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CONGRESSIONAL SUBMISSION

FISCAL YEAR

2015

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FEDERAL MEDIATION AND CONCILIATION SERVICE

FISCAL YEAR 2015

Congressional Budget Submission

&

Annual Performance Plan

FEDERAL MEDIATION AND CONCILIATION SERVICE
FISCAL YEAR 2015
Congressional Budget Submission & Annual Performance Plan

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Fiscal Year 2015 Budget Estimates

I. Executive Summary

The Federal Mediation and Conciliation Service (FMCS) is an independent agency of the federal government established by Congress in 1947 to help employers and unions avoid costly work stoppages and minimize their potentially devastating effects on regional or national commerce. The FMCS, headquartered in Washington, D.C., has mediators located in over 60 field offices and ten regional offices across the country and is best known for its history of successful and innovative advances in labor-management collaboration, joint problem-solving and the resolution of major collective bargaining disputes. In 1996, Congress recognized this record for pioneering dispute resolution techniques and highly skilled professional mediators and called upon the FMCS to help other federal, state and local agencies minimize costly litigation by resolving disputes arising under their jurisdictions.

Thus, while the FMCS fulfills its statutory obligations by mediating collective bargaining disputes and by assisting employers and unions in developing collaborative problem-solving relationships, it also provides federal agencies with a wide variety of alternative dispute resolution services. In all aspects of its work, the FMCS seeks to minimize the potential for and the impact of work stoppages and to promote improved labor management relationships and organizational effectiveness.

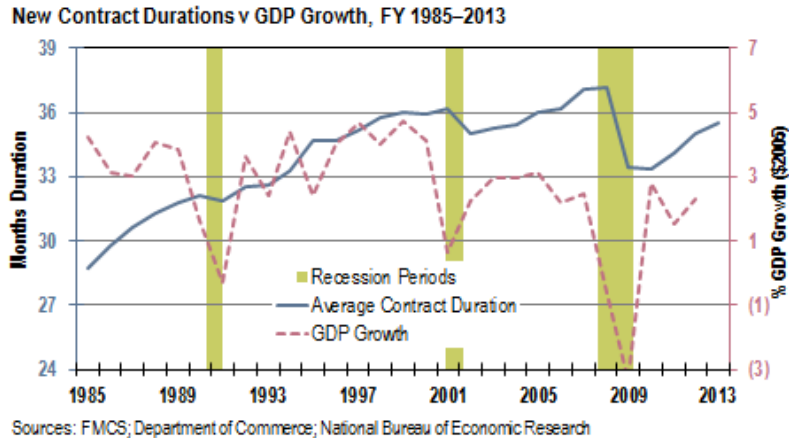
Despite improved economic conditions anticipated in FY 2015, an atmosphere of uncertainty clouds collective bargaining negotiations nationwide. Unemployment still hovers at relatively high levels, with many private employers delaying their hiring decisions and cutting costs while they wait for better signs of an upward trend. For employees, job security, pensions, and health care benefits will remain key issues at the bargaining table, in addition to the need to regain wages for workers that had been lost in recent hard times. Adding to this already complex picture, labor and management will continue to confront contractual and plan changes required by the Patient Protection and Affordable Care Act of 2010 (ACA).

In carrying out its core mission to assist the parties in resolving collective bargaining disputes, the FMCS will continue to provide its skilled, experienced mediators on a pro-active, outreach basis. Given the enormous divergence of interests created during these exceedingly difficult economic times, experience teaches that constructive labor-management relationships are fundamental to the parties' ability to solve problems and reach the compromises necessary to achieve productivity increases and sustainable levels of employment. To this end, and through its jointly-requested, relationship-

building programs, the FMCS works with labor and management to establish collaborative, productivity-enhancing, problem-solving relationships.

For FY 2015, the FMCS expects to receive approximately 22,000 notices of expiring collective bargaining agreements and is already aware of nearly 8,000 expiring contracts covering at least 25 percent of the private sector unionized workforce, or 1.75 million workers. Many of these expiring agreements are in key private sector industries, such as manufacturing, construction, health care, and entertainment.

Effect of Business Cycles



Contract duration is normally a reflection of how the parties perceive the stability of their relationship as well as their estimate of future economic growth. The FMCS has found that contract durations drop, sometimes dramatically, during periods of economic uncertainty and increase during times of economic growth. For the FMCS, longer average contract durations mean that negotiations will occur less frequently, and should result in a smaller number of notices that the FMCS must process each year. Although the average contract length has rebounded from its recessionary lows, it has still not regained the durations last seen in 1998-2001 and 2005-2008. Thus, despite the rebound to 35.5 months in FY 2013, the FMCS does not anticipate a return to consistently longer contract durations until the economy stabilizes for an extended period.

For the reasons described earlier, the FMCS expects that labor strife will continue as the U.S. economy gradually recovers from the recession. The FMCS also predicts that workers will seek to recoup at least some of the wage and benefit concessions many of them made during the depths of the recession and adapt to the changes mandated by the ACA. Ongoing employer efforts to alter or eliminate defined benefit pension plans will also increase the likelihood of the continuation of contentious negotiations in the near future. Consequently, the FMCS fully expects labor-management negotiations to remain contentious, therefore maintaining the need for FMCS services—including early engagement in advance of contract expirations in FY 2015 and beyond.

A. Mediation Services

With its history of more than 65 years of providing mediation, training, and facilitation services, the FMCS has more aggregate experience in alternative dispute resolution than any other government agency. The FMCS recognizes that demonstrating the economic impact of preventing or minimizing the duration of work stoppages is difficult to quantify. For this reason, the FMCS uses an independently developed modeling system for estimating the impact of its services on the U.S. economy.¹

Using this conservative model, the FMCS estimates that its mediation services in FY 2012 and FY 2013 saved the economy \$964 million in wages and profits that otherwise would have been lost to work stoppages. The calculations include direct wages saved among the bargaining unit members, retained company profits, and wages and profits among ancillary companies. This model also allows the FMCS to estimate the economic cost of work stoppages that occur each year. In FY 2013, these stoppages directly affected almost 73,300 workers and indirectly affected another 82,000 in ancillary businesses. The FMCS estimates that direct wage losses alone from a single large work stoppage would easily exceed FMCS's entire annual budget and cause otherwise avoidable losses to the fragile national economy. On this precise point, the threatened strike described below in the ILA/USMX furnishes a powerful example.

Related research also has shown that the timing of FMCS involvement is absolutely critical to its ability to minimize the duration of work stoppages and to prevent work stoppages from occurring in the first place. Over the past 14 years, FMCS direct involvement in the bargaining process at any time prior to contract expiration is associated with a 33 percent reduction in the duration of any subsequent work stoppage: an average reduction of 22 days.

While the economic model helps demonstrate the direct benefits of mediation, it also understates the real value of FMCS services to the U.S. economy. The reason for this is that the FMCS economic model can only estimate the benefits of mediation to the company and employees taking part in any potential work stoppage, and to ancillary companies that provide goods and services directly to that company. The FMCS economic model cannot provide accurate cost estimates for companies and employees that rely upon the flow of goods or services halted by a work stoppage.

Nevertheless, with such strong evidence demonstrating the positive impact of early intervention in collective bargaining disputes, the FMCS uses a variety of early intervention programs and initiatives to pursue its mission of collaborative labor-management conflict resolution. Of particular note is the FMCS emphasis on

¹ The economic model used by the FMCS was originally developed by the Employment Policy Foundation (EPF), a nonprofit, nonpartisan public policy research foundation.

relationship building for the most complex and divisive issues and the most troubled sectors and industries in the U.S. economy.

Effectively Managing Bargaining Challenges

The costs of employer-provided health care are perennially among the most contentious issues in private and public sector negotiations. In 2014, several major provisions of the ACA come into force and increase the likelihood of future contract disputes over cost sharing, cost containment, and compliance with changes to lifetime benefit limits, essential benefits, and guaranteed coverage. Recognizing this challenge, the FMCS has continued its initiative to encourage the parties to create and use Joint Health Care Committees. The FMCS model encourages a cooperative process instituted well in advance of the formal collective bargaining as the parties confront the increased complexity of health care benefits bargaining. This early engagement initiative, started by the FMCS in 2010 and endorsed by employers and unions, highlights the need for an ongoing, joint, problem-solving approach to manage the complex problems confronting employer-provided health care. It is based upon the concept that the extraordinarily difficult issues relating to health care benefits can only be addressed successfully if the parties have a relationship and a process for decision-making based on trust, transparency, and a commitment to joint problem solving that commences well in advance of contract expiration.

The work of the FMCS is as essential to the success of the U.S. economy as it has ever been. This reality was powerfully demonstrated throughout FY 2013 by a number of high profile disputes for which the parties jointly requested that the FMCS provide mediation services. In these cases, and many others, mediation played a critical role in collective bargaining agreements ultimately being achieved.

- **International Longshoremen’s Association (ILA) and the United States Maritime Alliance (USMX)** – In late August 2012, the ILA and USMX (a multi-employer organization representing numerous large shipping companies whose diverse ownership included corporations in the United States, Canada, Europe, and Asia) jointly requested FMCS assistance in their ongoing negotiation dispute. The dispute involved thousands of longshoremen throughout all the major Atlantic and Gulf Coast ports. A realistic strike threat existed with a September 30 deadline that would have inevitably crippled the nation’s economy at a critical point when it had just begun to show signs of recovery from the Great Recession. With the assistance of a top-level FMCS team, the parties initially agreed to extend the contract expiration date until 2013 to avoid serious damage to the entire retail industry’s holiday season along with its impact on the consumer public. Thereafter, the parties continued to negotiate—again with hands-on assistance from the FMCS—and succeeded in achieving a master agreement that provided for six years of stable labor-management relations. After rank-and-file workers and management ratified the master agreement, both parties praised the FMCS efforts, thus marking one of the FMCS’s most monumental accomplishments in many years.

- **Verizon and Communication Workers of America / International Brotherhood of Electrical Workers** – Verizon and its two unions, representing approximately 45,000 employees working in the mid-Atlantic and northeastern United States, had been engaged in direct negotiations for more than one year without any success. A two-week strike by the unions did not serve to bring the parties any closer together on a multitude of contentious economic (most especially those dealing with health care) and working conditions issues. At that juncture, the parties jointly requested assistance from the FMCS. What ensued was 60 days of marathon negotiations under the auspices of a top-level team of FMCS mediators, which ultimately produced tentative agreements covering the entire work force. Successful ratification of those agreements ended the threat of a further strike or lockout and, again, provided the basis for an extensive period of stable labor-management relations.
- **National Hockey League (NHL) and the National Hockey League Players Association (NHLPA)** – The National Hockey League and the National Hockey League Players Association became the third professional sports league in as many years to experience a major labor dispute. As the National Football League and the National Football League Referees Association were resolving a much publicized two-and-a-half-month lockout with FMCS assistance in September, the NHL instituted a lockout of the players in mid-September when they were unable to reach agreement with the NHLPA on the terms of a new agreement. The parties met jointly with FMCS mediators in late November, but after two days of extensive discussions, the mediators ended the session, citing the extensive differences between the parties and the inability to find meaningful points of compromise between their well-established positions.

The FMCS remained in contact with the principal spokespersons in the ensuing weeks, concerned about the aggregate economic impact on industries dependent upon NHL games in the 22 U.S. (New York City has two teams) and seven Canadian communities and the loss of their economic contributions to the impacted communities. As the lockout continued, restaurants, related entertainment businesses, hotels, and the arenas which hosted games continued to suffer the economic consequences. At the end of December, faced with the potential loss of the entire season and little progress meeting without FMCS assistance, the parties agreed to make a final attempt to negotiate a new agreement and salvage a partial season. In marathon mediation sessions, which began on New Year's Eve, the parties were able to bridge their significant differences. Announcing the framework of a new agreement at a joint press conference conducted at 6 a.m. Sunday, January 6th, following an 18-hour final session, both the NHL and the NHLPA cited the assistance of FMCS mediation as critical to their ability to reach agreement. By the end of January, arenas, restaurants, concessionaires, and hotels in the affected communities were once again at full employment. Overcoming fears of fan alienation and abandonment after the third lockout in league history, the shortened season was played before record crowds and heightened media ratings.

Improving Public and Federal Sector Relationships

The FMCS also plays a role in helping to achieve constructive labor-management relations throughout the public sector and in federal government. While many public and all federal unionized workers cannot be locked out or go on strike, the damage from unresolved labor disputes can still be substantial. In this instance, updating job descriptions, work rules, and work processes will increase organizational effectiveness and allow more cost efficient delivery of services to the public.

Also in FY 2013, FMCS continued its work in support of the implementation of labor-management forums for federal government agencies across the country, as mandated by Executive Order 13522, issued in 2009, to “promote satisfactory labor relations and improve the productivity and effectiveness of the Federal Government.” The President’s order required federal agencies to establish “Labor-management forums [that] allow managers and employees to collaborate in continuing to deliver the highest quality services to the American people.” The purpose of the order was to establish a cooperative and productive vehicle for labor-management relations throughout the executive branch which would inure to the benefit of taxpayers. The underlying premise of the Executive Order is that the public will be better served if the parties “endeavor to develop solutions [to problems] jointly.”

To date, the FMCS—often in conjunction with its sister agency, the Federal Labor Relations Agency (FLRA)—has participated in more than 1,000 days of joint training sessions with government agencies and their union representatives, explaining how best first to establish and then to implement the required forums most effectively. In addition, given the enormous number of bargaining units throughout the federal government, the FMCS, at the behest of the National Council on Federal Labor-Management Relations, launched a “train-the-trainer program.” This program was directed at assisting the parties jointly in having their own representatives informed and educated concerning how best to achieve effective forums.

A new initiative also is in place. Working with the FLRA Problem-Solving Resolution group, the FMCS is helping to develop tools and other support for the labor-management forums. These tools and support include webinars, trainings and pre-packaged presentation materials. Work with this group will continue in FY 2014 and beyond.

The FMCS also provided its traditional mediation services to assist a number of government agencies and their respective labor organizations in reaching collective bargaining agreements. Most notably an FMCS mediator, pursuant to the joint request of Transportation Security Administration and the American Federation of Government Employees, was present throughout their bargaining sessions and was credited by them as having played a major role in their ultimately achieving a landmark agreement covering 45,000 employees, the single largest bargaining unit throughout the federal government.

The foregoing examples are a small representation of the industries and sectors in which the FMCS’s proactive outreach and relationship building model is being utilized to help labor and management improve competitiveness and productivity and provide

sustainable employment levels during difficult economic times. In all aspects of its work, the FMCS seeks to minimize the potential for and the impact of work stoppages and to promote improved labor-management relationships and organizational effectiveness.

B. Operational Excellence

In recent years, the annual Federal Employee Viewpoint Survey has consistently recognized the FMCS as one of the best places to work in the federal government. Despite these accolades, the FMCS continues to mine the results of employee surveys to identify areas of improvement. Analysis of previous years' survey results has prompted recent initiatives related to improving employee performance evaluation systems and encouraging appropriate utilization of telework.

Equally important is the FMCS commitment to using allocated resources as efficiently as possible in order to ensure customers and taxpayers receive the highest value for the services it provides. Starting in FY 2010, the FMCS implemented a number of initiatives to improve the efficiency of support staff and support functions, efforts which will continue into FY 2015. These initiatives include creating new and updated procedures and directives in all significant administrative areas and expanding the availability and use of information technology systems to reduce paperwork burdens on the public and FMCS employees.

Following a number of administration initiatives relating to the Freedom of Information Act (FOIA) and open government, the FMCS is also committed to improving transparency and voluntary disclosure of agency information. In FY 2012 and 2013, the FMCS was recognized by the Department of Justice as one of the top federal agencies in how it carried out its responsibilities under FOIA. The FMCS will continue these efforts into FY 2015 and expand upon its voluntary disclosures of information in machine readable formats.

For FY 2015, the FMCS will continue to collapse and virtualize its information technology infrastructure and expand remote assist capabilities and services to carry on its progress in meeting administration goals and initiatives relating to telecommuting, cloud computing, continuity of operations, and cyber security. Starting in FY 2012, the FMCS began a program to leverage its cloud-capable infrastructure by moving development platforms and many production applications to the central virtual platform. In FY 2015, the FMCS will continue this process as well as expand its mobile device management systems to stay abreast of technology and cyber-best practices as they evolve. Integral with this system will be maintaining scheduled upgrades to technology hardware and software assets, and the planned completion of the agency-wide distribution of Personal Identity Verification (PIV) cards, as well as the ongoing process of keeping the FMCS disaster recovery and devolution sites up to date.

In addition to these initiatives, the FMCS continues to employ a well-developed system for evaluating the distribution and effectiveness of its field office staff and offices. This evaluation occurs on an annual basis and as retirements and attrition present opportunities for non-disruptive realignment of its personnel. With the majority of its

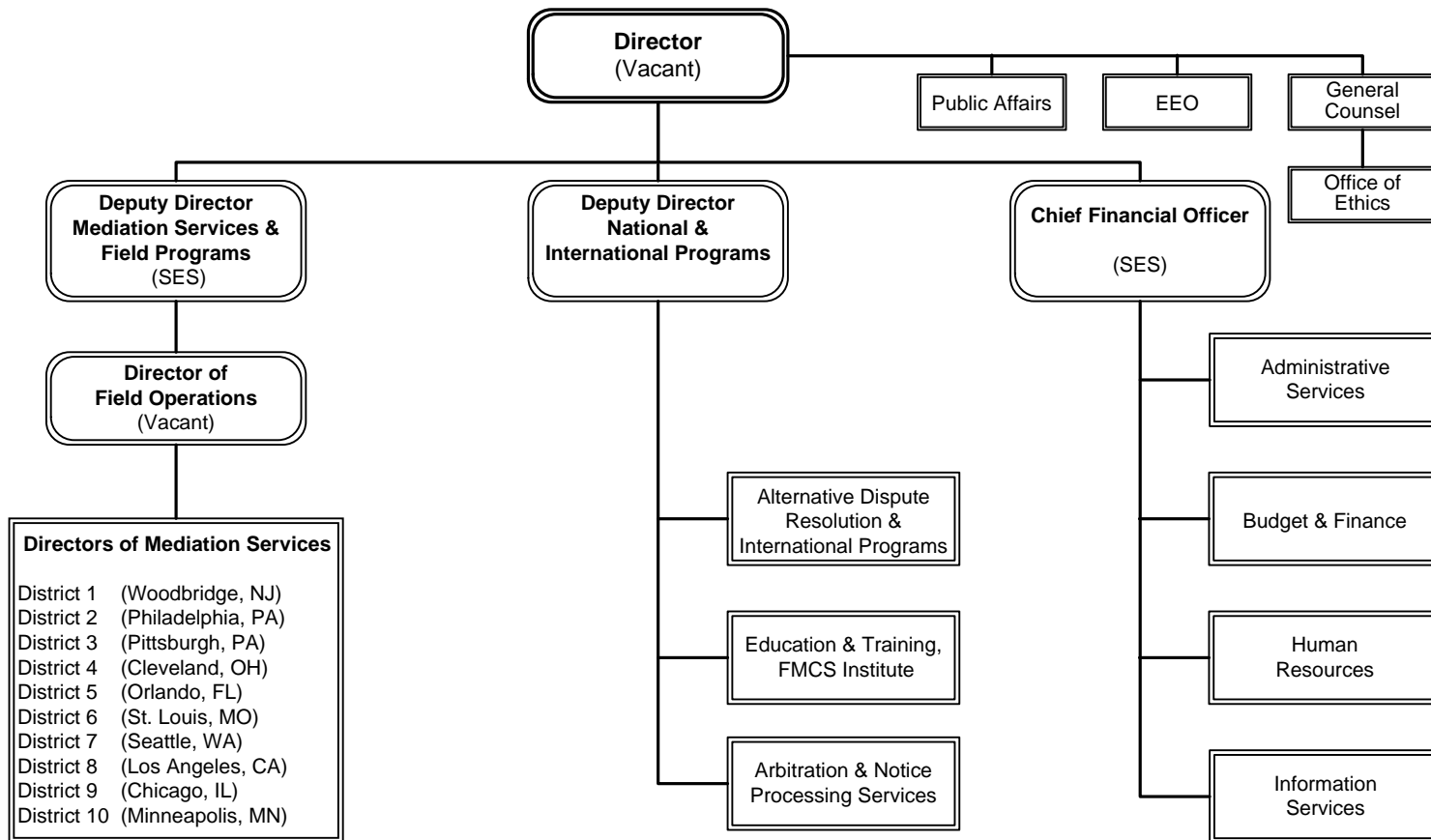
employees involved in direct program delivery—176 employees (75 percent of its workforce) distributed across 66 field stations—the FMCS makes sure to place employees in areas where they can provide the greatest benefit. In FY 2013, for the ninth consecutive year, the FMCS used a workload evaluation model to measure the caseloads of its field offices. This model compares the work of each of its field stations against FMCS national caseload averages. Caseloads are evaluated over a rolling period of four fiscal years to determine trends in specific field stations. The results help ensure that decisions to fill vacant mediator positions reflect the current and potential demand for FMCS services.

C. Conclusion

The FMCS mission statement reflects the agency's statutory foundation: "to promote the development of sound and stable labor-management relationships and to prevent or minimize work stoppages by assisting labor and management in settling their disputes through mediation." As the scope and complexity of collective bargaining issues facing labor and management grow, the FMCS will continue to play a critical role in averting labor strife that can damage the competitiveness and productivity of U.S. companies, the welfare of their employees, and the nation's economic well-being.

Given the anticipated size and number of collective bargaining mediations in FY 2015, the complexity of the issues the parties face, and the increased demand and expectations of the labor-management community for FMCS services that make collective bargaining more effective, we urge you to favorably consider this request for \$45,666,000.

II. FMCS Organizational Chart



As of Mar. 1, 2014

III. Appropriation Language

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service ('Service') to carry out the functions vested in it by the Labor Management Relations Act, 1947, including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978; and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, [\$45,149,000] \$45,666,000, including \$400,000 to remain available through September 30, [2015] 2016, for activities authorized by the Labor-Management Cooperation Act of 1978: *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction. (*Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2014*)

Statutory and Other Legal Authority

FEDERAL MEDIATION AND CONCILIATION SERVICE

The Federal Mediation and Conciliation Service was established by Title II of the Labor-Management Relations Act (Taft-Hartley) in 1947 as an independent agency of the federal government whose primary mission is to prevent and minimize labor-management disputes affecting interstate commerce by providing mediation, conciliation, and voluntary arbitration services. All mediation and conciliation functions of the Secretary of Labor and the United States Conciliation Service were transferred to FMCS at that time. This mission includes both the private and public sectors, except for the railroad and airline industries, which are covered by the Railway Labor Act administered by the National Mediation Board.

The Civil Service Reform Act of 1978 authorized FMCS to assist with dispute resolution in federal sector labor disputes. The Labor-Management Cooperation Act amended the Taft-Hartley Act in 1978 and directed FMCS to encourage labor-management cooperative activities. It also authorized the issuance of grants to support joint labor-management activities conducted by plant, area, public sector, and industry-wide committees.

In 1990, the FMCS was authorized by the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act to assist other federal agencies in resolving disputes arising out of grants, contracts, licenses, or other agency administrative actions, and to assist in the process of negotiated rulemaking. The Administrative Dispute Resolution Act of 1996 amended and permanently reenacted these 1990 Acts.

Over the years, Congress and the Executive Branch have authorized FMCS to perform a variety of dispute resolution functions as well as to assist in the improvement of labor-management relationships. Specific statutory and other authorizations of FMCS programs are described below.

- I. The Labor-Management Relations Act of 1947 (Public Law 80-101, as amended, 29 U.S.C. 158(d), 173 et. seq.) directs the FMCS to prevent or minimize interruptions to the free flow of commerce growing out of labor disputes by helping the parties settle such disputes through mediation. Parties are required to notify the FMCS 30 days prior to a contract termination or modification date so that mediation services may be proffered.

The Act establishes a special procedure for threatened or actual strikes which, in the opinion of the President, imperil the national health or safety. In such

situations, the President may appoint a board of inquiry to ascertain the facts with respect to the dispute. After receipt of a report, the President may seek to enjoin the strike, and a court may do so if it finds that the threatened or actual strike or lockout affects a substantial part or all of an industry and would imperil the national health or safety. 29 U.S.C. 176-178.

- II. The Health Care Amendments of 1974 (Public Law 93-360, 29 U.S.C. 158(d)(4), (4)(A), (4)(B)) (amending the National Labor Relations Act) include special provisions intended to prevent or minimize work stoppages in the health care industry. In the case of this industry, FMCS must be notified 60 days before the contract termination date. A 30-day notice is required in initial bargaining situations. If, in the opinion of the Director, a strike is threatened which would interrupt the delivery of health care in a locality, the Director may appoint a board of inquiry. 29 U.S.C. 183. The board has 15 days within which to investigate and file its report and recommendations; parties must maintain the status quo for 15 days thereafter while further negotiations and mediation take place. The parties are required to cooperate in any mediation efforts by FMCS.
- III. The Civil Service Reform Act of 1978 (Public Law 95-454, 5 U.S.C. 7119(a)) directs the FMCS to provide mediation assistance in disputes arising from negotiations between federal agencies and the representatives of their employees.
- IV. The Postal Accountability and Enhancement Act of 2006 (Public Law 109-435, as amended, 39 U.S.C. 1207) requires the FMCS to provide mediation services and assist in establishing arbitration boards in collective bargaining disputes between the Postal Service and the exclusive representatives of its employees.
- V. An Act to Establish Dispute Resolution Procedures to Settle Disputes Between Supervisors and the United States Postal Service, 1980 (Public Law 96-326, as amended, 39 U.S.C. 1004) directs FMCS, upon the request of either the Postal Service or an organization representing its supervisors, to convene fact finding panels to recommend supervisory pay and fringe benefit policies and to create panels to review the effectiveness of these procedures and other employment policies.
- VI. Presidential Statement, March 24, 1953. The Atomic Energy Labor-Management Relations Panel was established within the FMCS in March 1953, by President Eisenhower, in order to ensure the uninterrupted functioning of the atomic energy program without strikes or lockouts due to labor-management disputes. This Panel was moved to the Atomic Energy Commission in March 1956 but was returned to the FMCS under an inter-agency agreement with the Department of Energy in April 1980 and renamed the Energy Labor Management Relations Panel (ELMRP).

- VII. Executive Order 11374, October 11, 1967, transferred the responsibilities of the Missile Sites Labor Commission (created by Executive Order 10946) to provide priority resolution of labor disputes at missile sites to the FMCS.
- VIII. The Federal Insecticide, Fungicide and Rodenticide Act of 1978, (Public Law 95-396, as amended, 7 U.S.C. 136a(c)(1)(F)(iii)) requires the FMCS to provide for the appointment of arbitrators to decide disputes concerning compensation for the use or development of pesticide registration data.
- IX. The Labor Management Cooperation Act of 1978 (Public Law 101-552, as amended by Public Law 95-524, 29 U.S.C. 175a, 186(c)(9)) added Sections 205A and 302(c)(9) to the Labor-Management Relations Act and authorizes and directs the FMCS to encourage and support joint labor-management activities conducted by plant, area, and industry-wide committees designed to improve labor-management relationships, employment security and organizational effectiveness. The Act authorizes the Service to provide grant funds to assist in the establishment and operation of these labor-management committees.
- X. The Administrative Dispute Resolution Act of 1996 (Public Law 104-320) (ADRA) authorizes and encourages agencies to use various alternative means of dispute resolution in the federal administrative process in order to avoid the time and expense of litigation. The ADRA amended, permanently enacted, and incorporated into the Administrative Procedure Act, the Administrative Dispute Resolution Act provisions (5 U.S.C. 571 *et. seq.*) and the Negotiated Rulemaking Act provisions (5 U.S.C. 561, *et. seq.*) of 1990 legislation. These provisions and their predecessors suggest that the ADR and regulatory-negotiation “experiments” have become well-accepted processes of federal agencies.

Under the ADRA, coverage has been expanded to include additional dispute resolution techniques, such as “ombudsmen,” and the use of ADR in some workplace conflicts, including Hatch Act violations, retirement, insurance, certain suspensions, removals, examinations, and appointments. The ADRA encourages the development of guidelines to expedite the selection of neutrals and to facilitate the use of alternative dispute resolution in the federal government.

This legislation also amends the Labor-Management Relations Act of 1947 (Taft-Hartley) by permanently adding Section 173(f) of Title 29 of the United States Code (29 U.S.C. 173(f)) so that the FMCS may provide all forms of ADR assistance to federal agencies. Under this legislation, the FMCS continues to assist agencies in negotiated rulemaking processes as well as other ADR procedures by providing training, facilitation, mediation, and other neutral skills.

- XI. The U.S. Code of Federal Regulations at 45 CFR 90.43(c)(3), issued by the Department of Health and Human Services, implementing its authority under the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., authorizes the FMCS to provide mediation assistance for the resolution of age-discrimination charges filed against any agency receiving federal financial assistance to any program or activity.
- XII. The Federal Aviation Reauthorization Act of 1996 (Public Law 104-264, as amended by Public Laws 106-181 and 112-95, 49 U.S.C. 40122(a)) directs the administrator of the Federal Aviation Administration (FAA) and the exclusive bargaining representative of its employees to use the FMCS, or a mutually agreed upon alternative, to mediate disputes concerning changes to the FAA's personnel management system or the parties' collective bargaining agreement. If mediation is unsuccessful, the FMCS is required to prepare a list of 15 qualified arbitrators, from which 2 will be selected by the parties and a third by the board, to form an arbitration board. This board will render a final and binding determination.
- XIII. The Veterans Health Care Capital Asset and Business Improvement Act of 2003 (Public Law 108-170, 38 U.S.C. 7403 (h)(4)(C)) gives the Secretary of Veterans Affairs or the exclusive representative of the affected employees the option of using the services of the Federal Mediation and Conciliation Service to assist the parties in reaching an agreement regarding disputes with respect to any system of promotion and advancement proposed by the Secretary.
- XIV. Executive Order 13522 (Creating Labor-Management Forums To Improve Delivery of Government Services), December 9, 2009, continued by Executive Order 13591, November 23, 2011, permits the FMCS to furnish assistance to the National Council on Federal Labor-Management Relations, including training for executive departments and agencies in establishing labor-management forums and pilot projects to identify problems and negotiate solutions without regard to whether the matters are subject to bargaining (permissive subjects) under the Federal Service Labor-Relations Statute.
- XV. The Transportation Security Administration Determination, "Transportation Security Officers and Collective Bargaining," February 4, 2011, requires the facilitation of collective bargaining negotiations by the Federal Mediation and Conciliation Service, or other agreed-upon entity, and requires TSA and the unions subject to bargaining to attend training in interest-based negotiations which will be conducted by the FMCS.

IV. Budget Tables and Detailed Financial Requirements

FEDERAL MEDIATION AND CONCILIATION SERVICE

BUDGET AND STAFFING BY ACTIVITY

(in thousands of dollars)

	FY 2013		FY 2014		FY 2015		Total Program	
	Actual		Estimated		Request		Increase or (Decrease)	
	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	Budget Authority
1. Collective Bargaining and Grievance Mediations (Dispute), Relationship Development Training (Preventive), and Outreach (Public Information) Workloads	176	\$35,006	185	\$36,138	185	\$36,548	0	\$410
2. Arbitration Services	8	700	8	709	8	709	0	0
3. National Office Support and Administrative Services.....	43	8,042	43	7,902	43	8,009	0	107
4. Labor-Management Grants	0	0	0	400	0	400	0	0
Sub-Total Appropriated	227	\$43,748	236	\$45,149	236	\$45,666	0	\$517

BUDGET AND STAFFING BY ACTIVITY
(in thousands of dollars)

	FY 2013		FY 2014		FY 2015		Total Program Increase or (Decrease) 2014 to 2015	
	Actual		Estimated		Request		Full-Time Equivalent Employment	Budget Authority
	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	Budget Authority		
5. Reimbursable programs: ADR Services, Employment Mediation, International Training, and Institute Courses....	8	\$1,597	8	\$1,915	8	\$1,915	0	\$0
6. FMCS Internal Training and Education.....	0	621	1	850	1	850	0	0
Sub-Total Reimbursable	8	\$2,218	9	\$2,765	9	\$2,765	0	0
TOTAL RESOURCES	235	\$45,966	245	\$47,914	245	\$48,431	0	\$517

FEDERAL MEDIATION AND CONCILIATION SERVICE

**BUDGET ESTIMATES FISCAL YEAR 2015
FINANCIAL REQUIREMENTS**

(in thousands of dollars)

	FY 2012 Actual	FY 2013 Actual	FY 2014 Estimate	FY 2015 Request
<u>Personnel Compensation</u>	<u>\$26,383</u>	<u>\$25,422</u>	<u>26,664</u>	<u>26,833</u>
Full-time permanent	26,008	25,331	26,283	26,450
- Full-time permanent positions	26,008	25,331	26,283	26,450
Other than full-time permanent	65	65	66	68
- Other than full-time permanent positions	65	65	66	68
Other Personnel Compensation	310	26	315	315
- Overtime & holiday pay	45	7	40	40
- Cash incentive awards	265	19	275	275
<u>Personnel Benefits</u>	<u>\$7,876</u>	<u>\$7,773</u>	<u>\$7,910</u>	<u>\$8,072</u>
Civilian Personnel Benefits	7,876	7,773	7,910	8,072
- CSRS Retirement Contribution	185	173	160	150
- FERS Retirement Contribution	2,755	2,715	2,795	2,820
- Federal Retirement Thrift Savings Plan Contribution	1,100	1,090	1,108	1,199
- Group life insurance	49	48	49	49
- Health Insurance Contribution	1,662	1,722	1,750	1,785
- OASDI – FERS	1,300	1,291	1,350	1,388
- Employee compensation	401	336	302	285
- Relocation expenses (PCS)	0	0	0	0

BUDGET ESTIMATES FISCAL YEAR 2015
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2012 Actual	FY 2013 Actual	FY 2014 Estimate	FY 2015 Request
<u>Personnel Benefits (continued)</u>				
<u>Civilian Personnel Benefits (continued)</u>				
- Cost-of-living allowance	19	15	15	15
- Subsidy for commuting costs	52	30	26	26
- Medicare contribution	353	353	355	355
<u>Benefits of Former Personnel</u>				
- Unemployment compensation	\$0	\$2	\$0	\$0
- Voluntary separation incentive	0	0	0	0
<u>Travel and Transportation of Persons</u>				
- National office travel	\$1,801	\$1,598	\$1,663	\$1,663
- Official car	140	108	108	108
- Field office travel	11	5	5	5
	1,650	1,485	1,550	1,550
<u>Transportation of Things</u>				
- Transportation of household goods (PCS)	\$0	\$0	\$0	\$0
	0	0	0	0
<u>Rents, Communications, and Utilities</u>				
Rental Payments to GSA	6,208	6,165	6,226	6,463
- Rental payments to GSA	5,250	5,356	5,466	5,703
	5,250	5,356	5,466	5,703

BUDGET ESTIMATES FISCAL YEAR 2015
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2012 Actual	FY 2013 Actual	FY 2014 Estimate	FY 2015 Request
<u>Rents, Communications, and Utilities (continued)</u>				
Rental Payments to Others	4	0	4	4
- Conference room rental	4	0	4	4
Communications, Utilities and Miscellaneous Charges	954	809	756	756
- Reproduction equipment rental	0	0	0	0
- Miscellaneous charges	5	1	5	5
- Audio-visual equipment rental	3	0	3	3
- GSA Phones	233	200	200	200
- FTS Phones	37	24	24	24
- Commercial Phones	254	236	180	180
- Data communication services	315	324	320	320
- Postal services and rentals	107	24	24	24
<u>Printing and Reproduction</u>	<u>\$35</u>	<u>\$7</u>	<u>\$20</u>	<u>\$20</u>
- FMCS forms and other printing	35	7	20	20
<u>Other Contractual Services</u>	<u>\$2,738</u>	<u>\$2,191</u>	<u>\$1,735</u>	<u>\$1,735</u>
Advisory and Assistance Service	51	24	28	28
- Computer assisted legal research	15	13	13	13
- OPM background investigations	16	1	5	5
- Office equipment and machinery relocation	20	10	10	10

BUDGET ESTIMATES FISCAL YEAR 2015
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2012 Actual	FY 2013 Actual	FY 2014 Estimate	FY 2015 Request
<u>Other Contractual Services (continued)</u>				
Other Services	605	564	455	455
- Management and professional services	600	559	450	450
- Official representation fund	5	5	5	5
Other purchases of goods and services from Government Accounts	314	343	300	300
- Guard security and Federal Protective Services	314	343	300	300
Operation and Maintenance of Facilities	87	31	30	30
- Office repairs and alterations	87	31	30	30
Medical Care	21	12	12	12
- Medical care	21	12	12	12
Operation and Maintenance of Equipment	1,660	1,217	910	910
- Maintenance of office equipment	75	107	100	100
- Maintenance of information technology equipment	679	357	360	360
- Information technology support services	856	702	400	400
- Support of payroll/personnel operations	50	51	50	50
- Household goods storage (PCS)	0	0	0	0

BUDGET ESTIMATES FISCAL YEAR 2015
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2012 Actual	FY 2013 Actual	FY 2014 Estimate	FY 2015 Request
<u>Supplies and Materials</u>	<u>\$257</u>	<u>\$206</u>	<u>\$210</u>	<u>\$210</u>
- Office supplies and materials	187	148	150	150
- Information technology supplies and materials	70	58	60	60
<u>Equipment</u>	<u>\$865</u>	<u>\$384</u>	<u>\$321</u>	<u>\$270</u>
- Furniture and fixtures	116	85	80	80
- Information technology hardware/software	595	298	201	150
- Audio-visual equipment	154	1	40	40
<u>Grants, Subsidies and Contributions</u>	<u>\$0</u>	<u>\$0</u>	<u>\$400</u>	<u>\$400</u>
Sub-total appropriated	\$46,163	\$43,748	\$45,149	\$45,666

BUDGET ESTIMATES FISCAL YEAR 2015
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2012 Actual	FY 2013 Actual	FY 2014 Estimate	FY 2015 Request
<u>Reimbursable Programs (non-appropriated)</u>	<u>\$1,235</u>	<u>\$1,597</u>	<u>\$1,915</u>	<u>\$1,915</u>
- Compensation	703	834	960	960
- Benefits	180	228	282	282
- Travel	255	337	280	280
- Communications	1	2	3	3
- Other contractual services	86	185	380	380
- Supplies and materials	10	11	10	10
Sub-total of Reimbursable Programs	\$1,235	\$1,597	\$1,915	\$1,915
<u>FMCS Internal Training and Education (non-appropriated)</u>	<u>\$596</u>	<u>\$621</u>	<u>\$850</u>	<u>\$850</u>
- Compensation	0	0	120	120
- Benefits	0	0	30	30
- Seminars, workshops, conferences and training	255	294	300	300
- New mediator costs	124	120	145	145
- Tuition	127	97	127	127
- Other contractual services	12	14	25	25
- Supplies & materials	8	7	20	20
- Subscriptions	70	89	83	83
Sub-total of FMCS Training and Education	\$596	\$621	\$850	\$850
Sub-total of non-appropriated (reimbursable obligations)	\$1,831	\$2,218	\$2,765	\$2,765
TOTAL RESOURCES	\$47,994	\$45,966	\$47,914	\$48,431

FEDERAL MEDIATION AND CONCILIATION SERVICE

Detail of Total Employment – End of Year

	2013 Actual	2014 Estimated	2015 Requested
Executive Level III.....	1	1	1
ES.....	2	4	4
Subtotal.....	3	5	5
GS-15.....	22	21	21
GS-14.....	144	153	150
GS-13.....	22	26	29
GS-12.....	7	5	5
GS-11.....	0	2	2
GS-10.....	1	2	2
GS-9.....	5	4	4
GS-8.....	14	14	13
GS-7.....	7	6	6
GS-6.....	6	6	7
GS-5.....	1	1	1
GS-4.....	0	0	0
GS-3.....	0	0	0
GS-2.....	0	0	0
Subtotal.....	229	240	240
Total employment, end of year.....	232 *	245 **	245 **
Full-time equivalent (FTE) usage.....	235 *	245 **	245 **
Average ES Salary.....	\$163,924	\$165,565	\$167,100
Average GS Level.....	12.90	12.94	12.94
Average GS Salary.....	\$112,191	\$113,000	\$114,100

* 8 FTE funded by reimbursable revenue.

** 9 FTE funded by reimbursable revenue.

V. Mission and Program Structure

Congress established the Federal Mediation and Conciliation Service (FMCS) in 1947 through the Labor Management Relations Act (Taft-Hartley) amendments to the National Labor Relations Act (NLRA) as an independent agency whose mission is “to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation.” Subsequent acts of Congress and presidential orders have expanded the FMCS role to provide mediation services to the federal sector and alternative dispute resolution (ADR) programs to federal government agencies, as well as promote and establish labor-management partnerships.

The FMCS commits to:

- Promoting the development of sound and stable labor-management relationships;
- Preventing or minimizing work stoppages by assisting labor and management to settle their disputes through mediation;
- Advocating collective bargaining, mediation, and voluntary arbitration as the preferred process for settling disputes between employer and representatives of employees;
- Developing the art, science, and practice of conflict resolution; and,
- Fostering the establishment and maintenance of constructive joint processes to improve labor-management relationships, employment security, and organizational effectiveness.

For more than 65 years, the FMCS has provided services that embrace this mission and demonstrate its commitment to preventing or minimizing interruptions of the free flow of commerce growing out of labor disputes. As labor-management relationships have evolved over time, so, too, has the nature of the FMCS work within collective bargaining relationships. The FMCS today provides a range of services to labor and management, such as relationship-development training and training in interest-based bargaining, to help the parties deal effectively with disputes that may arise between them without resorting to work stoppages. The following section describes the FMCS comprehensive package of core programs and services.

A. Collective Bargaining Mediation

Through collective bargaining mediation, FMCS helps avert or minimize the cost of work stoppages to the U.S. economy. The FMCS's core work is to mediate collective bargaining negotiations for initial contract negotiations—which take place between an employer and a newly certified or recognized union representing its employees—and for negotiations for successor collective bargaining agreements. FMCS provides mediation services to the private sector, and also to the public sector, including federal agencies, and state and local governments.

During mediation, the mediator's task is to identify alternative solutions and compromises, encourage settlement where appropriate, control the critical timing of offers, and persuade the parties to honestly discuss their differences. In FY 2013, FMCS mediators were actively involved in more than 4,100 collective bargaining contract negotiations in every major industry throughout the United States.

B. Grievance Mediation

Grievance mediation involves the use of a neutral party to mediate disputes that may arise over the terms and conditions of a collective bargaining agreement. FMCS mediators provide this service to the private and public sectors with the goal of preventing unresolved contract interpretation issues from spilling over into future contract negotiations. Lengthening contract terms increase the importance of resolving contentious issues arising during the term of a contract. In FY 2013, FMCS mediated more than 1,800 grievance mediation cases and helped the parties reach agreement in 1,383 of these (76 percent).

C. Relationship-Development and Training

Preventing conflict that may arise during the term of a collective bargaining agreement is another important goal of the FMCS. The FMCS's relationship-building training programs are designed to improve labor-management relationships by helping labor and management to develop collaborative problem-solving approaches. Use of these programs better enables the parties to jointly respond to rapidly changing business and economic conditions during the term of the contract and also make future mediation efforts more effective.

In FY 2013, FMCS mediators conducted more than 2,000 training programs with the parties of collective bargaining.

FMCS relationship-development and training programs include:

- **Alternative Bargaining Training:** Teaches the benefits and techniques of a non-adversarial, joint problem-solving approach to negotiation.
- **Relationship by Objective:** Improves the parties' relationship with one another, particularly where the relationship has worsened after a contentious representation election, initial contract negotiation, or strike.

- **Committee Effectiveness Training:** Assists the parties in developing joint labor-management committees designed to bring the parties into regular communication.
- **Partners in Change:** Explores the organization's current culture, identifies perceptions within the organization, creates a vision for the future, and designs systems that effectuate change.
- **Labor-Management Work-Site Committee Training:** Helps labor-management committees extend to the work-site level, forming work-site committees, group interactions, and learning techniques to manage change.
- **Contract Administration/Steward-Supervisor Training:** Trains front-line supervisors and shop stewards on their roles and responsibilities in contract administration, grievance processing, the arbitration procedure, and interpersonal communications for building cooperative relationships.
- **Cultural Awareness Skills for Labor and Management:** Trains the parties to function in a multicultural work setting including the resolution of cross-cultural conflicts in a workplace.
- **Collective Bargaining and Mediation Training:** Trains the parties on effective negotiation and communication skills.

D. ADR Services

Outside the collective bargaining arena, FMCS provides dispute resolution services to other federal, state, and local government agencies on a cost-reimbursable basis. The Administrative Dispute Resolution and Negotiated Rulemaking Acts recognized FMCS's conflict resolution expertise and called on FMCS to help expand the use of alternative dispute resolution throughout government to reduce litigation costs and to promote better government decision-making. To this end, FMCS provides sister agencies with a wide variety of professional services such as mediating employment disputes, designing and building capacity for effective conflict management systems, and developing tools for interagency and public-private cooperation and collaboration. In FY 2013, FMCS provided ADR services in more than 1,100 cases.

E. International Training and Exchange

Beyond the nation's borders, the FMCS plays an important role in promoting collective bargaining and conflict resolution around the world. The FMCS international work is a small, but integral, part of its services. Emerging market economies often struggle to compete effectively in a globally integrated marketplace. The FMCS helps establish the labor relations institutions that are essential to the smooth functioning of free market economies. These programs are also a knowledge-sharing experience: FMCS mediators gain familiarity with complex issues affecting the global economy and, as a result, are more effective in resolving domestic labor-management disputes with international implications.

The FMCS international training programs are delivered largely on a cost-reimbursable basis through interagency acquisition agreements with other government

agencies, such as the Departments of State and Labor and U.S. AID. In FY 2013, FMCS mediators designed and/or delivered mediation training programs in China, Vietnam and Burma. Better industrial relations practices were developed through joint labor-management training programs in transitioning democracies, such as Morocco, Bangladesh, and Lesotho. In addition to programs delivered abroad, every year, FMCS mediators host numerous foreign delegations visiting the U.S. and interested in U.S. labor-management relations and conflict resolution practices.

F. Arbitration Services

National labor policy favors arbitration over litigation for settling contractual disputes. The FMCS Office of Arbitration Services maintains a roster of approximately 1,100 independent arbitrators who are qualified to hear and decide disputes over the interpretation or application of collective bargaining agreements. Upon request from the parties, the FMCS furnishes a list of names from which they may choose an arbitrator to hear their case and render a decision.

During FY 2013, the Office of Arbitration Services processed almost 13,400 requests for arbitration panels nationwide. Arbitrators on the FMCS roster heard and decided more than 2,100 labor arbitration cases.

G. FMCS Institute for Conflict Management

The FMCS Institute for Conflict Management (Institute) delivers accessible, practical, and experience-based conflict resolution training for individuals and small groups of employees and managers. The training is specifically designed to meet the challenges of labor-management relations and organizational change. The Institute's training programs provide participants the opportunity to interact with and learn from experienced practitioners who use these skills every day. Federal mediators and private-sector arbitrators comprise the Institute faculty. Courses offered in FY 2013 included Mediation Skills for the Workplace, Labor-Management Negotiation Skills, Evidence and Witness Examination in Arbitration, Arbitration for Federal Advocates, The Art and Science of Inquiry (part of the Essential Neutral Skills series) and Becoming a Labor Arbitrator. The Institute runs as a reimbursable program and is funded by fees received from training participants.

H. Labor-Management Committee Grants

The 1978 Labor-Management Cooperation Act authorizes and directs the FMCS to encourage and support joint labor-management committees "established for the purpose of improving labor-management relationships, job security and organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern." Congress funds this initiative in the FMCS annual appropriations, and grants are distributed to encourage labor-management committees to develop innovative joint approaches to workplace problems. There were no funds appropriated for grants in FY 2013.

VI. Workload Projections – FY 2014 and FY 2015

The FMCS workload over prior fiscal years, caseload estimates, accomplishments for FY 2013, and estimated workloads in FY 2014 and 2015 are included in the following pages. These estimates should be read in conjunction with the FMCS Annual Performance Plan detailed in Section VIII.

WORKLOAD OUTPUTS AND PROJECTIONS

FISCAL YEARS 2009 - 2015

PROGRAM SERVICES	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2013	FY 2014	FY 2015
	Actual	Actual	Actual	Actual	Estimated	Actual	Estimated	Estimated
1. COLLECTIVE BARGAINING								
MEDIATION.....								
Assigned Cases ⁱ	13,887	14,127	13,712	13,114	13,700	12,938	13,550	13,550
- Private Sector	12,425	12,888	12,460	11,814	12,392	11,802	12,247	12,247
- Public Sector (state and municipal)	1,138	906	943	943	1,007	843	982	982
- Federal Sector	324	333	309	357	300	293	321	321
Mediated Cases ⁱⁱ	4,767	4,919	4,665	4,528	4,801	4,122	4,704	4,704
- Private Sector	3,320	3,632	3,271	3,079	3,437	2,826	3,313	3,313
- Public Sector (state and municipal)	1,155	991	1,091	1,111	1,088	981	1,092	1,092
- Federal Sector	292	296	303	338	276	315	299	299
Closed Cases	13,308	12,992	13,776	13,652	13,046	12,651	13,186	13,186
Closed Mediated Cases	3,958	4,005	3,815	3,764	3,912	3,339	3,860	3,860
Activity Rate ⁱⁱⁱ	30%	31%	28%	28%	30%	26%	29%	29%
Settled and Closed Mediated Cases	3,395	3,428	3,234	3,159	3,458	2,807	3,594	3,594
Percentage of mediated cases settled w/FMCS ^{iv}	86%	86%	85%	84%	88%	84%	93%	93%
Activity rate in significant cases ^v	37%	46%	33%	46%	45%	47%	48%	48%
2. GRIEVANCE MEDIATION								
Assigned Cases	2,027	2,124	1,968	1,837	1,900	1,872	1,925	1,925
Mediated Cases	2,004	2,084	1,905	1,784	1,863	1,809	1,885	1,885
- Private Sector	1,570	1,708	1,513	1,372	1,463	1,398	1,477	1,477
- Public Sector (state and municipal)	313	239	261	264	298	267	284	284
- Federal Sector	121	137	131	148	139	144	125	125
Settled GM Cases	1,479	1,532	1,428	1,367	1,408	1,383	1,440	1,440
Percentage of cases settled w/ FMCS ^{vi}	74%	74%	75%	77%	76%	76%	76%	76%

PROGRAM SERVICES	FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Estimated	FY 2013 Actual	FY 2014 Estimated	FY 2015 Estimated
3. RELATIONSHIP-DEVELOPMENT AND TRAINING								
Number of training programs provided	2,327	2,200	2,301	2,128	2,300	2,027	2,200	2,200
- Private Sector	1,400	1,471	1,267	1,262	1,406	1,174	1,322	1,322
- Public Sector (state and municipal)	682	433	493	463	634	533	539	539
- Federal Sector	245	296	541	403	259	320	340	340
4. ADR Services.....								
Mediated Cases	1,362	1,392	1,330	1,110	1,300	1,118	1,200	1,200
- Federal Sector	1,336	1,387	1,323	1,090	1,263	1,089	1,181	1,181
- Public Sector (state and municipal)	9	2	3	5	13	1	6	6
- Private	17	3	4	15	24	28	13	13
Settled ADR Cases	638	675	641	537	632	488	574	574
Percent of ADR cases settled w/ FMCS ^{vii}	47%	48%	48%	48%	49%	44%	48%	48%
5. OUTREACH								
Outreach cases ^{viii}	3,622	3,240	3,190	3,019	3,200	2,911	3,080	3,080
6. ARBITRATION SERVICES								
Number of panels issued	16,692	16,486	13,500	13,538	14,000	13,361	14,000	14,000
Number of arbitrators appointed	6,496	6,870	5,575	6,129	5,782	6,020	5,693	5,693
Average number of days for arbitrator appointment	2.7	2.1	3.9	2.0	2.0	2.9	2.0	2.0
7. INSTITUTE.....								
Number of courses provided	7	12	5	8	13	10	10	10
Number of participants	187	207	93	179	225	188	200	200

VII. Annual Performance Plan

Performance expectations for each service area are guided by the FMCS current five-year strategic plan. For each strategic goal, the FMCS has identified a number of objectives, key implementation strategies and actions, and measures for tracking its performance toward achieving each goal. The following section details each goal and presents a matrix identifying the programs impacted by them, performance objectives and accomplishments for FY 2013, and performance goals for FY 2014 and FY 2015.

Strategic Goal #1: Mediation

Minimize the number and duration of work stoppages that may occur during collective bargaining negotiations.

Objective:

- Use of FMCS collective bargaining mediation by labor and management leaders.

Action:

- Early intervention activities, particularly in initial contracts, the health care industry, and large and high-impact bargaining units.

Strategies:

- Encourage labor and management leaders to employ mediation in their contract negotiations.
- Pursue FMCS joint problem-solving initiatives during the term of the agreement.

Expected Outputs:

- Increased mediator case activity rates.
 - Increased proportion of cases with meetings held prior to contract expiration date.
-

Discussion:

Collective bargaining mediation represents the core of the FMCS mission and its most publicly visible work. An independent study conducted for the FMCS found that mediation prior to a contract's expiration date significantly reduces the duration of any work stoppage that occurs. Previously, three separate studies of matched bargaining pairs found that FMCS mediation was also an important factor in preventing work stoppages from occurring in the first place.

As a result of these studies, the FMCS believes that early and ongoing contact with the parties to a labor contract negotiation is imperative in reducing the number and duration of work stoppages. This is particularly true in collective bargaining cases that involve: an initial contract; national security; the health care industry; large bargaining units; or those cases that have the potential for permanent shutdowns or disruptions to the community, work force, or interstate commerce.

The FMCS evaluates its success in these areas by looking at how many negotiations use mediation services, whether or not a work stoppage occurred, the duration of any stoppage, and the timing of mediators' involvement. On an aggregate basis, the FMCS also estimates the financial cost of work stoppages that actually occur and the value of work stoppages that its mediators are able to prevent or shorten.

Mediation Outputs and Performance Measures

Minimize the number and duration of work stoppages that may occur during collective bargaining negotiations.

<i>Rates of mediator case activity</i>								
<i>Assigned Cases Closed in FY with meetings / Assigned Cases Closed in FY</i>								
		2009	2010	2011	2012	2013	2014*	2015*
Actual		29.7	30.8	27.7	27.6	26.4	30.0	30.0
Target		30.0	30.0	30.0	30.0	30.0	30.0	30.0

* Estimated

<i>Proportion of mediation cases with meetings held prior to contract expiration date</i>								
<i>Cases Closed in FY with Meeting Held Prior to Contract Expiration / Cases Closed in FY with Meeting</i>								
		2009	2010	2011	2012	2013	2014*	2015*
Actual		46.3	43.9	39.0	35.9	42.6	45.0	45.0
Target		50.0	50.0	50.0	50.0	50.0	50.0	50.0

* Estimated

Strategic Goal #2: Building Problem-Solving Relationships

Improve labor-management relationships.

Objective:

- Use collaborative dispute resolution processes to manage workplace conflict.

Actions:

- Provide techniques and information that help parties improve their collective bargaining relationship, with particular emphasis on implementing changes to health care benefits.
- Deliver internally sustainable dispute resolution systems.
- Educate labor and management leaders at home and abroad in the art of building and maintaining labor-management partnerships.

Strategy:

- Promote the use of FMCS programs and outreach emphasizing joint initiatives on significant issues likely to impact collective bargaining.

Expected Output:

- Increased customer satisfaction with FMCS educational products and services.
-

Discussion:

Relationship development and training, grants, and a number of related activities are designed to help the parties to a collective bargaining agreement better understand the issues and external forces affecting their collective bargaining relationship and to develop internal task forces or groups to help them improve their relationship. In an increasingly global economy, outreach to sister agencies in other countries is a small, but important aspect of the FMCS's work in this area.

The continued success of American employers and employees in a globally competitive arena requires a degree of cooperation between labor and management that traditional confrontational bargaining relationships cannot easily accommodate. This is particularly true with respect to new circumstances confronting both parties in the collective bargaining relationship, such as the challenges associated with the implementation of the Affordable Care Act. These competitive issues can be both complex and subtle and require creative solutions that address unique challenges.

The FMCS is committed to delivering to its customers the best possible information, analysis, practices, and solutions. Through its individual program evaluations, the FMCS is constantly seeking to improve its core curriculum.

Strategic Goal #3: Resolving Mid-Term Disputes

Resolve contract-based disputes (grievances) that arise during the term of collective bargaining agreements.

Objectives:

- Assist parties to voluntarily resolve contract-based disputes.
- Provide high-value arbitrator referral service for situations when parties cannot voluntarily resolve a contract-based dispute.

Actions:

- Increased utilization of FMCS services to resolve contract-based disputes.
- Maintain roster of experienced arbitrators.
- Improve all aspects of the arbitration referral service.

Strategies:

- Advocate mediation and arbitration as the preferred methods for settling disputes between parties in a collective bargaining relationship.
- Facilitate joint, collaborative problem-solving events on an ongoing basis.

Expected Outputs:

- Increase the proportion of settled grievance mediation cases.
- Increase customer satisfaction with quality of arbitration service.

Discussion:

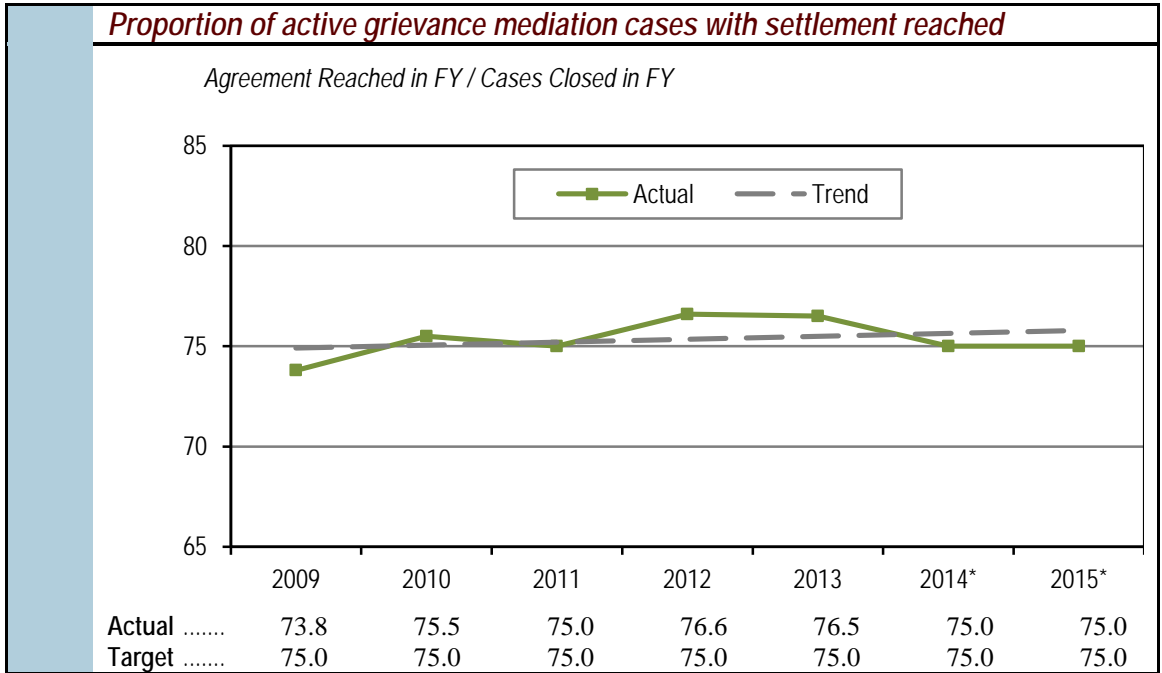
Grievance mediation, joint problem-solving facilitation, and arbitration are three approaches for resolving disputes that may arise from differing interpretations of a labor contract's terms and conditions. Grievance mediation and joint problem solving facilitation are voluntary processes that rely upon consensus building. Arbitration is a structured process that provides a final and binding determination. All three approaches are designed to reduce the need for expensive and time-consuming court litigation, and resolve disputes before they negatively affect the collective bargaining relationship.

Increasing the FMCS presence among groups that have not traditionally used its services is one way to build healthier collective bargaining relationships. The FMCS involvement in these interventions encourages the parties to engage in other collective bargaining activities with less disruption and animosity.

Improved settlement rates in contract-based disputes and joint problem-solving cases provide a good indication of how well FMCS mediators are able to facilitate agreements. Likewise, favorable customer evaluations of the arbitrator referral service help the FMCS improve the quality of the service.

Resolving Mid-Term Disputes Outputs and Performance Measures

Resolve contract-based disputes (grievances) that arise during the term of collective bargaining agreements.



* Estimated

Strategic Goal #4: Promoting ADR

Resolve regulatory / enforcement policy disputes and statute-based workplace disputes.

Objectives:

- Use employment mediation as an alternative to litigation.
- Use problem-solving processes to resolve regulatory/ policy based disputes.

Action:

- Increase number of employment mediations conducted and reimbursable agreements signed.
- Increase the number of facilitated regulatory negotiations and public policy disputes conducted.

Strategy:

- Advocate alternative dispute resolution (ADR) as the preferred method for settling non-collective bargaining disputes.

Expected Output:

- Increase the number of mediated settlements in employment mediation cases.
 - Increase the number of regulatory/policy disputes resolved through facilitated processes.
-

Discussion:

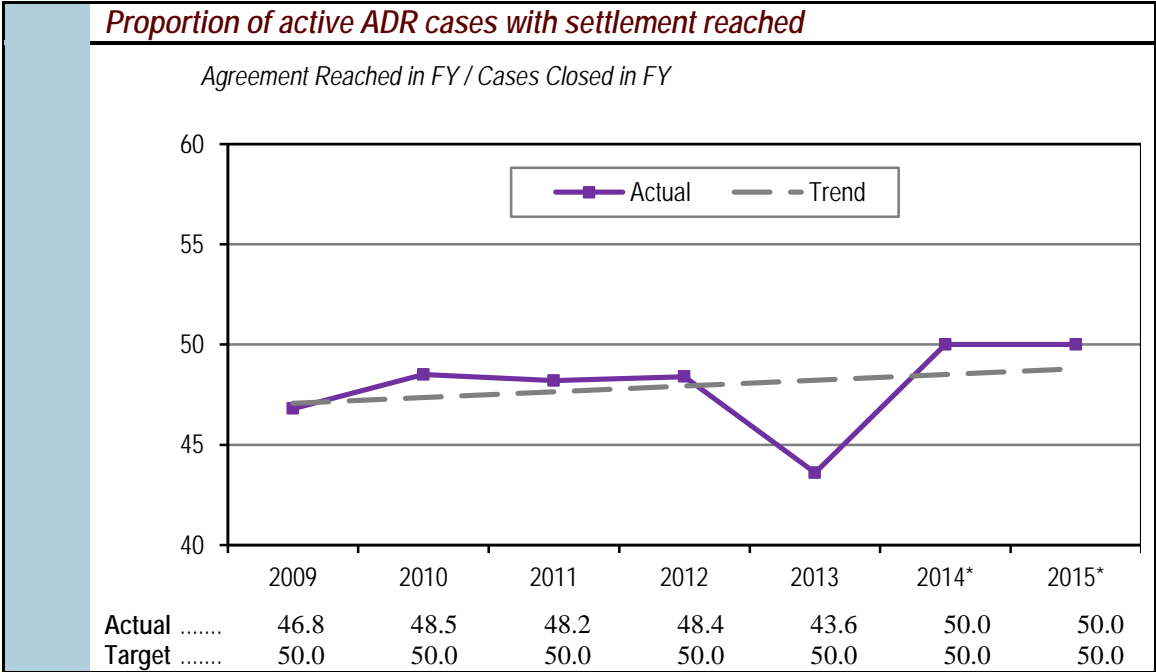
The FMCS alternative dispute resolution (ADR) work is defined by the Administrative Dispute Resolution Act of 1996 and is designed to help resolve disputes that do not result from a collective bargaining relationship. Under the Act, the FMCS is generally limited to work in the federal sector, but may include state or local entities if the dispute is related to a federal rule or regulation.

Using traditional dispute resolution vehicles, such as the courts or other statutory processes, may take several years and cost hundreds of thousands of dollars in legal fees and court costs, and require significant resource expenditures from the affected parties. In addition, imposed outcomes from utilization of these processes are unpredictable and the conditions present when the dispute arose may have changed dramatically. In regulatory matters, voluntary resolution of a single issue by multiple parties through a facilitated consensus-based process will normally offset any costs incurred. Broader resolution of more issues increases the benefits on an exponential basis.

By increasing the number of individual employment cases and regulatory/enforcement cases that the FMCS takes and achieving an increased number of resolved cases, FMCS seeks to provide a cost-effective alternative to litigation and promote better government decision-making.

Promoting ADR Outputs and Performance Measures

Resolve statute- or regulation-based workplace disputes.



* Estimated

Endnotes

- ⁱ Section 8(d) of the National Labor Relations Act, as amended, 29 U.S.C. §158(d) requires that any employer or labor organization provide notice to the FMCS 30 days prior to contract expiration. Not all cases providing notices are assigned. Actual FY 2013 FMCS case intake exceeded 21,000.
- ⁱⁱ Mediated cases represent the number of cases in the FY where mediators have become active in the negotiations.
- ⁱⁱⁱ Defined as the number of closed cases where there was at least one meeting divided by the number of total closed assignments.
- ^{iv} Defined as the number of mediated cases settled divided by the total number of mediated cases.
- ^v Significant cases are generally defined as situations where the bargaining unit exceeds 1,000.
- ^{vi} Defined as the number of grievance mediation cases settled and closed within the fiscal year divided by the number of closed GM assignments.
- ^{vii} Defined as the number of ADR cases settled divided by the number of mediated cases closed.
- ^{viii} FMCS requires all mediators to engage in outreach efforts. These kinds of activities include non-bargaining meetings with labor and management representatives, attendance at conferences, meetings with local and state officials to offer FMCS services, and presentations designed to increase public knowledge.