is intended to make their pay rates substantially equal, in the aggregate, to those of non-federal workers for the same levels of work in the same locality.

FEPCA provides the President with the authority to fix an alternative level of locality-based comparability payments if, because of national emergency or serious economic conditions affecting the general welfare, he considers the level that would otherwise be payable to be inappropriate. At least one month before those comparability payments would be payable (by November 30, 2002), he would have to prepare and transmit to Congress a report describing the alternative level of payments he intended to provide, including the reasons why that alternative level would be necessary.[12] President Bush issued an alternative plan for the locality payments on November 27, 2002.[13]

Bureau of Labor Statistics (BLS) Surveys. Under the law, the BLS conducts surveys that document non-federal rates of pay in each pay area. Currently, there are 32 pay areas nationwide. Until October 1996, the surveys were conducted under the Occupational Compensation Survey Program (OCSP), which had been approved by the Federal Salary Council and the Pay Agent. Since then, the surveys have been conducted under the National Compensation Survey (NCS) program, which was not approved for use with the January 2000, January 2001, and January 2002 locality payments and is not being recommended for use in determining January 2003 locality pay. The survey results are submitted to the Office of Personnel Management (OPM), which serves as the staff to the Federal Salary Council and the Pay Agent. OPM documents federal rates of pay in each of the pay areas and

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[11]Rep. Peter King introduced H.R. 3794 on Feb. 26, 2002 and it was referred to the House Committee on Government Reform. Sen. Christopher Dodd introduced S. 2770 on July 22, 2002 and it was referred to the Senate Committee on Governmental Affairs. No further action occurred on the bills which would have amended the Federal Law Enforcement Pay Reform Act (FLEPRA) of 1990, Title IV of Section 529 of P.L. 101-509, to provide higher special pay adjustments for law enforcement officers in the following Consolidated Metropolitan Statistical Areas: Boston (24.43%), Chicago (25.34%), Cincinnati (21.21%), Denver (23.08%), Detroit (25.28%), Hartford (23.78%), Houston (31.55%), Los Angeles (27.19%), Miami (21.79%), Minneapolis (20.21%), New York (26.44%), Philadelphia (21.14%), Portland (20.90%), Sacramento (20.41%), San Diego (22.28%), San Francisco (33.06%), Seattle (20.99%), and Washington, DC (20.01%). FLEPRA authorized special pay adjustments of 16% in Boston, Los Angeles, New York, and San Francisco; 8% in San Diego; and 4% in Chicago, Philadelphia, and Washington, DC.

[12]104 Stat. 1429-1436, as amended by 106 Stat. 1355-1356 and 1360; 5 U.S.C. 5301-5302 and 5304-5304a.

[13]U.S. President (Bush), "Text of a Letter from the President to the Speaker of the House of Representatives and the President of the Senate," Nov. 27, 2002.

compares non-federal and GS salaries, by grade, for each pay area. The average salaries at each grade, both federal and non-federal, are then aggregated and compared to determine an overall average percentage pay gap for each area. By law, the disparity between non-federal and federal salaries is to be reduced to 5%. Therefore, the overall average percentage pay gap for each pay area is adjusted to this level each year by OPM. This adjusted gap is called the target gap.

FEPCA also stipulates that a certain percentage of the target gap between GS average salaries and non-federal average salaries in each pay area is to be closed each year. Twenty percent of the gap was closed in 1994, the first year of locality pay, as authorized by FEPCA. An additional 10% of the gap was to be closed each year thereafter, meaning that 30% of the gap was to be closed in 1995, 40% in 1996, 50% in 1997, 60% in 1998, 70% in 1999, 80% in 2000, and 90% in 2001. In each of these years, the locality pay increase has been implemented at a much lower percentage, reducing the gap slowly; 23.5% of the gap was closed in 1995, 25.9% in 1996, 28.3% in 1997, 29.2% in 1998, 31% in 1999, 33.5% in 2000, 38.1% in 2001, and 42.3% in 2002. These percentages represent the gap as recalculated after each adjustment. By January 2002, FEPCA specified that amounts payable could not be less than the full amount necessary to reduce the pay disparity of the target gap to 5%. This percentage is applied to the target gap in each pay area to determine the locality rates recommended by the Pay Agent to the President, after receiving advice from the Federal Salary Council.[14]

The pay gaps on which the locality payments are based are 22 months old by the effective date of the adjustment; thus, March 2001 gaps determine the January 2003 locality payments. Due to the fact that the NCS surveys were not approved for use in determining the January 2000, January 2001, and January 2002 locality payments, and are not recommended for use in January 2003, the March 2001 gaps were determined by using the most recent OCSP survey data for each pay area. Since the BLS had discontinued the OCSP program in October 1996, the pay survey data for some of the largest pay areas were at least 6 years old. Specifically, the New York data were as of July 1995; the Washington, DC, data were as of October 1995; and the Los Angeles data were as of November 1995. Survey data for each of the other 28 pay areas varied from January 1996 to November 1996. Half of the data for the "Rest of the United States" pay area were as of 1994. In its report to the Pay Agent on the 2003 locality payments, the Federal Salary Council reiterated its explanation of how the pay gaps were determined, stating that the method "uses the methods employed to calculate pay gaps for the locality pay program since 1995, but involves aging the non-Federal salary data over an increasingly extended time period." Specifically, the data were aged by using the change in the nationwide ECI from the reference date of the survey to March 2001. The pay gaps were then recalculated

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[14]The council comprises nine members. Members generally recognized for their impartiality, knowledge, and experience in labor relations and pay policy are Samuel Johnson Wallace, chair; Mary McNally Rose, vice-chair; and Rudy Joseph Maestas. The other members represent the American Federation of Government Employees (Bobby L. Harnage, Sr.); the National Treasury Employees Union (Colleen M. Kelley); the National Federation of Federal Employees (Richard N. Brown); the American Federation of Government Employees, AFL-CIO (Peter A. Tchirkow); the Association of Civilian Technicians (Thomas G. Bastas); and the Fraternal Order of Police (James Pasco).

using March 2001 information on GS employment and salaries. The council expressed the "hope that NCS data will be usable next year when most of the improvements have been implemented and that this will be the last year we must use the old OCSP data."[15]

Report of the Federal Salary Council. The council reported the following results from the application of this methodology. As of March 2001, the overall gap between GS average salaries (excluding existing locality payments, special rates, and certain other payments) and non-federal average salaries was 33.97%. The amount needed to reduce this disparity to 5%, as mandated by FEPCA, averages 27.59% for 2003.

In order to meet the target for closing the pay gap, the council recommended locality pay raises ranging from 22.41% in the "Rest of the United States" (RUS) pay area to 46.79% in the San Francisco pay area. The payment recommended for the Washington, DC, pay area is 28.93%. Because the new locality rate replaces the existing locality rate, the change in locality rates is derived by comparing 2002 locality payments with those recommended for 2003. This comparison results in recommended increases in locality rates from 2002 to 2003 of 16.17% in the RUS pay area to 27.13% in the San Francisco pay area, and 19.24% in the Washington, DC, pay area. The nationwide average net pay increase, if the ECI and locality-based comparability payments were granted as required by law, would be 18.56% in 2003.

As in previous years, the council recommended that areas with pay gaps below the pay gap in RUS receive the same adjustment as RUS. Under the methodology which has been used since locality pay was first implemented in 1994, areas with low publishability and pay gaps that were two-tenths of a percentage point (0.2%) or more below RUS for three surveys were to be dropped as surveyed discrete pay areas, and the resources used to conduct those surveys were to be redirected to new survey locations. The council, as it has done the last 3 years, concluded, however, that "[s]ince surveys conducted under the NCS program, as currently configured, are not suitable for use in the locality pay program, reallocating survey resources to cover new cities is not feasible." Furthermore, the council determined that "using a nationwide rate of change to adjust the RUS salary data may have overstated non-Federal pay levels in RUS, and [that] part of the relative drop in the pay gaps in [Huntsville, Indianapolis, and Kansas City] is probably due to Federal workforce adjustments instead of changes in non-Federal pay."[16] Therefore, the council recommended that these pay areas again be included with RUS in 2003.

Basic criteria used to determine whether a county or installation would be included as part of a pay area for purposes of applying locality pay were established by the council in 1993. In its report, the council notes that it has "reviewed the criteria each year since [1993] and recommended only three modifications affecting

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[15]Memorandum for the President's Pay Agent from the Federal Salary Council, *Level of Comparability Payments for January 2003 and Other Matters Pertaining to the Locality Pay Program* (Washington: Oct. 31, 2001), pp. 1, 13. (Hereafter referred to as *2003 Federal Salary Council Report*.)

[16]Ibid., pp. 2-3.

about 10,000 employees during the past 8 years." (Those modifications involved partial-county criteria in the case of New London, full-state criteria in the case of Rhode Island, and reducing the percentage of population living in urbanized areas in the case of Monterey.) Other criteria which would remain unchanged are that a county be contiguous to a pay area, contain at least 2,000 GS employees, and demonstrate some economic linkage with the pay area. The council stated that:

> The criteria were intentionally made difficult to pass because the use of OMB's MSA [metropolitan statistical area] definitions as the basis for pay areas already results in very large pay areas. It is the nature of a "locality" program that there be borders. Once borders are established, there will always be employees near the borders, and, if we change the borders, there are always new employees just on the other side .... While we understand the concerns of Federal managers, employees, and employee groups in all these locations, we believe the pay law provides other flexibilities for agencies to deal with any recruitment or retention problems in these areas without the necessity of making exceptions to the pay area boundaries. These flexibilities include the use of special salary rates up to 60 percent above the base General Schedule, recruitment and relocation bonuses of up to 25 percent of basic pay, and retention allowances of up to 25 percent of basic pay.[17]

Since 1994, St. Mary's County, MD, has been included in the Washington, DC-Baltimore, MD, pay area. It continues to meet the county criteria and the council recommended that it be included with this pay area for 2003. Santa Barbara County, CA, has been included in the Los Angeles pay area since 1994, and New London, CT, has been included in the Hartford, CT, pay area since 1998. Employment in New London, CT, and Santa Barbara County, CA, again has fallen below the threshold of 2,000 employees that one criterion requires. The council recommended in 1997, however, "that once an area of application has been approved, it should not be removed for the duration of FEPCA's 9-year phase-in for the locality pay program (1994 through 2002)." Therefore, the council recommended that New London and Santa Barbara be areas of application for their respective pay areas "at the very least until the new census data are available for evaluation and the new metropolitan areas are defined in 2003."[18] Monterey County, CA, which became an area of application to the San Francisco pay area in 2001, meets the criteria and is recommended to be included with this pay area in 2003.

The State of Rhode Island was designated as an area of application to the Boston pay area beginning in 2001. Because counties in Rhode Island are small in comparison to counties in other states, Rhode Island cannot meet the requirement that a county contain at least 2,000 GS employees. Therefore, the council recommended that "Full State" criteria be adopted in this case. Under the recommended criteria, "States smaller than 115 percent of the average county size in square miles in the lower 48 states and Washington, DC, are treated as a single county for applying the

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[17] Ibid., pp. 5-6.

[18] Ibid., p. 3.

county criteria." Thus, Rhode Island is "considered as a single county."[19] The state meets the criteria and is recommended for continued inclusion with the Boston pay area in 2003.

As for the criteria for an installation, the portion of a federal facility that crosses pay area boundaries, and that is not in the pay area, must have at least 1,000 GS employees; the duty station(s) of the majority of GS employees must be within 10 miles of the prime-critical survey boundary area; and a significant number of the facility's employees must be commuting from the pay area. Since 1994, a portion of Edwards Air Force Base has been included in the Los Angeles pay area. The base no longer meets the employment criteria, but the council recommended that it continue to be included with the Los Angeles pay area for the same reasons that New London and Santa Barbara were recommended to continue as areas of application.

Methodology.[20] The council, in its report to the Pay Agent on the 2001 locality payments, recommended that five improvements be made in the BLS National Compensation Survey program. The council's working group report on the 2003 locality payments provided a progress report. Listed according to their levels of priority, the improvements and progress to date are as follows.

- Use three factors rather than nine to assign the correct federal grade level to the non-federal jobs surveyed, and provide grade level guides for occupational families. "OPM has designed and tested a prototype factor evaluation system using four factors for use in the surveys, and BLS has successfully used the new approach in field tests. OPM contracted for the development of additional job family guides, which will be ready for testing soon." This approach will be phased into BLS surveys from 2003 through 2007.

- Develop a model to estimate missing data. "BLS has designed an econometric model that could be used to estimate salaries for jobs not randomly selected in the surveys. BLS and OPM staff continue to explore technical issues, such as which jobs to include, what mathematical form to use, how to weight the data, and whether to use factor patterns or grade level as the work level variable." The modeled data will be incorporated into BLS survey results in 2002.

- Improve the matching of federal survey jobs with non-federal survey jobs, and provide subcategories for occupations which are "not elsewhere classified." "OPM formed an interagency working group that developed a crosswalk

[19]Memorandum for the President's Pay Agent from the Federal Salary Council, *Level of Comparability Payments for January 2001 and Other Matters Pertaining to the Locality Pay Program* (Washington: Oct. 22, 1999), p. 4. (Hereafter referred to as *2001 Federal Salary Council Report*.) Bureau of the Census data on county size and land area are used in determining whether the "Full State" criteria are met.

[20]For a discussion of the methodology concerns expressed by the Federal Salary Council, the Pay Agent, and the Office of Personnel Management over the last several years, see CRS Report 98-956, *Federal Pay: FY2000 Salary Adjustments*, by (name redacted); and CRS Report 97-1008, *Federal Pay: FY1999 Salary Adjustments*, by (name redacted).

between Federal job classifications and the new Standard Occupational Classification System, which BLS will be using in its surveys. OPM and BLS are now reviewing the crosswalk and hope to introduce new Federal employment weights for use in the NCS program based on the new crosswalk" in 2002.

- For supervisory occupations, grade the highest level of work supervised. Adjust the grade level based on the level of supervision, instead of grading the supervisory job itself. "BLS has identified survey establishments where supervisory jobs were surveyed, discussed new collection procedures with its staff, and tested a new method of grading supervisory jobs based on grading the highest level of work supervised." The new approach will be fully incorporated into BLS surveys in 2002.

- Develop criteria to identify and exclude jobs that would be classified above GS-15 in government. "BLS has developed methods for identifying and excluding jobs that would be classified above GS-15." This improvement will be incorporated into the surveys in 2002.[21]

The council's report on the 2003 locality payments stated that it is "pleased with the progress made to date and look[s] forward to reviewing NCS data [in 2002] after four of the five improvements are implemented." The council also "hope[s] the impact of the improvements will be reflected in the survey results [presented in 2002]." However, the council noted that "none of the improvements are in current surveys."[22]

Definition of Metropolitan Areas. The component parts of the 32 locality pay areas are determined by using the OMB definitions of metropolitan areas. Whenever OMB revises the definitions, the locality pay areas change automatically. In 2003, OMB will redefine the areas using the new criteria and 2000 census data. On September 11, 2002, OPM proposed regulations which would provide that locality pay areas would no longer change automatically when the definitions of metropolitan areas change.[23]

Pay Agent Report. After considering the council's recommendations, the Pay Agent endorsed them in its December 13, 2001 annual report to the President on the 2003 locality payments.[24] The Pay Agent estimated that the cost of the January 2003 locality-based comparability payments would be $9.795 billion if the full amount necessary to reduce the pay disparity of the target gap to 5% were provided

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[21]The recommendations are from *2001 Federal Salary Council Report*, p. 8. The progress reports are from Federal Salary Council, *Report of the FSC Methodology Working Group* (Washington: Oct. 22, 2001), p. 9.

[22]*2003 Federal Salary Council Report*, p. 9.

[23]U.S. Office of Personnel Management, "Locality Pay Areas," *Federal Register*, vol. 67, no. 176, Sept. 11, 2002, p. 57536.

[24]*Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President's Pay Agent* (Washington: 2001).

in January 2003 as required by FEPCA.[25] **Table 1** shows the council's and the Pay Agent's recommended locality payments for January 2003.

As for the recommended improvements in the BLS National Compensation Survey Program, the Pay Agent stated that it "is now preparing to implement four of the five survey improvements, which will affect surveys to be delivered [in 2002]." According to the Pay Agent, "[i]mplementation of the fifth improvement, a four-factor grading system with job family guides, will begin by 2003 but will not be fully implemented until 2007." The Agent expressed its hope that "the NCS data will be usable for setting locality pay" in 2004.[26]

Federal Salary Council Recommended Pay Adjustments If the Increase is 4.1% in January 2003. At its October 1, 2002 meeting, the Federal Salary Council endorsed the recommendations of its Methodology Working Group on the January 2003 pay adjustments if the increase were 4.1% (3.1% annual and 1.0% locality). According to the recommendations, the net (annual + locality) pay adjustment would be 4.03% in the RUS pay area, 4.87% in the San Francisco pay area, and 4.27% in the Washington, DC pay area.[27]

Once both the annual and locality pay percentage amounts are determined, the actual pay rates are calculated as follows. First, the basic General Schedule (GS) is increased by the annual adjustment percentage, resulting in a new GS schedule. These new basic GS rates are then increased by the locality payment. The resulting pay rates (annual + locality) are compared with the 2002 pay rates (annual + locality) to derive the net increase in pay for 2003.

The President's Recommendation

President George W. Bush issued his administration's FY2003 budget on February 4, 2002. The budget proposed a 2.6% federal civilian pay adjustment, but did not state how the increase would be allocated between the annual and locality adjustments required by FEPCA in January 2003.[28] During a briefing on the FY2003 budget, OMB Director Mitchell Daniels explained the reasoning behind the 2.6% recommendation:

> We do believe that a distinction can and should be made between people in harm's way at a time of war. And, therefore, feel it's entirely appropriate that there should be some additional compensation for uniform personnel. And as to

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[25]Ibid, p. 23.

[26]Ibid, p. 26.

[27]U.S. Federal Salary Council, *Report of the FSC Methodology Working Group*. Attachment 2 of the report. Sent to CRS by facsimile from the Office of Personnel Management, Oct. 2, 2002.

[28]U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2003; Analytical Perspectives* (Washington: GPO, 2002), p. 23.

> the civilian side, there's a rough equation, called the ECI ... and it would have pointed to 3.6, but that's only a starting point. We decided that it would be fair and appropriate, at a time when many other Americans have seen their pay go to zero. And in the private sector, estimates for increases range from about 1.8 to maybe 3. For those who are employed, we thought giving back 1 percent or, let's say, taking 1 percent less than this sort of rule of thumb index was something that federal employees would feel is fair and I hope many will feel it's an appropriate thing to do. Let me just remind you, this is [an] increase at a time when the economy is in recession and many Americans are seeing zero increase or even a drop in pay.[29]

The statutory annual pay adjustment required in January 2003 was 3.1%. If the President wanted to change the required rate of the annual adjustment, he would have had to submit an alternative plan for the annual adjustment to Congress by September 1, 2002. Since President Bush did not issue an alternative plan, the annual adjustment was the 3.1% required by law. He did issue an alternative plan to change the amount of the locality-based comparability payments on November 27, 2002. The alternative plan froze the locality payments at the levels authorized for January 2002. (See the discussion under "Treasury, Postal Service, and General Government Appropriations Bill, 2003" for congressional action which resulted in a combined 4.1% pay adjustment for January 2003.)

President Bush said that he issued the alternative plan because

> A national emergency has existed since September 11, 2001. Full statutory civilian pay increases in 2003 would interfere with our Nation's ability to pursue the war on terrorism. They would cost about $13.6 billion in 2003 alone—$11.2 billion more than the 2.6 percent overall Federal civilian pay increase I proposed in my 2003 Budget—and would build in later years. Such cost increases would threaten our efforts against terrorism or force deep cuts in discretionary spending or Federal employment to stay within budget.[30]

Citing a rate of inflation of 2.1% and a 2.1% per year federal quit rate as indicators, he stated that his decision on the pay adjustment would not affect recruitment and retention. The cost of the pay adjustment is about $2.9 billion.

The President announced his allocation of the 2003 pay adjustment in Executive Order 13282, issued on December 31, 2002.[31]

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[29]Press Briefing on the Budget by Office of Management and Budget Director Mitch Daniels, Feb. 4, 2002. Available on the Internet at [http://www.whitehouse.gov/omb/transcripts/daniels_03budget.html], visited Apr. 2, 2002. The ECI requires a 3.1% annual pay adjustment in January 2003.

[30]U.S. President (Bush), "Text of a Letter from the President to the Speaker of the House of Representatives and the President of the Senate," Nov. 27, 2002.

[31]U.S. President (Bush), "Adjustments of Certain Rates of Pay," Executive Order 13282, *Federal Register*, vol. 68, Jan. 8, 2003, pp. 1133-1134.

Congressional Actions and Considerations

Congress, in considering the size of the federal white-collar pay adjustment that would be provided in January 2003, could pass an adjustment that is different from the adjustment recommended by the President in the budget or authorized by the President in an alternative plan. The January 1999 (3.6%), January 2000 (4.8%), and January 2002 (4.6%) overall pay adjustment amounts were set by Congress.[32]

Seven Members of Congress from the Washington, DC, area wrote a letter to President Bush on January 30, 2002 urging him to adjust pay for federal civilian employees at the same time and in the same proportion as pay for the uniformed military. The letter stated: "Last year, the House and Senate budget resolutions included a pay parity provision signaling that parity between our military and civilian employees is fair and reasonable. Congress has supported pay parity in 17 of the last 20 years and we urge that you adequately fund the continuance of this commitment."[33] The FY2003 budget proposed a 4.1% pay increase for the military.[34] According to OPM, it would cost an additional $1.5 billion to provide a 4.1% pay adjustment rather than a 2.6% pay adjustment to federal civilian employees.[35]

Senator Daniel Akaka, Chairman of the Senate Subcommittee on International Security, Proliferation, and Federal Services of the Committee on Governmental Affairs, in a statement on the Senate floor, said that "By 2005, over half the Federal workforce will be eligible to retire, and as long as fewer young people are choosing Federal service to fill these gaps, there should be a commitment from the highest levels of government to ensure that agencies are adequately staffed with the right people and the right skills to run the government in an effective and efficient manner."[36] Representative Steny Hoyer, ranking member of the House Committee on Appropriations, Subcommittee on Treasury, Postal Service, and General

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[32]P.L. 105-277, P.L. 106-58, and P.L. 107- 67, respectively, provided the 3.6%, 4.8%, and 4.6% pay adjustments, respectively, but reserved for the President the decision as to how the increases would be allocated between the annual and locality pay adjustments.

[33]The letter is available on the Internet at [http://www.house.gov/hoyer/20020130a.htm], visited Feb. 4, 2002. See also Stephen Barr, "The Annual Reminder That Civil Servants Have Friends on the Hill," *Washington Post*, Feb. 1, 2002, p. B2. The Members of Congress are Reps. Thomas Davis, Steny Hoyer, James Moran, Constance Morella, Frank Wolf, Albert Wynn, and Del. Eleanor Holmes Norton.

[34]U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2003* (Washington: GPO, 2002), p. 96. For the uniformed military pay adjustments, see CRS Issue Brief IB10089, *Military Pay and Benefits: Key Questions and Answers,* by (name redacted).

[35]U.S. Executive Office of the President, Office of Management and Budget, *Statement of Administration Policy, H.R. 5120 - Treasury, Postal Service, and General Government Appropriations Bill, FY 2003*, July 18, 2002, p. 2. Available on the Internet at [http://www.whitehouse.gov/omb/] choose "Statements of Administration Policy," visited Aug. 5, 2002.

[36]Statement of Senator Daniel Akaka, "Federal Employees Deserve Pay Parity," *Congressional Record*, daily edition, vol. 148, Feb. 15, 2002, p. S895.

Government, testified on federal pay before the House Committee on the Budget on February 14, 2002. In supporting parity between the military and civilian pay adjustments, he stated that the federal government "will not be able to recruit, much less retain the best and most valuable employees if [it] pays them one third less than they can make in the private sector." He added that "No successful fortune 500 company would stand for this nor should the federal government."[37]

Concurrent Budget Resolutions

The Concurrent Resolution on the Budget for FY2003 (H.Con.Res. 353), as agreed to by the House of Representatives on March 20, 2002, included language at section 403 expressing the sense of the House that the size of the January 2003 federal civilian pay adjustment should be the same as that proposed for the uniformed military, 4.1%. Among the findings stated in the Sense of the House was this: "In almost every year during the past two decades, there have been equal adjustments in the compensation of civilian employees of the United States."[38] Representative James Moran sponsored the amendment that included the provision in H.Con.Res. 353. According to him, "Our real challenge is to raise the income of both groups significantly, not to allow one group to fall further behind the other."[39]

The Senate version of the Concurrent Resolution on the Budget (S.Con.Res. 100), as reported (without written report) from the Senate Committee on the Budget on March 22, 2002, included Sense of the Senate language similar to H.Con.Res. 353 at section 302. Senator Paul Sarbanes sponsored the amendment to include the provision.

The Concurrent Budget Resolution does not become law, but provides the framework within which Congress subsequently considers spending legislation. Any congressional recommendation on the civilian federal pay adjustment is usually included in the Treasury, Postal Service, and General Government Appropriations Bill.

Treasury, Postal Service, and General Government Appropriations Bill, 2003

The Treasury, Postal Service, and General Government Appropriations Bill, 2003 (107th Congress), as passed by the House of Representatives (H.R. 5120) and as reported by the Senate Committee on Appropriations (S. 2740), would have

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[37]Statement of Congressman Steny H. Hoyer Before the House Committee on the Budget, Feb. 14, 2002, p. 3.

[38]H.Con.Res. 353 was agreed to in the House by a 221-209 vote (Roll No. 79) on Mar. 20, 2002. U.S. Congress, House Committee on the Budget, *Concurrent Resolution on the Budget, FY2003*, report to accompany H.Con.Res. 353, 107th Cong., 2nd sess., H.Rept. 107-376 (Washington: GPO, 2002), pp. 88, 156.

[39]"Budget Committee Approves Pay Parity for Federal Workers," news release from Rep. James Moran, Mar. 14, 2002. Available on the Internet at [http://www.house.gov/moran/20020314.htm], visited Apr. 2, 2002.

provided a 4.1% federal civilian pay adjustment, with no recommendation as to how the increase should be divided between the annual and locality pay adjustments.

The House Subcommittee on Treasury, Postal Service, and General Government marked up H.R. 5120 on June 26, 2002 and by voice vote adopted an amendment that would provide a 4.1% pay adjustment. The subcommittee by voice vote approved the bill for consideration by the full committee the same day. On July 9, 2002, the House Committee on Appropriations marked up H.R. 5120 and by voice vote ordered it to be reported favorably to the House of Representatives. It was reported (H.Rept. 107-575) to the House as an original bill by the House Appropriations Committee on July 15, 2002.[40] The House passed H.R. 5120 on a 308-121 vote (Vote No. 341) on July 24, 2002. Section 643 of the bill both as reported and as passed would mandate the 4.1% increase.

The Senate Subcommittee on Treasury and General Government marked up S. 2740 on July 11, 2002 and by voice vote approved the bill, which included the 4.1% pay adjustment, for consideration by the full committee. On July 16, 2002, the Senate Committee on Appropriations marked up S. 2740 and on a 29-0 vote ordered the bill to be reported favorably to the Senate. It was reported (S.Rept. 107-212) to the Senate as an original bill by the Senate Committee on Appropriations on July 17, 2002.[41] Section 637 would mandate the 4.1% pay adjustment.

The 107th Congress adjourned *sine die* before action could be completed on the treasury bill. Several Members of Congress from the Washington, DC metropolitan area, including Representatives Tom Davis, Steny Hoyer, Jim Moran, Frank Wolf, and Albert Wynn, reportedly have said that they will negotiate to add a 1.0% locality payment to the pay adjustment early in the 108th Congress.[42] In a statement responding to the President's alternative plan, Representative Hoyer said that "Before the 107th Congress adjourned, I had a good conversation with Speaker Hastert regarding a 4.1% pay adjustment for federal employees and I am confident that we will authorize that adjustment when Congress reconvenes in January." He also said that

> Congress has spoken very clearly on this issue. Both the House and Senate have already agreed to the 4.1% through action in the fiscal year Treasury-Postal appropriations bills. In addition, the Federal Salary Council recently

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[40] U.S. Congress, House Committee on Appropriations, *Treasury, Postal Service, and General Government Appropriations Bill, 2003*, report to accompany H.R. 5120, 107th Cong., 2nd sess., H.Rept. 107-575 (Washington: GPO, 2002), p. 97.

[41] U.S. Congress, Senate Committee on Appropriations, *Treasury and General Government Appropriation Bill, 2003*, report to accompany S. 2740, 107th Cong., 2nd sess., S. Rept. 107-212 (Washington: GPO, 2002), p. 95.

[42] Stephen Barr, "Don't Give Up on 4.1% Raises, Key Local Lawmakers Say," *The Washington Post*, Dec. 2, 2002, p. B2. Stephen Barr, "Draft OPM Tables Reflect 3.1% Raise, but Congress May Have Last Word," *The Washington Post*, Dec. 3, 2002, p. B2. Tanya N. Ballard, "Lawmaker, Union Stand Behind 4.1 Percent Pay Raise," GovExec.Com, Dec. 2, 2002.

> recommended that the pay adjustment for 2003 be 4.1% and 4.1% provides parity with the military pay adjustment recently signed into law by the President."[43]

On December 5, 2002, Senators George Allen, Barbara Mikulski, Paul Sarbanes, and John Warner sent a letter to Senator Ted Stevens, chairman of the Senate Committee on Appropriations, which "request[ed] that in any Continuing Resolution or any Omnibus Appropriations bill that a 4.1 percent pay raise be included for federal civilian employees." The letter stated that "federal employees are an integral part in our fight against terrorism and protecting our homeland security" and "fully deserve the additional one percent increase to the 3.1 percent pay adjustment currently scheduled for federal employees in 2003."[44]

In the 108th Congress, on February 13, 2003, the Senate and the House of Representatives agreed to the conference report for H.J.Res. 2, making further continuing appropriations for the fiscal year 2003.[45] Section 637 of H.J. Res. 2 provided for a 4.1% pay adjustment effective as of the first applicable pay period beginning on or after January 1, 2003. In the conference report accompanying the bill, the conferees endorsed the Federal Salary Council's October 2002 recommendation for allocating locality pay. FEDweek reported the following with regard to the pay increase: "Although not specified in the recently enacted legislation, it's expected that the funds for the additional percentage point of salary will be divided up as locality pay."[46] According to the *Federal Times*, "the extra 1 percent ... likely will be calculated as locality pay."[47] Agencies are required to absorb the cost of the increase.

President Bush signed H.J. Res. 2 on February 20, 2003 and it became P.L. 108-7. On March 21, 2003, the President issued Executive Order 13291 which allocated the additional 1.0% as locality pay.[48] The locality pay adjustment is retroactive to January 2003. According to OPM, the cost of the combined 4.1% pay adjustment is about $3.8 billion dollars. OPM issued new salary tables for 2003 to implement the executive order and these are available on the Internet at [http://www.opm.gov].

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[43] Media Release, Rep. Steny H. Hoyer, "Hoyer Determined to Push Ahead for 4.1% Fed Pay Adjustment," Nov. 30, 2002.

[44] Letter sent to CRS by facsimile on Dec. 11, 2002.

[45] U.S. Congress, Conference Committees, 2003, *Making Further Continuing Appropriations For the Fiscal Year 2003, and For Other Purposes*, conference report to accompany H.J. Res. 2, 108th Cong., 1st sess., H. Rept. 108-10 (Washington: GPO, 2003), p. 1358. The Senate agreed to the conference report for H.J.Res. 2 on a 76 to 20 vote (No. 34) and the House of Representatives agreed to the conference report on a 338 to 83 vote (Roll No. 32) on Feb. 13, 2003.

[46] FEDweek Issue: Wednesday, Feb. 19, 2003. Available on the Internet at [http://www.fedweek.com], visited Feb. 19, 2003.

[47] Tim Kauffman, "Federal Workers In Line For Second '03 Pay Raise," *Federal Times*, Feb. 17, 2003. Available on the Internet at [http://federaltimes.com], visited Feb. 19, 2003.

[48] U.S. President (Bush), "Further Adjustment of Certain Rates of Pay," Executive Order 13291, *Federal Register*, vol. 68, Mar. 25, 2003, pp. 14525-14526.

Table 1 shows the recommended locality payments, the authorized locality payments, and the net annual and locality pay increases.

Employee Views

As in past years, the American Federation of Government Employees (AFGE) and the National Treasury Employees Union (NTEU) endorse pay parity between federal civilian employees and the uniformed military and full implementation of FEPCA.[49]

[49]See The American Federation of Government Employees, AFL-CIO, "2002 Federal Pay Raise Insufficient for Critical Government Employee Recruitment," Jan. 14, 2002. Available on the Internet at [http://afge.org] (choose Press Releases), visited Feb. 4, 2002. Stephen Barr, "Government Pay Review, Recruiting Problems Will Shake Up OPM Priorities," *Washington Post*, Feb. 4, 2002, p. B2.

Table 1. January 2003 Recommended Locality Payments, Authorized Locality Payments, and Net Annual and Locality Pay Increases

Pay Areas	2003 Recommended Locality Payments	2003 Authorized Locality Payments	Net Increase, Annual and Locality Pay
Atlanta MSA	25.52%	10.85%	4.14%
Boston-Worcester-Lawrence CMSA, all of Bristol County, MA, and the State of Rhode Island	32.81%	15.00%	4.40%
Chicago-Gary-Kenosha CMSA	36.15%	16.15%	4.51%
Cincinnati-Hamilton CMSA	31.10%	13.44%	4.34%
Cleveland-Akron CMSA	26.90%	11.50%	4.19%
Columbus, OH MSA	24.76%	11.78%	4.11%
Dallas-Fort Worth CMSA	27.64%	12.10%	4.22%
Dayton-Springfield MSA	24.02%	10.67%	4.09%
Denver-Boulder-Greeley CMSA	32.79%	14.77%	4.40%
Detroit-Ann Arbor-Flint CMSA	35.91%	16.27%	4.50%
Hartford MSA and New London County	33.37%	15.56%	4.41%
Houston-Galveston-Brazoria CMSA	44.16%	20.53%	4.77%
Huntsville MSA	22.41%	10.06%	4.03%
Indianapolis MSA	22.41%	9.83%	4.03%
Kansas City MSA	22.41%	10.26%	4.02%
Los Angeles-Riverside-Orange County CMSA and Santa Barbara County and Edwards Air Force Base	38.15%	17.71%	4.57%
Miami-Fort Lauderdale CMSA	31.29%	13.81%	4.35%
Milwaukee-Racine CMSA	26.44%	11.20%	4.18%
Minneapolis-St. Paul MSA	29.32%	12.84%	4.28%
New York-Northern New Jersey-Long Island CMSA	36.71%	16.83%	4.53%
Orlando MSA	22.55%	9.65%	4.03%
Philadelphia-Wilmington-Atlantic City CMSA	30.24%	13.43%	4.31%
Pittsburgh MSA	23.02%	10.52%	4.04%
Portland, OR-Salem, WA CMSA	30.55%	12.97%	4.33%
Richmond-Petersburg MSA	24.90%	10.75%	4.12%
Sacramento-Yolo CMSA	29.86%	13.29%	4.30%
St. Louis MSA	23.15%	9.99%	4.06%
San Diego MSA	31.58%	14.07%	4.35%
San Francisco-Oakland-San Jose CMSA and Monterey County	46.79%	21.08%	4.87%
Seattle-Tacoma-Bremerton CMSA	30.86%	13.11%	4.34%
Washington, DC-Baltimore, MD CMSA and St. Mary's County	28.93%	12.74%	4.27%
Rest of the U.S.	22.41%	9.62%	4.03%
Average	27.59%	12.14%	4.21%

Source: Memorandum for the President's Pay Agent from the Federal Salary Council, *Level of Comparability Payments for January 2003 and Other Matters Pertaining to the Locality Pay Program* (Washington: Oct. 31, 2001), p. 11; and *Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President's Pay Agent* (Washington: 2001), p. 19. U.S. President (Bush), "Adjustments of Certain Rates of Pay," Executive Order 13282, *Federal Register*, vol. 68, Jan. 8, 2003, pp. 1133-1134. The Executive Order provided a 3.1% annual pay adjustment and froze locality payments at the January 2002 levels. U.S. President (Bush), "Further Adjustment of Certain Rates of Pay," Executive Order 13291, *Federal Register*, vol. 68, March 25, 2003, pp. 14525-14526. The Executive Order provided a locality-based comparability payment, averaging about 1.0% of the General Schedule payroll.

Notes: The actual pay rates are calculated as follows. First, the basic General Schedule (GS) is increased by the annual adjustment percentage, resulting in a new GS schedule. These new basic GS rates are then increased by the locality payment. The resulting pay rates (annual + locality) are compared with the 2002 pay rates (annual + locality) to derive the net increase in pay for 2003. Salary tables for 2003 are available on the Internet at [http://www.opm.gov]. MSA refers to a Metropolitan Statistical Area. CMSA refers to a Consolidated Metropolitan Statistical Area. The component parts of each pay area are described at 5 CFR 531.603(b).