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Federal White-Collar Pay: FY2005 Salary Adjustments

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Federal White-Collar Pay: FY2005 Salary Adjustments

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. The law has never been implemented as originally enacted; annual and locality payments have been reduced. In January 2005, they received a 2.5% annual pay adjustment and a 1.0% locality-based comparability payment under Executive Order 13368, issued by President George W. Bush on December 30, 2004. 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 2.5% in January 2005. 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 2005. The Federal Salary Council and the Pay Agent recommended that, to carry out FEPCA, the 2005 locality payments range from 18.14% in the “Rest of the United States” (RUS) pay area to 47.96% in the San Jose-San Francisco pay area. The payment recommended for the Washington, DC, pay area was 29.66%. Because the new locality rate replaces the existing locality rate, the change in locality rates is derived by comparing 2004 locality payments with those recommended for 2005. This comparison results in recommended net increases for 2005, if the ECI and locality-based comparability payments were granted as required by law, of 9.19% in the RUS pay area to 22.10% in the San Jose-San Francisco pay area, and 15.94% 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 have been 13.06% in 2005. President Bush’s FY2005 budget proposed a 1.5% federal civilian pay adjustment. He proposed a 3.5% pay adjustment for the uniformed military, and a number of Members of Congress advocated the same pay adjustment for federal civilians. The Departments of Transportation and Treasury and Independent Agencies appropriations bill, 2005 — H.R. 5025, as passed by the House of Representatives, and S. 2806, as reported in the Senate — provides a 3.5% pay adjustment for federal civilian employees, including those in the Departments of Defense and Homeland Security. This appropriations bill was incorporated as Division H of the Consolidated Appropriations Act for FY2005 (H.R. 4818) which was signed by the President on December 8, 2004, and became P.L. 108-447.

The President’s budget for FY2006 proposes pay adjustments of 2.3% for federal civilian employees and 3.1% for the uniformed military. The same pay adjustment for both civilians and the military is advocated by several Members of Congress.

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Federal White-Collar Pay: FY2005 Salary Adjustments

Introduction

In January 2005, federal white-collar employees received a 2.5% annual pay adjustment and a 1.0% locality-based comparability payment under Executive Order 13368, issued by President George W. Bush on December 30, 2004.¹ The pay increase is authorized by Section 640 of Title VI of Division H of the Consolidated Appropriations Act for FY2005 (H.R. 4818), which was signed by the President on December 8, 2004, and became P.L. 108-447. The Office of Personnel Management (OPM) published the salary tables for 2005 on its website on December 31, 2004, and these are available 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 1990.² 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 2005, reduced amounts of the locality payments were provided. **Table 2** shows annual and locality pay adjustments under FEPCA for the years 1991 through 2005. Federal white-collar employees received an average 4.1% pay adjustment in January 2004.³ The nationwide average net pay increase in January 2004, if the Employment Cost Index (ECI) and locality-based comparability payments had been granted as specified by FEPCA, would have been 15.15%. In 2005, federal white-collar employees received a 3.5% combined annual and locality pay adjustment. The nationwide average net pay increase in January 2005, if the ECI and locality-based comparability payments had been granted as specified by FEPCA, would have been 13.06%.

¹ U.S. President (Bush), "Adjustments of Certain Rates of Pay," Executive Order 13368, *Federal Register*, vol. 70, Jan. 5, 2005, pp. 1145-1156.

² 104 Stat. 1427.

³ For the 2004 salary adjustments, see CRS Report RL31823, *Federal Pay: FY2004 Salary Adjustments*, by Barbara L. Schwemle.

This report discusses the January 2005 annual adjustment and locality payments. It does not cover salary adjustments for federal officials, federal judges, or Members of Congress.⁴

2005 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 annually adjust salaries of 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.⁵ 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 2.5% in January 2005, reflecting the September 2002 to September 2003 change in private sector wages and salaries of 3.0%, minus 0.5%.⁶ 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 serious economic conditions affecting the general welfare. The alternative plan must

⁴ 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 Sharon S. Gressle. Also see CRS Report 97-615, *Salaries of Members of Congress: Congressional Votes, 1990-2004*; CRS Report 97-1011, *Salaries of Members of Congress: A List of Payable Rates and Effective Dates, 1789-2004*; CRS Report RL30014, *Salaries of Members of Congress: Current Procedures and Recent Adjustments*; and CRS Report RL30064, *Congressional Salaries and Allowances*, all by Paul E. Dwyer.

⁵ 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. For 2004, basic pay ranges from \$104,927 to \$136,900.

⁶ U.S. Department of Labor, Bureau of Labor Statistics, *Employment Cost Index — September 2003* (Washington: Oct. 30, 2003), pp. 2, 13.

be submitted to Congress before the September 1 preceding the scheduled effective date.⁷ The President did not issue an alternative plan.

Locality-Based Comparability Payments

GS employees receive the locality-based comparability payments; the Pay Agent⁸ may also extend these payments to employees in the Foreign Service and in senior-level, scientific and professional, administrative law judge, administrative appeals judge, and contract appeals board member positions.⁹ The Pay Agent determines the applicable pay cap level for certain non-General Schedule employees to whom locality pay is extended.¹⁰ OPM published final regulations in December 2001 to clarify and redefine the limitations.¹¹ 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.¹² For 2004, notwithstanding the cap, the blue-collar pay adjustment in a particular location will be no less than the increase received by GS employees in that location. Blue-collar workers in Alaska, Hawaii, and other non-foreign areas will receive a pay adjustment in 2004 that is no less than the increase received by GS employees in the

⁷ 104 Stat. 1429-1431; 5 U.S.C. 5301-5303.

⁸ The Pay Agent comprises the Secretary of Labor (Elaine L. Chao), the Director of the Office of Management and Budget (Joshua B. Bolten), and the Director of the Office of Personnel Management (Kay Coles James).

⁹ 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.

¹⁰ 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.

¹¹ The proposed regulations stated: “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, Mar. 24, 2000, pp. 15875-15877. U.S. Office of Personnel Management, “Locality-Based Comparability Payments,” *Federal Register*, vol. 66, Dec. 28, 2001, pp. 67069-67070.

¹² For FY2005, this provision is at Section 613 of the Consolidated Omnibus Appropriations Act for FY2005, P.L. 108-447. (It was included at Section 613 of H.R. 5025, as passed by the House, and S. 2806, as reported — the Departments of Transportation and Treasury and Independent Agencies appropriations bill, 2005.)

RUS pay area.¹³ 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 locality pay. Federal employees in Alaska and Hawaii, and outside of the continental United States, receive a cost-of-living (COLA) allowance rather than locality pay.

Under an interim rule published by OPM in the *Federal Register* on August 5, 2004, a locality rate of pay would be considered as basic pay in computing danger pay allowances and post differentials for certain employees who are temporarily assigned to foreign areas and for whom the Department of State has established allowances for danger.¹⁴

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 authorizes the President to fix an alternative level of locality-based comparability payments if, because of a 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 these comparability payments would be payable (by November 30, 2004), 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 this alternative level would be necessary.¹⁵ President Bush issued an alternative plan on November 29, 2004, stating that the locality pay percentages authorized in 2004 would remain in effect in 2005.¹⁶ (See the discussion under “The President’s Recommendation,” below.)

Bureau of Labor Statistics (BLS) Surveys. Under the law, the BLS conducts surveys that document non-federal rates of pay in each pay area. In January 2005, there will be 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 had been conducted under the National Compensation Survey (NCS)

¹³ This provision would be continued in Section 640(b) of the Consolidated Appropriations Act for FY2005, P.L. 108-447. (It was included at 638(b) of H.R. 5025, as passed by the House, and Section 640(b) of S. 2806, as reported — the Departments of Transportation and Treasury and Independent Agencies appropriations bill, 2005.)

¹⁴ U.S. Office of Personnel Management, “Locality-Based Comparability Payments,” *Federal Register*, vol. 69, Aug. 5, 2004, pp. 47353-47354.

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

¹⁶ 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. 29, 2004, in *Weekly Compilation of Presidential Documents*, vol. 40, Dec. 6, 2004, p. 2877.

program, which was not approved for use with the January 2000, January 2001, January 2002, and January 2003 locality payments. For the January 2004 locality payments, a phase-in of NCS survey data was approved, and this phase-in will continue for January 2005 by applying a weight of 75% to NCS results and a weight of 25% to OCSP results. 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 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, 42.3% in 2002, 44% in 2003, and 53.7% in 2004. These percentages represent the gap as recalculated after each adjustment. By January 2002, and continuing each year thereafter, 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.¹⁷

The pay gaps on which the locality payments are based are 22 months old by the effective date of the adjustment; thus, March 2003 gaps determine the January 2005 locality payments. Due to the fact that the NCS surveys were not approved for use in determining the January 2000, January 2001, January 2002, and January 2003 locality payments, that the NCS surveys were being phased in for the January 2004 locality payments, and that the phase-in continues for the January 2005 locality payments, the gaps were determined by the following means. The March 2003 gaps were determined by using the most recent OCSP survey data and NCS survey data which ranged from December 2001 through October 2002 for each pay area. Since

¹⁷ The council comprises nine members. Members generally recognized for their impartiality, knowledge, and experience in labor relations and pay policy are Terri Lacy, chair; Mary McNally Rose, vice-chair; and Rudy Joseph Maestas. The other members represent the American Federation of Government Employees (vacant pending appointment; expected to be national president John Gage); 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 (vacant pending appointment); the Association of Civilian Technicians (Thomas G. Bastas); and the Fraternal Order of Police (James Pasco).

the BLS had discontinued the OCSP program in October 1996, the OCSP pay survey data for some of the largest pay areas were about eight 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 pay areas varied from January 1996 to November 1996. The data for the “Rest of the United States” pay area were as of November 1996. In its report on the 2005 locality payments, the Pay Agent explained how the pay gaps were determined, stating that, “To ensure that local pay disparities are measured as of one common date, it is necessary to ‘age’ the BLS survey data [using the ECI based on wages and salaries for white-collar civilian workers, excluding those in sales] to a common reference date [March 2003] before comparing [them] to GS pay data of the same date.”¹⁸

Report of the Federal Salary Council. The council reported the following results from the application of this methodology. As of March 2003, the overall gap between GS average salaries (excluding existing locality payments, special rates, and certain other payments) and non-federal average salaries was 31.82%. The amount needed to reduce this disparity to 5%, as mandated by FEPCA, averages 25.54% for 2005. The calculation of the pay gaps excludes existing locality payments. After considering the 12.12% average locality rate paid in 2003, the overall average pay gap in 2003 was 17.57%.¹⁹

Locality Payments. In order to meet the target for closing the pay gap, the council recommended locality pay raises ranging from 18.14% in the “Rest of the United States” (RUS) pay area to 47.96% in the San Jose-San Francisco pay area. The payment recommended for the Washington, DC, pay area is 29.66%. Because the new locality rate replaces the existing locality rate, the change in locality rates is derived by comparing 2004 locality payments with those recommended for 2005. This comparison results in recommended net increases for 2005, if the ECI and locality-based comparability payments were granted as required by law, of 9.19% in the RUS pay area to 22.10% in the San Jose-San Francisco pay area, and 15.94% 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 have been 13.06% in 2005.

Locality Pay Areas and Boundaries for 2005. The council recommended continuation of 29 of the 32 locality pay areas that existed in 2004. The Kansas City, Orlando, and St. Louis locality pay areas were recommended to become part of the “Rest of the United States” pay area, as discussed below under the section on locations with pay gaps below RUS. The council also recommended that the new Office of Management and Budget (OMB) definitions for metropolitan statistical areas be used to define locality pay area boundaries. Under this recommendation, the

¹⁸ *Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President’s Pay Agent* (Washington: Dec. 2003), p. 10.

¹⁹ Memorandum for the President’s Pay Agent from the Federal Salary Council, *Level of Comparability Payments for January 2005 and Other Matters Pertaining to the Locality Pay Program* (Washington: Oct. 28, 2003), p. 2. (Hereafter referred to as 2005 Federal Salary Council Report.)

largest defined areas, called Combined Statistical Areas (CSAs) would be used; the new Micropolitan Statistical Areas would be used only when part of larger CSAs; and the OMB definitions for counties in New England would be used.²⁰

Locations with Pay Gaps Below the “Rest of the United States” Pay Area. 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 little data available in BLS surveys and pay gaps that were two-tenths of a percentage point (0.2%) or more below RUS or below the RUS pay area for three surveys were to be dropped as surveyed discrete pay areas, and the resources used to conduct these surveys were to be redirected to survey new locations. Under the OCSP surveys, pay gaps in four areas — Huntsville, Indianapolis, Kansas City, and Orlando — are below RUS in 2003 and have been below or close to RUS for several years. Under the NCS surveys, pay gaps in five areas — Columbus, Dayton, Kansas City, Orlando, and St. Louis — are below RUS in 2003.

Kansas City, Orlando, and St. Louis are below RUS under the weighted averages of both the OCSP and NCS surveys. For 2005, the council recommended that salary surveys in these areas be discontinued and that the three areas become part of RUS. The resources previously used to conduct surveys in Kansas City, Orlando, and St. Louis would be used to carry out surveys “in as many of the following locations as possible”: Phoenix-Mesa-Scottsdale, AZ MSA; Memphis, TN-MS-AR MSA; Austin-Round Rock, TX MSA; Louisville-Elizabethtown-Scottsberg, KY-IN CSA; Buffalo-Cheektowaga-Tonawanda, NY MSA; and Raleigh-Durham-Cary, NC CSA. These six areas have more than 2,500 General Schedule (GS) employees, a nonfarm workforce of more than 375,000, and a BLS pay differential of greater than five percent when compared to the RUS pay differential. The additional areas listed above are ranked by GS employment totals. The council recommended that the additional areas be surveyed in the order in which they are listed.²¹

Evaluating Areas in the Vicinity of Locality Pay Areas. To evaluate areas currently in the “Rest of the United States” pay area for possible inclusion in adjacent locality pay areas, the council recommended the following criteria.

For adjacent MSAs and CSAs: To be included in an adjacent locality pay area, an adjacent MSA or CSA currently in the RUS locality pay area must have at

²⁰ Since the implementation of locality pay in 1994, the definitions of Metropolitan Statistical Areas (MSAs) established by the Office of Management and Budget have been used by the Pay Agent to establish the boundaries for locality pay areas. In June 2003, OMB published new definitions for MSAs based on the 2000 Census and newly revised criteria. For a discussion of the council’s and the Pay Agent’s consideration of the new OMB definitions, see CRS Report RL31823, *Federal White-Collar Pay: FY2004 Salary Adjustments*, by Barbara L. Schwemle.

²¹ 2005 Federal Salary Council Report, pp. 3-4.

least 1,500 GS employees and an employment interchange measure²² of at least 7.5 percent.

For adjacent counties that are not part of a multi-county MSA or CSA: To be included in an adjacent locality pay area, an adjacent county that is currently in the RUS locality pay area must have at least 400 GS employees and an employment interchange measure of at least 7.5 percent.

For federal facilities that cross locality pay area boundaries: To be included in an adjacent locality pay area, that portion of a federal facility outside of a higher-paying locality pay area must have at least 750 GS employees; the duty stations of the majority of these employees must be within 10 miles of the separate locality pay area; and a significant number of these employees must commute to work from the higher-paying locality pay area.²³

For counties currently included in an MSA-based locality pay area that would be excluded under the new MSA and CSA definitions: To continue to be included in the locality pay area, any county (or portion of a county in the case of York County, ME, where the full county was never in the adjacent locality pay area), must have an employment interchange rate of at least 15% .²⁴

The council also recommended that “areas already included in a locality pay area as a result of the new criteria should not be subject to further review.”²⁵

Requests for Changes in Locality Pay Area Boundaries. Under another council recommendation, requests for changes in the boundaries of locality pay areas, to be considered by the council, would have to include the following information.

- The credentials of the requesting group establishing how the group represents GS employees in the area.
- Identification of the geographic area covered by the proposal.
- The number of GS employees in the area by agency.
- A detailed explanation of why the area should be added to the adjacent locality pay area.
- Current job vacancy rates in the area for GS positions.
- Documentation of recruitment or retention problems for GS employees in the area.

²² The council recommended that commuting rates be calculated using the employment interchange measure, which is defined by the Census as “A measure of the ties between two adjacent entities.” It is “the sum of the percentage of employed residents of the smaller entity who work in the larger entity and the percentage of the employment in the smaller entity that is accounted for by workers who reside in the larger entity.” 2005 Federal Salary Council Report, p. 7.

²³ 2005 Federal Salary Council Report, p. 7.

²⁴ *Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President’s Pay Agent* (Washington, Dec. 2003), p. 19.

²⁵ 2005 Federal Salary Council Report, p. 7.

- Documentation that agencies have tried other pay flexibilities, including requests for special salary rates and use of recruitment, retention, and relocation payments, and that these flexibilities did not solve recruitment and retention problems.
- An indication that the headquarters of affected agencies know about and support the request.
- Distance measures by road between the requesting area and the locality pay area.
- A summary of transportation facilities linking the requesting area and the locality pay area, including commuter rail or other mass transit facilities.
- Agency organizational relationships between activities covered by the proposal and activities in another locality pay area.²⁶

Methodology of the BLS Surveys. The council, in its memorandum to the Pay Agent on the 2001 locality payments (submitted on October 22, 1999), recommended that five improvements be made in the BLS National Compensation Survey program. The council provided a progress report on the improvements in its memorandum to the Pay Agent on the 2005 locality payments. The improvements and progress to date are the following.

- Use three factors, rather than nine, to assign the correct federal grade levels to the non-federal jobs surveyed, and provide grade level guides for occupational families. “OPM has completed development of a four-factor evaluation system for use in the surveys, and BLS has successfully used the new approach in field tests and has already begun to use the Knowledge Factor Guide. BLS will begin to phase the new approach into BLS surveys in the next survey cycle.”
- Develop a model to estimate missing data. “BLS has designed and implemented an econometric model to estimate salaries for jobs not randomly selected in the surveys. The model is derived from survey data and estimates pay for missing jobs as a function of location, occupation, and grade level.”
- 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 between Federal job classifications and the new Standard Occupational Classification System. BLS used the new crosswalk ... for data delivered this year.”
- 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 and Pay Agent staffs have designed a new approach based on grading the highest level of work supervised and adding one, two, or three grades based

²⁶ 2005 Federal Salary Council Report, p. 10.

on the level of supervision ... BLS will begin to phase in the new approach in surveys conducted in the next survey cycle.”

- Develop criteria to identify and exclude jobs that would be classified above GS-15 in government. “BLS has developed methods for identifying and excluding non-Federal jobs that would be classified above GS-15. These data were excluded from the data delivered to the Pay Agent” in 2003.²⁷

Pay Agent Report. After considering the council’s recommendations, the Pay Agent endorsed them in its December 4, 2003, annual report to the President on the 2005 locality payments. The Pay Agent stated that “it would be unwise to allow the locality pay increases shown in [its] report to take effect in January 2005” because of “the current national emergency.”²⁸ The endorsement of the council’s recommendations on defining locality pay areas was tentatively approved. According to the Pay Agent, OPM, on the Agent’s behalf, will publish a notice in the *Federal Register* in 2004 to explain the proposed changes to the locality pay area boundaries and solicit public comments. The final rule will be published in time for implementation in January 2005.²⁹

On September 22, 2004, OPM published proposed regulations in the *Federal Register* to

link the definitions of General Schedule locality pay area boundaries to the geographic scope of metropolitan area definitions established by [OMB]. This proposal makes use of new criteria for evaluating areas adjacent to locality pay areas. The proposed regulations would retain all of the existing locality pay areas, which would be expanded to include a number of additional locations.³⁰

According to OPM, under the proposed changes, about 15,000³¹ General Schedule (GS) employees would move from the Rest of the United States pay area to metropolitan locality pay areas and “about 16,000 GS employees [would be retained] in metropolitan locality pay areas that would have been excluded if only the new MSA definitions were used.”³² OPM accepted comments on the proposed regulations through November 8, 2004.

²⁷ The recommendations are from *2001 Federal Salary Council Report*, p. 8. The progress reports are from *2005 Federal Salary Council Report*, p. 12.

²⁸ *Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President’s Pay Agent* (Washington, Dec. 2003), cover letter.

²⁹ *Ibid.*, p. 18.

³⁰ U.S. Office of Personnel Management, “General Schedule Locality Pay Areas,” *Federal Register*, vol. 69, Sept. 22, 2004, pp. 56721-56725.

³¹ The final regulations published in the *Federal Register* (69 FR 75452) on December 17, 2004, changed this number to 16,000.

³² 69 FR 56724.

The final regulations were published in the *Federal Register* on December 17, 2004, and became effective immediately upon publication so as to be applicable for the January 2005 pay adjustment. In its discussion accompanying the regulations, OPM noted that on October 21, 2004, the Federal Salary Council recommended to the Pay Agent that the York-Hanover-Gettysburg, PA CSA, having met the criteria for inclusion, be added to the Washington-Baltimore locality pay area. The Pay Agent endorsed this recommendation and it was incorporated into the final rule.³³

The Pay Agent estimated that the cost of the January 2005 locality-based comparability payments would be about \$8 billion if the full amount necessary to reduce the pay disparity of the target gap to 5% were provided in January 2005 as required by FEPCA.³⁴ **Table 1** shows the council's and the Pay Agent's recommended locality payments for January 2005.

As for the recommended improvements in the BLS National Compensation Survey Program, the Pay Agent reiterated that those focused on matching federal and non-federal jobs, excluding randomly selected non-federal jobs that would be classified above GS-15 in the government, and problems associated with random selection of survey jobs, have been implemented. Improvements focused on assigning GS grades to randomly selected survey jobs and to randomly selected survey jobs with supervisory duties will be phased-in beginning in 2004.³⁵

In endorsing the council's recommendation that Kansas City, Orlando, and St. Louis become part of the "Rest of the United States" pay area, the Pay Agent asked the BLS to discontinue salary surveys in these three areas as soon as feasible and begin augmenting existing surveys in as many of the six areas identified by the council as possible. (The six areas, as stated above, are Phoenix-Mesa-Scottsdale, AZ MSA; Memphis, TN-MS-AR MSA; Austin-Round Rock, TX MSA; Louisville-Elizabethtown-Scottsberg, KY-IN CSA; Buffalo-Cheektowaga-Tonawanda, NY MSA; and Raleigh-Durham-Cary, NC CSA.) BLS is to formulate a survey plan and report to the Pay Agent in August 2004 "on how many of the new areas could be surveyed for locality pay purposes and under what timeline."³⁶

OPM's proposed regulations on locality pay area boundaries published in the *Federal Register* on September 22, 2004, state that further review revealed that "it would be advisable to continue to monitor the disparity between Federal and non-Federal pay levels in the Kansas City, Orlando, and St. Louis areas before determining whether those areas should be discontinued."³⁷ The final regulations note that the Federal Salary Council recommended to the Pay Agent on October 21, 2004, that the Kansas City, Orlando, and St. Louis pay areas be discontinued in 2006.

³³ U.S. Office of Personnel Management, "General Schedule Locality Pay Areas," *Federal Register*, vol. 69, Dec. 17, 2004, pp. 75451-75453.

³⁴ *Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President's Pay Agent* (Washington: Dec. 2003), pp. 27-28.

³⁵ *Ibid.*, p. 3.

³⁶ *Ibid.*, p. 17.

³⁷ 69 FR 56724.

OPM, on behalf of the Pay Agent, will publish proposed regulations to implement this recommendation in 2005.³⁸

The Pay Agent stated that, while it supported updating the boundaries of locality pay areas, such changes were “an interim measure, pending fundamental reforms in the Federal white-collar pay system.” The Agent has “serious concerns about the utility of a process that requires a single percentage adjustment in the pay of all white-collar civilian Federal employees in each locality pay area without regard to the differing labor markets for major occupational groups or the performance of individual employees.”³⁹

The methodology for setting federal pay adjustments has been questioned since FEPCA’s enactment. In 1993, a draft memorandum from the Pay Agent to the Federal Salary Council concluded that “the current methodology is flawed because the completeness of the data varies greatly among survey areas, because the gaps are not credible in light of other labor market indicators, and because the single percentage adjustment for all jobs in a locality is a poor reflection of market realities.”⁴⁰ Despite these concerns, OPM has never submitted a legislative proposal to Congress to amend FEPCA. A white paper on compensation issued by OPM in April 2002 reviewed current policies and the need for more flexibility in setting General Schedule pay, but did not include any recommendations.⁴¹

In August 2004, the Coalition for Effective Change⁴² released a paper which strongly endorsed implementation of a pay-for-performance system in the federal government. Among the factors the group identified as essential to establishing such a system are that it be flexible, reviewable, periodically evaluated and adjusted, and adequately funded.⁴³ Reform of the federal government’s pay and performance management systems is identified as a top priority in a report entitled “OPM’s Guiding Principles for Civil Service Transformation,” posted on the agency’s website on October 25, 2004. The report advocates government-wide legislation that provides personnel flexibilities similar to those provided to the Departments of

³⁸ 69 FR 75451-75452.

³⁹ *Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President’s Pay Agent* (Washington: Dec. 2003), cover letter.

⁴⁰ Draft memorandum from the President’s Pay Agent to Anthony F. Ingrassia, Acting Chairman, Federal Salary Council [Mar. 1993].

⁴¹ U.S. Office of Personnel Management, *A White Paper; A Fresh Start for Federal Pay: The Case for Modernization* (Washington: OPM, April 2002).

⁴² The coalition includes the American Foreign Service Association, Blacks in Government, Executive Women in Government, the Federal Bar Association, the Federal Librarians Round Table, the National Association of Retired Federal Employees, the National Academy of Public Administration, and the Senior Executives Association.

⁴³ Coalition for Change, *Linking the Pay of Federal Employees to Their Performance*, Aug. 2004.

Homeland Security and Defense to other executive branch agencies. Broad pay bands are one such flexibility.⁴⁴

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 2004 pay rates (annual + locality) to derive the net increase in pay for 2005.

The President's Recommendation for FY2005

President George W. Bush issued his Administration's FY2005 budget on February 2, 2004. The budget proposed a 1.5% 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 2005.⁴⁵ The statutory annual pay adjustment required in January 2005 is 2.5%. 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, 2004. He did not issue an alternative plan. To change the amount of locality-based comparability payments, he had to submit an alternative plan for the locality payments to Congress by November 30, 2004; otherwise the double-digit percentages stated in the Pay Agent report for the locality payments would have become effective.

The President issued such an alternative plan on November 29, 2004, which stated that the locality pay percentages in effect for 2004 would continue for 2005. According to the President, he issued the plan because the nation is in the midst of a national emergency, which includes operations in Afghanistan and Iraq, and the locality pay adjustments required by law would "divert resources from and interfere with our Nation's ability to fight the war on terror." He stated that the locality payments would average 10.6 percent, would cost about \$9.8 billion in FY2005, and when coupled with the 2.5% annual adjustment would result in an overall average pay increase of some 13.1%. This increase, said the President, would far exceed the 1.5% pay adjustment that he proposed in the FY2005 budget and, since the additional amount would have to be absorbed, could result in agencies having to freeze hiring. The alternative plan notes that the quit rate for the federal government is "at an all-time low of 1.6 percent per year, well below the overall average quit rate in private enterprise" and that recruitment and retention bonuses and special salary rates are available to address any staffing difficulties.⁴⁶

⁴⁴ U.S. Office of Personnel Management, *OPM's Guiding Principles for Civil Service Transformation*, (Washington, 2004), p. 6.

⁴⁵ U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2005; Analytical Perspectives* (Washington: GPO, 2004), p. 173. (Hereafter referred to as FY2005 Budget Analytical Perspectives.)

⁴⁶ U.S. President (Bush), "Text of a Letter from the President to the Speaker of the House (continued...)"

The President's budget also proposed an appropriation of \$300 million for the Human Capital Performance Fund. The FY2004 appropriation (P.L. 108-199) was \$1 million, but after the 0.59% rescission was \$994,000. The fund

is designed to create performance-driven pay systems for employees and reinforce the value of employee performance management systems. It will provide additional pay over and above any annual, across-the-board pay raise to certain civilian employees based on individual or organizational performance and/or other critical agency human capital needs. Ninety percent of funds appropriated are to be distributed to agencies on a pro rata basis, upon OPM approval of an agency's plan. The remainder, and any amount withheld from agencies due to inadequate plans, will be allocated at the discretion of OPM.⁴⁷

The Consolidated Appropriations Act for F2005, P.L. 108-447, does not provide an appropriation for the fund. (See discussion under "Human Capital Performance Fund," below.)

The Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia of the Committee on Governmental Affairs conducted a hearing to examine the progress made in implementing human capital flexibilities on July 20, 2004. Testifying before the subcommittee, OMB's Deputy Director for Management, Clay Johnson, identified pay increases targeted to meet specific recruitment or retention needs as an eventuality for the federal workforce. According to him:

Today, we have targeted, not widespread, recruitment and retention problems in our civilian workforce, and pay surveys reveal that we are currently overpaying employees in some occupational groups in some locations.... [W]e certainly should not grant all civilian employees the same increase no matter what the need because that wouldn't be focusing on the desired result: that would be providing too small an increase where we do have recruitment and retention problems, and too large an increase where we do not have a problem.⁴⁸

Congressional Recommendations for FY2005

The size of the federal white-collar pay adjustment is considered annually by Congress, which may legislate a pay adjustment that is different from the adjustment recommended by the President in the budget or that might be authorized by the President in an alternative plan. The January 1999 (3.6%), January 2000 (4.8%),

⁴⁶ (...continued)

of Representatives and the President of the Senate," Nov. 29, 2004, in *Weekly Compilation of Presidential Documents*, vol. 40, Dec. 6, 2004, p. 2877.

⁴⁷ U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2005; Appendix* (Washington: GPO, 2004), p. 1060.

⁴⁸ Statement of Clay Johnson, III, Deputy Director for Management, Office of Management and Budget, July 20, 2004. Unpublished.

January 2002 (4.6%), January 2003 (4.1%), and January 2004 (4.1%) overall pay adjustment amounts were set by Congress.⁴⁹

Concurrent resolutions introduced in the House of Representatives by Representative Steny Hoyer (H.Con.Res. 356) on February 3, 2004, and in the Senate by Senator Paul Sarbanes (S.Con.Res. 88) on February 9, 2004, expressed the sense of the Congress that there should continue to be parity between the pay adjustments for the uniformed military and federal civilian employees. The resolutions noted the longstanding policy of parity between both the military and civilian pay increases. Such resolutions are effective only in the chamber in which they are proposed, express nonbinding opinions on policies, and do not require the President's signature.

Ten Members of Congress from the Washington, DC, metropolitan area wrote a letter to President Bush on January 21, 2004, urging him to "embrace the principle of pay parity" for federal civilian employees and the uniformed military.⁵⁰ The FY2005 budget proposes a 3.5% pay increase for the military and a 1.5% pay increase for civilian employees.⁵¹

Concurrent Budget Resolutions

The Concurrent Resolution on the Budget for FY2005 (S.Con.Res. 95) was agreed to by the Senate by a 51 to 45 vote (Record No. 58) on March 12, 2004. Section 505 includes a Sense of the Senate provision regarding pay parity that states that "the rate of increase in the compensation of civilian employees should be equal to that proposed for the military in the President's Fiscal Year 2005 Budget." On March 29, 2004, the House of Representatives struck all after the resolving clause of S.Con.Res. 95 and inserted in lieu thereof the text of H.Con.Res. 393 (the House version of the concurrent resolution discussed below) and then agreed to S.Con.Res. 95. As agreed to by the House, the concurrent resolution does not include a pay parity provision. The conference report on S.Con.Res. 95 (H.Rept. 108-498), agreed to by the House by a 216 to 213 vote (Roll No. 198) on May 19, 2004, also does not include a pay parity provision.⁵² The S.Con.Res. 95 conference papers are being held at the desk in the Senate.

⁴⁹ P.L. 105-277, P.L. 106-58, P.L. 107-67, P.L. 108-7, and P.L. 108-199, respectively, provided the 3.6%, 4.8%, 4.6%, 4.1%, and 4.1% 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.

⁵⁰ The letter is posted on Representative Steny Hoyer's website at "Bi-Partisan Washington, D.C. Regional Delegation Sends Message to President: Adhere to Historic Bi-Partisan Congressional Policy of Pay Parity," Jan. 21, 2004. [<http://www.hoyer.house.gov>], visited April 19, 2004.

⁵¹ FY2005 Budget Analytical Perspectives, p. 173. For the uniformed military pay adjustments, see CRS Issue Brief IB10089, *Military Pay and Benefits: Key Questions and Answers*, by Robert L. Goldich.

⁵² U.S. Congress, Conference Committees, 2004, *Concurrent Resolution on the Budget for Fiscal Year 2005*, conference report to accompany S.Con.Res. 95, 108th Cong., 2nd sess., H.Rept. 108-498 (Washington: GPO, 2004).

The House version of the Concurrent Resolution on the Budget (H.Con.Res. 393), as agreed to by the House of Representatives by a 215 to 212 vote (Roll No. 92) on March 25, 2004, does not include a Sense of the House provision on pay parity. An amendment to provide such, offered by Representative James Moran during House Budget Committee markup of the concurrent resolution on March 17, 2004, was not agreed to by a 21 to 15 vote. Representatives Jim Nussle, the Budget Committee chairman; Ernest Istook Jr., the Transportation, Treasury, and Independent Agencies Appropriations Subcommittee chair; and William Thornberry were among those who opposed the amendment offered by Representative Moran. One argument against supporting the pay parity amendment was that the job of a member of the uniformed military is more demanding than that of a civilian employee and the pay adjustment should reflect this difference.

During discussions surrounding the vote on H.Con.Res. 393, the Speaker of the House, Representative Dennis Hastert, agreed to allow a separate vote in the House of Representatives on a pay parity resolution (H.Res. 581) offered by Representative Tom Davis and 22 cosponsors. The resolution states the Sense of the House that “in fiscal year 2005, compensation for civilian employees ... should be adjusted at the same time, and in the same proportion, as are rates of compensation for members of the uniformed services.” On March 31, 2004, the House agreed to H.Res. 581 by a 299 to 126 vote (Roll No. 104). Supporters of H.Res. 581 expressed the hope that the result of the vote would be considered by the conference committee on the Concurrent Budget Resolution.

The resolution does not become law, but it provides the framework within which Congress subsequently considers spending legislation. Any congressional recommendation on the civilian federal pay adjustment has usually been included in the Treasury, Postal Service, and General Government Appropriations bill, which, as of the 108th Congress, has been combined with the Department of Transportation Appropriations bill to be the Departments of Transportation and Treasury and Independent Agencies Appropriations bill.

Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, 2005

Annual and Locality Pay Adjustments. Section 638 of the Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, 2005, H.R. 5025, as passed by the House of Representatives on September 22, 2004, on a 397-12 (Roll No. 465) vote, would provide a 3.5% pay adjustment for federal civilian employees, including those in the Departments of Defense and Homeland Security. The bill does not recommend how the increase should be divided between the annual and locality pay adjustments. The House Subcommittee on Transportation, Treasury, and Independent Agencies marked up the bill on July 15, 2004, and by voice vote approved the bill, as amended, for consideration by the full committee. On July 22, 2004, the House Committee on Appropriations marked up the bill and by voice vote ordered it to be reported favorably to the House of Representatives. H.R. 5025 was reported to the House by the Appropriations Committee on September 8, 2004

(H.Rept. 108-671).⁵³ During the full committee markup, the committee agreed to an amendment offered by Representative Steny Hoyer, joined by Representatives James Moran and Frank Wolf, to provide the 3.5% pay adjustment. Section 501 would provide that the pay increase would be absorbed within the levels appropriated in the act or in previous appropriations acts. Under Section 636, funds could not be used to implement or enforce regulations for locality pay inconsistent with recommendations of the Federal Salary Council.

The House Appropriations Committee report that accompanies the House bill directs OPM “to include with the ‘Annual Report on Locality-Based Comparability Payments for the General Schedule’ in fiscal year 2005 and all future fiscal years a report comparing the total pay and non-pay compensation packages of the Federal workforce and the private sector.”⁵⁴

OMB’s Statement of Administration Policy on H.R. 5025 urged the House to adopt the President’s proposal for a 1.5% pay adjustment and expressed concern that the Human Capital Performance Fund, “a more targeted approach to move the Federal pay system into one that would promote high performance,” is not fully funded. It also stated the Administration’s opposition to restricting its “flexibility to adjust locality pay areas to meet changing needs and conditions” and to

specifying a 3.5 percent across-the-board increase for Department of Homeland Security (DHS) and Department of Defense (DOD) civilian employees. This provision would limit flexibility as DHS and DOD use the new authorities ... to design and implement a modern personnel and pay system.... [T]he Administration opposes the provision relating to pay adjustments for blue-collar employees, which would disregard the results of local blue-collar wage surveys and provide a pay increase identical to local General Schedule employees. These provisions could result in paying blue-collar employees at rates higher than local labor markets and would create a host of technical and equity problems.⁵⁵

Section 640 of S. 2806, the Senate version of the Transportation/Treasury appropriations bill, as reported to the Senate by the Committee on Appropriations, also would provide a 3.5% pay adjustment for federal civilian employees, including those in the Departments of Defense and Homeland Security. Like the House bill, the Senate bill does not recommend how the increase should be divided between the annual and locality pay adjustments. The Senate Subcommittee on Transportation, Treasury, and General Government marked up the bill on September 9, 2004, and by voice vote approved the bill, as amended, for consideration by the full committee. On September 14, 2004, the Senate Committee on Appropriations marked up the bill

⁵³ U.S. Congress, House Committee on Appropriations, *Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, 2005*, report to accompany H.R. 5025, 108th Cong., 2nd sess., H.Rept. 108-671 (Washington: GPO, 2004). (Hereafter referred to as H.Rept. 108-671.)

⁵⁴ *Ibid.*, p. 153.

⁵⁵ U.S. Executive Office of the President, Office of Management and Budget, Statement of Administration Policy, *H.R. 5025 Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, 2005*, Sept. 14, 2004, p. 2.

and on a 29-0 vote ordered it to be reported to the Senate. S. 2806 was reported on September 15, 2004 (S.Rept. 108-342).⁵⁶

As the second session of the 108th Congress was drawing to a close, the Departments of Transportation and Treasury and Independent Agencies appropriations bill for 2005 was incorporated in H.R. 4818, the Consolidated Appropriations Act for FY2005, as Division H. The House of Representatives agreed to the conference report accompanying H.R. 4818 on a 344-51 (1 Present) vote (Roll No. 542) on November 20, 2004, and the Senate agreed to the conference report on a 65-30 (No. 215) vote the same day.⁵⁷ The conference agreement, at Section 640(a), provides a 3.5% pay adjustment for federal civilian employees, including those in the Departments of Defense and Homeland Security. The adjustment is effective as of the first day of the first applicable pay period beginning on or after January 1, 2005. Section 501 of the conference agreement requires the pay raises to be funded within appropriated levels. The conferees also direct the OPM Director to submit a report by March 4, 2005, comparing the pay and non-pay compensation packages of the federal workforce and the private sector. President Bush signed H.R. 4818 on December 8, 2004, and it became P.L. 108-447. The pay provisions are at Section 640(a) and Section 501 of the law.

On December 30, 2004, President Bush issued Executive Order 13368, which allocated the 3.5% pay increase as 2.5% annual and 1.0% locality.⁵⁸ OPM published the 2005 salary tables on its website the next day, and these are available at [<http://www.opm.gov>]. **Table 1** shows the recommended locality payments, the authorized locality payments, and the net annual and locality pay increases.

In a November 17, 2004, letter to the Chairmen and Ranking Members of the House and Senate Committees on Appropriations, the OMB Director, Joshua Bolten, stated the Administration's strong opposition to a federal civilian pay raise in excess of 2.5%. The letter stated that a 3.5% pay adjustment was \$2.2 billion more than the President's request and

provides a percentage increase that exceeds inflation, the statutory base pay increase, and the average increase in private sector pay as measured by the Employment Cost Index. Any recruitment or retention problems facing the Government are limited to a few areas and occupations and do not warrant such an arbitrary across-the-board increase. An increase to 3.5% across-the-board would be very difficult for agencies to absorb, particularly when combined with any other across-the-board reductions used to meet overall spending targets, and

⁵⁶ U.S. Congress, Senate Committee on Appropriations, *Transportation, Treasury and General Government Appropriations Bill, 2005*, report to accompany S. 2806, 108th Cong., 2nd sess., S.Rept. 108-342 (Washington: GPO, 2004), p. 205. (Hereafter referred to as S.Rept. 108-342.)

⁵⁷ U.S. Congress, Conference Committees, 2004, *Consolidated Appropriations Act FY2005*, conference report to accompany H.R. 4818, 108th Cong., 2nd sess., H.Rept. 108-792 (Washington: GPO, 2004). (Hereafter referred to as H.Rept. 108-792.)

⁵⁸ U.S. President (Bush), "Adjustments of Certain Rates of Pay," Executive Order 13368, *Federal Register*, vol. 70, Jan. 5, 2005, pp. 1145-1156.

will likely require reductions-in-force or shifts of resources away from critical programmatic priorities.⁵⁹

Human Capital Performance Fund. The House Committee on Appropriations recommended and the House passed in H.R. 5025 an appropriation of \$12.5 million for the Human Capital Performance Fund. This amount is \$287.5 million less than the President's request. The House bill would authorize the OPM Director to determine and transfer to federal agencies such amounts as necessary to carry out the purposes of the fund. No funds would be obligated or transferred until the Director has notified the relevant subcommittees of the Committees on Appropriations of the approval of an agency's performance plan and the prior approval of such subcommittees has been obtained. OPM is directed to report annually to the House and Senate Appropriations Committees "on the performance pay plans that have been approved, and the amounts that have been obligated or transferred."⁶⁰

The Senate Committee on Appropriations did not recommend funding for the performance fund in S. 2806. The committee report accompanying the Senate bill states that such an initiative "should be budgeted and administered within the salaries and expenses of each individual agency."⁶¹ The Consolidated Appropriations Act for FY2005, P.L. 108-447, does not provide an appropriation for the fund.

The President's Recommendation for FY2006

President Bush issued his Administration's FY2006 budget on February 7, 2005. The budget proposes a 2.3% federal civilian pay adjustment, but does not state how the increase would be allocated between the annual and locality adjustments required by FEPCA in January 2006.⁶² The statutory annual pay adjustment required in January 2006 is 2.1%. If the President wants to change the required rate of the annual adjustment, he must submit an alternative plan for the annual adjustment to Congress by September 1, 2005. To change the amount of locality-based comparability payments, he must submit an alternative plan for the locality payments to Congress by November 30, 2005. The nationwide average net pay increase, if the

⁵⁹ U.S. Executive Office of the President, Office of Management and Budget, Letter from Joshua B. Bolten, Director, to Representatives C.W. "Bill" Young and David R. Obey and Senators Ted Stevens and Robert C. Byrd, Nov. 17, 2004. It should be noted that neither the annual adjustment nor the locality-based comparability payments authorized by the Federal Employees Pay Comparability Act (FEPCA) of 1990, P.L. 101-509, are based on the inflation rate, and that the intent of FEPCA is to supplement the statutory base pay adjustment with locality-based comparability payments.

⁶⁰ H.Rept. 108-671, p. 155.

⁶¹ S.Rept. 108-342, p. 196.

⁶² U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2006; Analytical Perspectives* (Washington: GPO, 2005), p. 191.

annual and locality-based comparability payments were granted as required by law, would be 6.93% in 2006.

Congressional Recommendations for FY2006

Concurrent resolutions introduced in the House of Representatives by Representative Steny Hoyer (H.Con.Res. 40) on February 1, 2005, and in the Senate on the same day by Senator Paul Sarbanes (S.Con.Res. 8) express the sense of the Congress that there should continue to be parity between the pay adjustments for the uniformed military and federal civilian employees. The President's budget proposes a 3.1% pay adjustment for the uniformed military. Such resolutions are effective only in the chamber in which they are proposed, express nonbinding opinions on policies, and do not require the President's signature.

Ten Members of Congress from the Washington, DC, metropolitan area wrote a letter to President Bush on January 25, 2005, urging him to "embrace the principle of pay parity" for federal civilian employees and the uniformed military.⁶³ The letter states that the signatories "cannot express strongly enough the importance of continuing the tradition of pay parity" as the war on terrorism continues and as the retirement of the government's most experienced employees looms on the horizon. The Members also state their willingness to explore initiatives on effectively allocating human capital expenditures and ensuring that the federal government is able to recruit, retain, and reward employees. Earlier, on January 5, 2005, Representative Hoyer sent a letter to OMB Director Clay Johnson III renewing his earlier offers "to discuss the administration's objectives regarding pay-for-performance and the implementation of FEPCA."⁶⁴

⁶³ "Hoyer Leads Bipartisan Regional Delegation in Sending Pay Parity Letter to President, Jan. 25, 2005. Available at [<http://www.hoyer.house.gov>], visited Feb. 7, 2005. The letter was signed by Representatives Benjamin L. Cardin, Elijah E. Cummings, Thomas M. Davis, III, Steny Hoyer, James P. Moran, Jr., C.A. Dutch Ruppersberger, Chris Van Hollen, Frank R. Wolf, Albert R. Wynn, and Delegate Eleanor Holmes Norton.

⁶⁴ "Hoyer Calls on President Bush to Present Alternative on Federal Employee Pay," Jan. 5, 2005. Available at [<http://www.hoyer.house.gov>], visited Feb. 7, 2005.

Table 1. January 2005 Recommended Locality Payments, Authorized Locality Payments, and Net Annual and Locality Pay Increase

Pay Areas	2005 Recommended Locality Payments	2005 Authorized Locality Payments	Net Increase, Annual and Locality Pay
Atlanta-Sandy Springs-Gainesville, GA-AL CSA	27.76%	13.87%	3.65%
Boston-Worcester-Manchester, MA-NH CSA, plus the Providence-New Bedford-Fall River, RI-MA MSA, Barnstable County, MA, and Berwick, Eliot, Kittery, South Berwick, and York towns in York County, ME	33.07%	18.49%	3.81%
Chicago-Naperville-Michigan City, IL-IN-WI CSA	31.77%	19.70%	3.75%
Cincinnati-Middletown-Wilmington, OH-KY-IN CSA	21.24%	16.04%	3.36%
Cleveland-Akron-Elyria, OH CSA	24.12%	14.24%	3.50%
Columbus-Marion-Chillicothe, OH CSA	18.50%	13.98%	3.26%
Dallas-Fort Worth, TX CSA	26.91%	15.07%	3.60%
Dayton-Springfield-Greenville, OH CSA	18.36%	12.86%	3.26%
Denver-Aurora-Boulder, CO CSA, plus the Ft. Collins-Loveland, CO MSA and Weld County, CO	30.70%	18.06%	3.73%
Detroit-Warren-Flint, MI, CSA, plus Lenawee County, MI	29.67%	19.67%	3.67%
Hartford-West Hartford-Willimantic, CT CSA, plus the Springfield, MA MSA and New London County, CT	36.22%	19.52%	3.93%
Houston-Baytown-Huntsville, TX CSA	35.86%	24.77%	3.86%
Huntsville-Decatur, AL CSA	20.47%	12.42%	3.36%
Indianapolis-Anderson-Columbus, IN CSA, plus Grant County, IN	19.69%	12.01%	3.33%
Kansas City-Overland Park-Kansas City, MO-KS CSA	18.14%	12.36%	3.25%
Los Angeles-Long Beach-Riverside, CA CSA, plus the Santa Barbara-Santa Maria-Goleta, CA MSA and all of Edwards Air Force Base, CA	35.26%	21.65%	3.87%
Miami-Fort Lauderdale-Miami Beach, FL MSA, plus Monroe County, FL	27.06%	16.77%	3.59%
Milwaukee-Racine-Waukesha, WI CSA	21.64%	13.62%	3.39%
Minneapolis-St. Paul-St. Cloud, MN-WI CSA	27.30%	15.99%	3.61%
New York-Newark-Bridgeport, NY-NJ-CT-PA CSA, plus Monroe County, PA and Warren County, NJ	37.33%	20.99%	3.96%
Orlando-The Villages, FL CSA	18.14%	11.75%	3.26%

Pay Areas	2005 Recommended Locality Payments	2005 Authorized Locality Payments	Net Increase, Annual and Locality Pay
Philadelphia-Camden-Vineland, PA-NJ-DE-MD CSA, plus Kent County, DE, Atlantic County, NJ, and Cape May County, NJ	29.62%	16.67%	3.70%
Pittsburgh-New Castle, PA CSA	20.59%	12.86%	3.36%
Portland-Vancouver-Beaverton, OR-WA MSA, plus Marion County, OR, and Polk County, OR	27.22%	15.93%	3.61%
Richmond, VA MSA	22.53%	13.15%	3.43%
Sacramento — Arden-Arcade — Truckee, CA-NV CSA, plus Carson City, NV	29.16%	16.51%	3.68%
St. Louis-St. Charles-Farmington, MO-IL CSA	18.14%	12.09%	3.26%
San Diego-Carlsbad-San Marcos, CA MSA	33.50%	17.68%	3.84%
San Jose-San Francisco-Oakland, CA CSA, plus the Salinas, CA MSA and San Joaquin County, CA	47.96%	26.39%	4.30%
Seattle-Tacoma-Olympia, WA CSA	30.96%	16.53%	3.76%
Washington-Baltimore-Northern Virginia, DC-MD-VA-WV CSA, plus the Hagerstown-Martinsburg, MD-WV MSA, the York-Hanover-Gettysburg, PA CSA, Culpeper County, VA, and King George County, VA	29.66%	15.98%	3.71%
Rest of the U.S.	18.14%	11.72%	3.26%
Average	25.51%	15.01%	3.54%

Source: Memorandum for the President's Pay Agent from the Federal Salary Council, *Level of Comparability Payments for January 2005 and Other Matters Pertaining to the Locality Pay Program* (Washington: Oct. 28, 2003), Attachment 1; and *Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President's Pay Agent* (Washington: Dec. 2003), p. 24. U.S. President (Bush), "Adjustments of Certain Rates of Pay," Executive Order 13368, *Federal Register*, vol. 70, Jan. 5, 2005, pp. 1145-1156. MSA refers to a Metropolitan Statistical Area. CSA refers to a Combined Statistical Area. The component parts of each pay area are described in U.S. Office of Management and Budget, *Revised Definitions of Metropolitan Statistical Areas, New Definitions of Micropolitan Statistical Areas and Combined Statistical Areas, and Guidance on Uses of the Statistical Definitions of These Areas*, OMB Bulletin No. 03-04, June 6, 2003.

Table 2. Annual and Locality Pay Adjustments Under FEPCA, 1991 to 2005

Year	ECI-Required Annual Adjustment	Annual Adjustment Authorized	Locality Payments Required by FEPCA, National Average	Locality Payments Authorized, National Average	Net Increase, Annual and Locality Pay, National Average
1991	—	4.1%	—	—	4.1%
1992	4.2%	4.2%	—	—	4.2%
1993	3.7%	3.7%	—	—	3.7%
1994	2.2%	0	3.95%	3.95%	3.95%
1995	2.6%	2.0%	6.44%	5.05%	3.08%
1996	2.4%	2.0%	8.58%	5.56%	2.49%
1997	2.3%	2.3%	11.29%	6.37%	3.09%
1998	2.8%	2.3%	14.30%	6.93%	2.84%
1999	3.1%	3.1%	16.95%	7.50%	3.65%
2000	3.8%	3.8%	20.62%	8.62%	4.89%
2001	2.7%	2.7%	23.12%	9.77%	3.76%
2002	3.6%	3.6%	25.92%	10.95%	4.72%
2003	3.1%	3.1%	27.59%	12.12%	4.21%
2004	2.7%	2.7%	25.71%	13.81%	4.10%
2005	2.5%	2.5%	25.51%	15.01%	3.54%

Sources and Notes: Locality-based comparability payments began in 1994. For the ECI-required annual adjustment, see U.S. Department of Labor, Bureau of Labor Statistics, *Employment Cost Index*, September of each year. For the locality payments required by FEPCA, see *Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President's Pay Agent*, December of each year. For the annual and locality pay adjustments authorized, see E.O. 12736, Dec. 12, 1990; E.O. 12786, Dec. 26, 1991; E.O. 12826, Dec. 30, 1992; Presidential memorandum of Dec. 1, 1993; E.O. 12944, Dec. 28, 1994; E.O. 12984, Dec. 28, 1995; E.O. 13033, Dec. 27, 1996; E.O. 13071, Dec. 29, 1997; E.O. 13106, Dec. 7, 1998; E.O. 13144, Dec. 21, 1999; E.O. 13182, Dec. 23, 2000; E.O. 13249, Dec. 28, 2001; E.O.'s 13282, Dec. 31, 2002 and 13291, Mar. 21, 2003; E.O.'s 13322, Dec. 30, 2003 and 13332, Mar. 3, 2004; and E.O. 13368, Dec. 30, 2004.

The net increase for each year was calculated by CRS. The actual pay rates are calculated by the following means. 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 pay rates (annual + locality) for the previous year to derive the net increase in pay for the current year. Salary tables for 2005 are available on the Internet at [<http://www.opm.gov>].