



Congressional Submission

Fiscal Year

2016

FEDERAL MEDIATION AND CONCILIATION SERVICE

FISCAL YEAR 2016

Congressional Budget Submission

&

Annual Performance Plan

FEDERAL MEDIATION AND CONCILIATION SERVICE
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Fiscal Year 2016 Budget Estimates

I. Executive Summary

The Federal Mediation and Conciliation Service (FMCS) 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. The FMCS, headquartered in Washington, D.C., has mediators located in more than 60 field stations and ten district offices across the country and is best known for its history of successful and innovative advances in labor-management collaboration, joint problem-solving, and resolving major collective bargaining disputes.

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 cost-saving alternative dispute resolution services. Congress recognized this record for pioneering dispute resolution techniques and highly skilled professional mediators in the Administrative Dispute Resolution Act of 1996, calling upon the FMCS to help other federal, state and local agencies minimize costly litigation by resolving disputes arising under their jurisdictions. In all aspects of its work, the FMCS seeks to minimize the potential for and the impact of work stoppages, to promote improved labor management relationships, and to create innovative conflict management strategies to enhance organizational effectiveness.

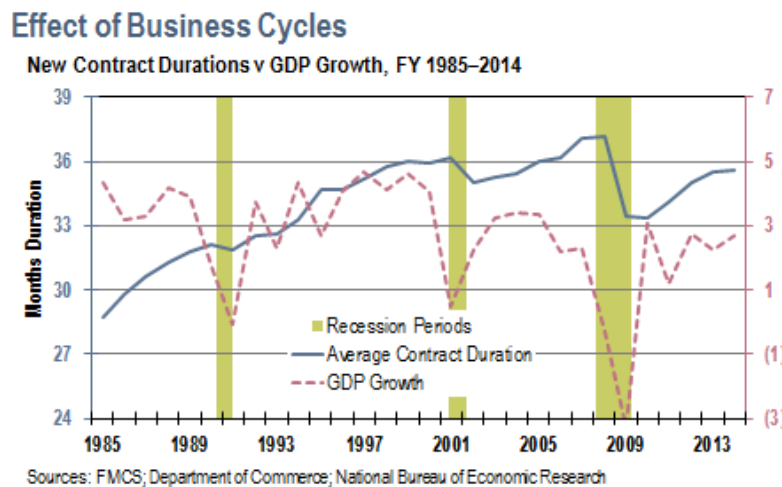
Despite improved economic conditions anticipated in FY 2016, the lagged effects of the “Great Recession” continue to cloud collective bargaining negotiations nationwide as employers seek to strengthen their business and employees seek to improve, job security, pensions, health care benefits, and recoup wages lost in concessionary bargaining during the recession. Adding to this already complex picture, labor and management will continue to confront contractual and plan design 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, relationships.

For FY 2016, 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.

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 35.6 months in FY 2014, 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 and management will continue to experience contentious negotiations 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 press to adapt health benefit changes mandated by the ACA in a manner most protective of their overall wage and benefit package. Ongoing employer efforts to alter or eliminate defined benefit pension plans in favor of 401(k) or other alternatives will also increase the likelihood of continuing complex negotiations. Consequently, the FMCS fully expects labor-management negotiations to remain focused on multiple core, complicated wage and benefit issues, thus maintaining the need for FMCS services—including early engagement in advance of contract expirations in FY 2016 and beyond.

On the personnel side of its operations, the FMCS experienced a surge in mediator retirements in FY 2014, losing more than 252 years of combined mediation experience. In response, the FMCS recruited, on-boarded and started training 17 new mediators, or slightly more than 10 percent of its mediator workforce. Training new mediators is a labor-intensive process, involving 5 weeks of formal classroom training and between 6 and 24 months of on-the-job training, and sometimes more. During the training period, mediators are not able to assume full caseloads, resulting in lower than average workloads.

Finally, in FY 2016 the FMCS national office will be relocating from its long-standing location at 2100 K Street in Washington, D.C. due to the demolition of the building it currently occupies. The General Services Administration (GSA) estimates a relocation cost of \$5 million. Given the nature of its mediation work, with occasional all-night mediations, regular training sessions held in its offices, and the need for access to its federal and private-sector customers, the FMCS seeks to be in an accessible location in the Washington, D.C. area.

A. Mediation and Conflict Management Services

With its history of more than 65 years of providing mediation, training, and facilitation services, the FMCS has more aggregate experience in 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.

Using this conservative model, the FMCS estimates that its collective bargaining mediation services in FY 2013 and FY 2014 saved the economy \$750 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 and their workers. This model also allows the FMCS to estimate the economic cost of work stoppages that occur each year. In FY 2014, these stoppages directly affected almost 30,400 workers and indirectly affected another 41,000 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 slowly recovering national economy. On this precise point, the threatened strike described below in the dispute involving longshoreman and all Atlantic and Gulf Coast port operators furnishes a powerful example.

Related research also has shown that the timing of FMCS involvement is absolutely critical to its ability to prevent work stoppages from occurring in the first place and to minimize their duration even when they occur. Over the past 16 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; or an average reduction in the length of the stoppage of 23 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 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

Even the best labor-management relationships can be challenged when negotiations involve the kinds of multiple and complex issues currently facing most bargaining partners. Thus, 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 2014 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.

- **Bay Area Rapid Transit (BART) and the Amalgamated Transit Union (ATU) Local 1555 and Service Employees International Union (SEIU) Local 1021**—FMCS mediation was a key to resolving issues and bringing an end to a four-day strike that shut down the Bay Area Rapid Transit system, disrupting the daily commute of some 400,000 Bay Area riders in October, 2013. Disagreement over work rules sparked the work stoppage that shut down this important public transportation system and led to a joint request from the parties for FMCS assistance. Prior to the lengthy bargaining sessions that produced an agreement, senior FMCS mediators led a number of marathon negotiations, including one all-night meeting, that kept the system operating for commuters. The nightly drama of the negotiation and midnight strike deadlines kept tens of thousands of Bay Area commuters in suspense regarding their morning mode of transportation, and the quick resolution of the dispute produced a collective sigh of relief. The resulting tentative agreement eventually was ratified by union members after additional disputes over technical issues related to the signing of the contract were resolved—again with FMCS help.
- **Southern California Supermarkets and the United Food and Commercial Workers (UFCW)**—In early 2014, a group of Southern California's three largest supermarket chains and several UFCW locals jointly requested FMCS assistance to resolve a longstanding negotiation dispute. The dispute involved

Ralph's (Kroger), Albertsons, and Vons (Safeway) supermarkets and UFCW locals representing more than 60,000 workers in Southern California. A senior FMCS mediation team was brought in and the parties continued to negotiate, prompting a final, seven-day push of bargaining meetings that brought successful resolution to several months of intense negotiations. With FMCS assistance, the parties ratified a new, two-year contract, avoiding a repeat of the crippling 141-day strike of 2003, which cost the grocery industry and local economy in that region an estimated \$2 billion. The parties publicly acknowledged the expertise and assistance of the FMCS, crediting it with helping negotiators for both sides address complex benefits issues that had previously divided them.

- **The Professional Referee Organization (PRO) and the Professional Soccer Referees Association (PSRA)**—Prior to the start of the 2014 Major League Soccer (MLS) season, the Professional Referee Organization and the Professional Soccer Referees Association representing MLS game officials experienced a major dispute as they bargained for a historic first labor contract. After months of failed contract negotiations, tensions mounted, each side filed unfair labor practice complaints, and a lockout of the referees was instituted with the accompanying use of replacement officials at the start of the regular season. The FMCS remained in contact with the parties as their negotiations continued without resolution, concerned about the economic impact on the related industries dependent on MLS games in 18 U.S. cities (Los Angeles has two teams) and three Canadian communities that support MLS clubs. Given the FMCS's record of success in assisting unions and employers with past lockouts in professional sports, the parties jointly requested the services of experienced FMCS mediators to assist with the stalled negotiations. The FMCS entered the negotiations on March 12, after which the two sides engaged in lengthy mediation sessions that ultimately resulted in a ratified five-year agreement. In a statement announcing the agreement, the PSRA lead negotiator lauded the historic first collective bargaining agreement and cited the benefit of FMCS assistance at the bargaining table. By the start of the second week of the MLS season, established referees returned to officiating and the critical role of the FMCS in resolving high-profile, national labor disputes was demonstrated once again.
- **Appalachian Regional Healthcare and Southern United Nurses/National Nurses United**—Appalachian Regional Healthcare (ARH) and its two unions, representing approximately 700 registered nurses working in Kentucky and West Virginia, engaged in several weeks of negotiations without reaching agreement on a number of contentious issues, including health care premiums, salaries, and mandatory overtime. Southern United Nurses (SUN) and National Nurses United (NNU) planned a one-day strike at the Hazard, KY, ARH Regional Medical Center and Beckley, WV, ARH Hospital, which was especially concerning given that the strike would create a potential lapse in patient care and safety at the medical centers. The parties jointly requested to continue the negotiations under the auspices of the FMCS, and a top-level

mediator assisted the parties in reaching a tentative agreement just prior to the midnight expiration of the existing contract. The federal mediator was essential in helping the parties navigate through a number of complicated issues, averting the potential work stoppage and enabling nurses to return to work the next day to provide much-needed care for hospital patients.

- **Army Fleet Support (AFS) and International Association of Machinists and Aerospace Workers Local 2003**—With assistance from a federal mediator, L-3 Army Fleet Support (AFS) and members of the International Association of Machinists and Aerospace Workers Local 2003, were able to reach a new collective bargaining agreement, ending a one-week strike that affected some 3,000 workers at Fort Rucker. The work stoppage at the base had disrupted maintenance and logistics support provided by AFS to the U.S. Army Aviation Center of Excellence at Ft. Rucker and the U.S. Air Force. When lengthy contract negotiations between the parties had stalled, IAM members began the strike that severely limited flight training at the base. After both parties requested FMCS help, the resulting five-year labor contract restored the base to normal operations.
- **The International Longshore and Warehouse Union (ILWU) and the Pacific Northwest grain companies**—After engaging in difficult and contentious bargaining for over two years, including mediation sessions held under the auspices of the FMCS, a senior FMCS mediator was able to help the parties reach a tentative agreement that was subsequently ratified by the ILWU membership. The dispute gained national attention as a result of hostile actions on both sides and the likelihood that a prolonged work stoppage could disrupt economically important grain export shipments through the affected Pacific Northwest terminals. Ratification by union members cleared the way for a return to normal operations and a resumption of economically vital grain exports at the terminals.
- **Metropolitan Opera (Met) and the American Federation of Musicians (AFM) Local 802 and the American Guild of Musical Artists (AGMA)**—One of the world's premier cultural institutions, the Metropolitan Opera, and its two largest unions turned to the FMCS for mediation as a deadline neared for contract negotiations and the possibility of a lockout that could have disrupted the Met's artistic season. In response, senior FMCS mediators led all-night negotiations that resulted in a highly-lauded tentative agreement, averting a possible work stoppage, and bringing the parties together in a cost-saving program that featured sacrifices by both labor and management. In the words of the *New York Times*, "The tentative deal pulled the house back from the precipice of a lockout that could have been damaging to all sides: It would have shuttered the Met, the largest performing arts company in the nation; left its artists and artisans without pay; endangered the coming season; and kept audiences away at a moment when the company has already been struggling at the box office." The FMCS praised the parties for their commitment to the collective bargaining process.

Improving Labor-Management Relationships to Prevent Workplace Disruptions

The FMCS labor relations 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.

Working together, labor and management partnerships across the country in a variety of industries have demonstrated the value of cooperation and joint problem-solving to both employers and workers. In recent years, numerous success stories—many involving America’s greatest companies—show the potential for labor and management to work together to improve job security, skills, competitiveness, productivity and quality. Last year, labor and management leaders from some of these great partnerships gathered at the White House to discuss their experiences and “lessons learned.” Hosted by the Director of the FMCS and the secretaries of labor and commerce, the White House Summit on Labor-Management Partnerships highlighted the value of good collective bargaining relationships to companies and government organizations as diverse as Ford Motor Company, International Paper, the Federal Aviation Administration, Montgomery County Maryland public schools, the Walt Disney Company, ABC, Inc., and the Montefiore Health System.

Improving Public and Federal Sector Bargaining 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. For example, updating job descriptions, work rules, and work processes increases organizational effectiveness and allows more cost-efficient delivery of services to the public.

The FMCS’s relationship-building programs are designed to improve labor-management relationships by helping unions and employers develop collaborative, problem-solving approaches and manage their inherent conflict. Effective use of these programs better enables the parties to respond jointly to changing business and economic conditions. Similarly, the FMCS continues its important work in support of effective 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 “[l]abor-management forums [that] allow managers and employees to collaborate in continuing to deliver the highest quality services to the American people.” In addition, the National Council on Federal Labor-Management Relations continues to call upon FMCS instructional design experts

to develop and deliver interactive web-based training tools to improve forum performance.

The value of such efforts can be demonstrated through a landmark agreement reached between the U.S. Bureau of Prisons (BOP) and Council of Prison Locals (CPL). After training from the FMCS, the Bureau of Prisons and Council of Prison Locals signed their first master labor-management contract in 16 years. Upon announcing the new agreement at a joint press conference, both sides acknowledged that a breakdown in their communications and ongoing mistrust between the parties had obstructed the efficient functioning of the agency. The parties credited the FMCS relationship-by-objective (RBO) training as a key element in improving their relationship at a national level and ultimately providing the foundation for their reaching a national agreement. The RBO training conducted for BOP marked the launch of an ongoing program conducted by FMCS mediators for the agency and its local unions nationwide.

The FMCS also helps build positive labor-management relationships through non-traditional approaches to training and outreach. At the request of the parties, the FMCS continues its partnership with the U.S. Department of Education along with the American Federation of Teachers; the National Education Association; the Council of the Great City Schools; the Council of Chief State School Officers; the National School Boards Association and the American Association of School Administrators. This partnership program works to advance student achievement through labor-management collaboration in K-12 public education. In continuation of the partnership effort, FMCS leaders attended the Department of Education's National Labor-Management Conference held in St. Louis, MO. The conference participants expressed strong support for the FMCS model of labor-management collaboration as an essential element in achieving important labor-management reform in U.S. public schools.

Conflict Management Services to Government

The Administrative Dispute Resolution (ADR) Act of 1996 calls upon the FMCS to assist other federal, state, and local agencies in resolving disputes arising under their jurisdictions. On a cost-reimbursable basis, the FMCS provides federal agencies, state and local governments with a wide variety of professional services, such as mediating workplace and employment disputes, mediating disputes involving administrative programs, consultation and evaluation in the designing and building of capacity for effective conflict management systems, convening and facilitation services associated with Negotiated Rulemaking, facilitation services for public policy discussions occurring under the Federal Advisory Committee Act, and developing tools for interagency and public-private cooperation and collaboration.

Innovative Education and Outreach to Agency Customers

In early 2014 the FMCS successfully launched a new and innovative "Conflict Resolution Week" program. This program was created to better inform prospective users of FMCS collective bargaining, conflict management, and Alternative Dispute Resolution (ADR) services and training. Partnering with conflict resolution experts from the National Council on Federal Labor-Management Relations, the U.S. Office of Personnel

Management, the Federal Labor Relations Authority, the Udall Foundation / U.S. Environmental Conflict Resolution and experts from the University of Illinois at Champaign-Urbana, this series of in-person and web-based training was able to reach thousands of participants at no cost to them and with minimal cost to FMCS and the providers. The first event of its kind for the FMCS, this showcase event highlighted its ability to provide effective outreach and training with cost-saving, innovative technology.

The program's success led to numerous requests for live and web-based training, including programs in early dispute resolution and other skills for the FLRA, Occupational Safety and Health Administration, and the U.S. Park Service. Similar programs are under development for the U.S. Environmental Protection Agency and the Social Security Administration. The Conflict Resolution Week concept was replicated in October of 2014.

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, including a second place finish in 2014 among small agencies. The FMCS also was designated as one of the "most innovative" federal agencies, rating highly among 371 federal agencies and subcomponents for fostering innovation and motivating employees to develop new ideas on the job. Despite these accolades, the FMCS continues to mine the results of employee surveys to identify areas for improvement. Analysis of previous years' survey results has prompted ongoing 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 2016. These initiatives include creating new and updated procedures and directives in all significant administrative areas, updating staff position descriptions, and expanding the availability of and using 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. Starting in FY 2005, the FMCS made two high-value data sets available to the public, data which represent the majority of its information collection. 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 2016 and expand as possible its voluntary disclosures of information in machine readable formats.

For FY 2016, 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. Beginning 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 2016, 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.

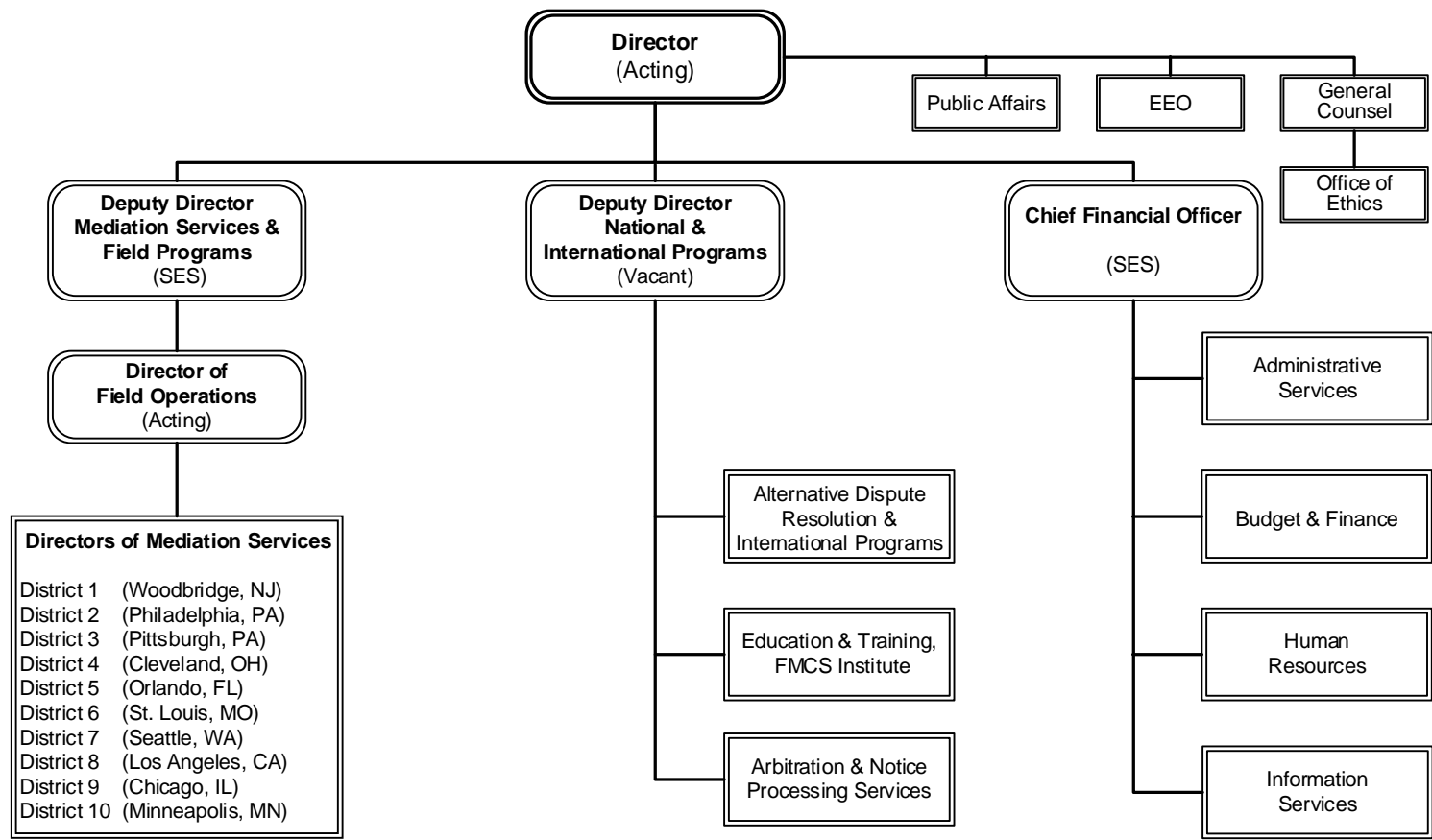
In addition to these initiatives, the FMCS continues to employ a well-developed system for evaluating the distribution and effectiveness of its field office staff and offices. This evaluation occurs on an annual basis and as retirements and attrition present opportunities for non-disruptive realignment of its personnel. With the majority of its employees involved in direct program delivery—175 employees (75 percent of its workforce) distributed across 67 field stations—the FMCS makes sure to place employees in areas where they can provide the greatest benefit. The FMCS will continue to use 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 2016, the complexity of the issues the parties face, the increased demand and expectations of the labor-management community for FMCS services that make collective bargaining more effective, and the extraordinary expenses for the first relocation of the FMCS headquarters in nearly 40 years due to the demolition of the building it currently occupies, we urge you to favorably consider this request for \$48,748,000.

II. FMCS Organizational Chart



As of Feb. 2, 2015

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, [\$45,666,000] \$48,748,000, including \$400,000 to remain available through September 30, [2016] 2017, 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, 2015*)

IV. 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)(C)) (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 requesting 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 and 13652 until September 30, 2015, 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 conducted by the FMCS.

V. Budget Tables and Detailed Financial Requirements

FEDERAL MEDIATION AND CONCILIATION SERVICE

BUDGET AND STAFFING BY ACTIVITY

(in thousands of dollars)

	FY 2014		FY 2015		FY 2016		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	172	\$36,214	185	\$36,548	185	\$36,618	0	70
2. Arbitration Services	8	655	8	709	8	714	0	5
3. National Office Support and Administrative Services.....	38	7,880	43	8,009	43	11,016	0	3,007
4. Labor-Management Grants	0	400	0	400	0	400	0	0
Sub-Total Appropriated	218	\$45,149	236	\$45,666	236	\$48,748	0	\$3,082

BUDGET AND STAFFING BY ACTIVITY
(in thousands of dollars)

	FY 2014		FY 2015		FY 2016		Total Program Increase or (Decrease) 2015 to 2016	
	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	\$1,462	8	\$1,815	8	\$1,815	0	\$0
6. FMCS Internal Training and Education.....	1	655	1	850	1	850	0	0
Sub-Total Reimbursable	9	\$2,117	9	\$2,665	9	\$2,665	0	0
TOTAL RESOURCES	227	\$47,266	245	\$48,331	245	\$51,413	0	\$3,082

FEDERAL MEDIATION AND CONCILIATION SERVICE

**BUDGET ESTIMATES FISCAL YEAR 2016
FINANCIAL REQUIREMENTS**

(in thousands of dollars)

	FY 2014 Actual	FY 2015 Estimate	FY 2016 Request
<u>Personnel Compensation</u>	<u>\$25,661</u>	<u>\$25,923</u>	<u>\$26,806</u>
Full-time permanent	25,305	25,540	26,423
- Full-time permanent positions	25,305	25,540	26,423
Other than full-time permanent	61	68	68
- Other than full-time permanent positions	61	68	68
Other Personnel Compensation	295	315	315
- Overtime & holiday pay	11	40	40
- Cash incentive awards	284	275	275
<u>Personnel Benefits</u>	<u>\$7,570</u>	<u>\$7,882</u>	<u>\$8,072</u>
Civilian Personnel Benefits	7,570	7,882	8,072
- CSRS Retirement Contribution	156	150	131
- FERS Retirement Contribution	2,652	2,720	2,820
- Federal Retirement Thrift Savings Plan Contribution	1,070	1,199	1,199
- Group life insurance	45	49	49
- Health Insurance Contribution	1,644	1,740	1,785
- OASDI – FERS	1,304	1,343	1,388
- Employee compensation	302	285	304
- Relocation expenses (PCS)	0	0	0

BUDGET ESTIMATES FISCAL YEAR 2016
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2014 Actual	FY 2015 Estimate	FY 2016 Request
<u>Personnel Benefits (continued)</u>			
Civilian Personnel Benefits (continued)			
- Cost-of-living allowance	15	15	15
- Subsidy for commuting costs	35	26	26
- Medicare contribution	347	355	355
<u>Benefits of Former Personnel</u>	<u>\$16</u>	<u>\$0</u>	<u>\$0</u>
- Unemployment compensation	16	0	0
- Voluntary separation incentive	0	0	0
<u>Travel and Transportation of Persons</u>	<u>\$1,590</u>	<u>\$1,663</u>	<u>\$1,663</u>
- National office travel	148	108	108
- Official car	4	5	5
- Field office travel	1,438	1,550	1,550
<u>Transportation of Things</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
- Transportation of household goods (PCS)	0	0	0
<u>Rents, Communications, and Utilities</u>	<u>\$6,319</u>	<u>\$7,563</u>	<u>\$9,597</u>
Rental Payments to GSA	5,569	6,803	8,837
- Rental payments to GSA	5,569	5,803	5,985
- RWA for design and build out of National Office move	0	1,000	1,383
- Moving costs (cabling, furniture, fixtures, equipment)	0	0	1,469

BUDGET ESTIMATES FISCAL YEAR 2016
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2014 Actual	FY 2015 Estimate	FY 2016 Request
<u>Rents, Communications, and Utilities (continued)</u>			
Rental Payments to Others	3	4	4
- Conference room rental	3	4	4
Communications, Utilities and Miscellaneous Charges	747	756	756
- Reproduction equipment rental	0	0	0
- Miscellaneous charges	2	5	5
- Audio-visual equipment rental	0	3	3
- GSA Phones	156	196	196
- FTS Phones	25	28	28
- Commercial Phones	185	180	180
- Data communication services	353	320	320
- Postal services and rentals	26	24	24
<u>Printing and Reproduction</u>	<u>\$23</u>	<u>\$20</u>	<u>\$20</u>
- FMCS forms and other printing	23	20	20
<u>Other Contractual Services</u>	<u>\$2,075</u>	<u>\$1,735</u>	<u>\$1,710</u>
Advisory and Assistance Service	35	28	28
- Computer assisted legal research	14	13	13
- OPM background investigations	16	5	5
- Office equipment and machinery relocation	5	10	10

BUDGET ESTIMATES FISCAL YEAR 2016
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2014 Actual	FY 2015 Estimate	FY 2016 Request
<u>Other Contractual Services (continued)</u>			
Other Services	731	455	455
- Management and professional services	726	450	450
- Official representation fund	5	5	5
Other purchases of goods and services	273	275	275
- Guard security and Federal Protective Services	273	275	275
Operation and Maintenance of Facilities	30	30	30
- Office repairs and alterations	30	30	30
Medical Care	12	12	12
- Medical care	12	12	12
Operation and Maintenance of Equipment	994	935	910
- Maintenance of office equipment	114	100	100
- Maintenance of information technology equipment	255	385	360
- Information technology support services	594	400	400
- Support of payroll/personnel operations	31	50	50
- Household goods storage (PCS)	0	0	0

BUDGET ESTIMATES FISCAL YEAR 2016
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2014 Actual	FY 2015 Estimate	FY 2016 Request
<u>Supplies and Materials</u>	<u>\$213</u>	<u>\$210</u>	<u>\$210</u>
- Office supplies and materials	114	150	150
- Information technology supplies and materials	99	60	60
<u>Equipment</u>	<u>\$1,282</u>	<u>\$270</u>	<u>\$270</u>
- Furniture and fixtures	365	80	80
- Information technology hardware/software	877	150	150
- Audio-visual equipment	40	40	40
<u>Grants, Subsidies and Contributions</u>	<u>\$400</u>	<u>\$400</u>	<u>\$400</u>
Sub-total appropriated	\$45,149	\$45,666	\$48,748

BUDGET ESTIMATES FISCAL YEAR 2016
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2014 Actual	FY 2015 Estimate	FY 2016 Request
<u>Reimbursable Programs (non-appropriated)</u>	<u>\$1,462</u>	<u>\$1,815</u>	<u>\$1,815</u>
- Compensation	811	960	967
- Benefits	217	306	309
- Travel	209	300	300
- Communications	5	3	3
- Other contractual services	214	236	226
- Supplies and materials	6	10	10
Sub-total of Reimbursable Programs	\$1,462	\$1,815	\$1,815
<u>Internal Training and Education (non-appropriated)</u>	<u>655</u>	<u>850</u>	<u>850</u>
- Compensation	132	129	130
- Benefits	43	41	42
- Seminars, workshops, conferences and training	191	291	290
- New mediator costs	107	134	133
- Tuition	80	127	127
- Other contractual services	24	25	25
- Supplies & materials	2	20	20
- Subscriptions	76	83	83
Sub-total of FMCS Training and Education	\$655	\$850	\$850
Sub-total of non-appropriated (reimbursable obligations)	\$2,117	\$2,665	\$2,665
TOTAL RESOURCES	\$47,266	\$48,331	\$51,413

FEDERAL MEDIATION AND CONCILIATION SERVICE

Detail of Total Employment – End of Year

	2014 Actual	2015 Estimated	2016 Requested
Executive Level III.....	0	1	1
ES.....	2	4	4
Subtotal.....	2	5	5
GS-15.....	21	21	21
GS-14.....	136	140	140
GS-13.....	32	39	39
GS-12.....	4	5	5
GS-11.....	3	2	2
GS-10.....	0	2	2
GS-9.....	4	4	4
GS-8.....	15	15	15
GS-7.....	4	5	5
GS-6.....	6	7	7
GS-5.....	0	0	0
GS-4.....	0	0	0
GS-3.....	0	0	0
GS-2.....	0	0	0
Subtotal.....	225	240	240
Total employment, end of year.....	227 **	245 **	245 **
Full-time equivalent (FTE) usage.....	227 **	245 **	245 **
Average ES Salary.....	\$165,565	\$167,100	\$168,700
Average GS Level.....	12.94	12.86	12.88
Average GS Salary.....	\$112,000	\$112,640	\$113,100

** 9 FTE funded by reimbursable revenue.

VI. 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 2014, FMCS mediators were actively involved in more than 4,000 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 2014, FMCS mediated more than 1,700 grievance mediation cases and helped the parties reach agreement in 1,308 of these (77 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 2014, FMCS mediators conducted nearly 1,900 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 the FMCS to help expand the use of alternative dispute resolution throughout government to reduce litigation costs and to promote better government decision-making. In this context, the FMCS provided management and alternative dispute resolution, including negotiations, mediation, convening, facilitation, training, and systems design more than 900 times in FY 2014. The FMCS provides these ADR services to federal agencies and to state and local governments on a cost-reimbursable basis:

- **Workplace and Employment Disputes**—FMCS mediates workplace and employment disputes for federal and state agencies. The majority of these disputes concern claims of employment discrimination (EEO), other types of personnel issues and workplace conflicts. FMCS accepts individual and multi-party conflicts for mediation.
- **Disputes Involving Administrative Programs**—FMCS also mediates disputes between agencies and their “regulated public,” such as whistleblower complaints or disputes involving contracts, grants, licenses, enforcement, and administrative programs.
- **Consultation, Evaluation, and Systems Design**—FMCS provides professional conflict resolution specialists to help agencies design conflict prevention and resolution systems to build capacity for constructive conflict management

systems. Systems design may include an initial consultation, an assessment, program design and development, training delivery, and program management follow-up.

- **Facilitation during Decision-Making**—Particularly in times of limited budgets, FMCS facilitation services can help agencies achieve cost-savings when decision-making is delegated to a committee, task force, or other type of group. FMCS facilitation services, including consultation, convening, training, and the actual facilitation, help groups accomplish their tasks within specified time frames. Notably, these services can be provided both onsite and virtually, another valuable time and cost saving feature of FMCS facilitation services.
- **Negotiated Rulemaking**—Negotiated rulemaking is a process in which a government agency invites persons and groups potentially impacted by a proposed rule to participate in its drafting. Interested parties who might otherwise oppose or challenge the rule are given the chance to participate in its formulation, thus reducing post-issuance challenges. The Negotiated Rulemaking Act of 1996 authorizes FMCS to convene and facilitate this process. Since the 1980s, FMCS has convened and facilitated dozens of negotiated rulemakings for numerous agencies.
- **Agency Cooperation & Collaboration**—FMCS can facilitate intra-agency or multiple agency groups tasked with developing a strategic plan or identified objective involving complex matters. Interest-based problem-solving and collaboration skills are essential to achieving successful outcomes.
- **Public Policy Dialogues**—Similarly, FMCS is often called upon to facilitate public policy discussions under the Federal Advisory Committee Act (FACA). This law established a wide array of public-private stakeholder Advisory Committees to inform public policy decisions. These multi-party stakeholder discussions can benefit from the assistance of a skilled and neutral facilitator experienced in synthesizing discussion points and interests, as well as establishing and overseeing meeting structures and processes. Training and coaching are also available for participants.

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 using cost-reimbursable funds, largely through interagency acquisition agreements with other government

agencies, such as the Departments of State and Labor and U.S. AID. In FY 2014, FMCS mediators delivered more than 330 hours of mediation and industrial relations training programs in China, Korea, Nigeria, Morocco, Romania, Honduras, Thailand, Haiti, and Myanmar. 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 2014, the Office of Arbitration Services processed more than 13,100 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 2014 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 competed and awarded to encourage labor-management committees to develop innovative joint approaches to workplace problems.

VII. Workload Projections – FY 2015 and FY 2016

The FMCS workload over prior fiscal years, caseload estimates, accomplishments for FY 2014, and estimated workloads in FY 2015 and 2016 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 2010 - 2016

PROGRAM SERVICES	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
	Actual	Actual	Actual	Actual	Actual	Estimated	Estimated
1. COLLECTIVE BARGAINING							
MEDIATION.....							
Assigned Cases ⁱ	14,127	13,712	13,114	12,938	12,054	12,800	12,800
- Private Sector	12,888	12,460	11,814	11,802	10,856	11,587	11,587
- Public Sector (state and municipal)	906	943	943	843	905	912	912
- Federal Sector	333	309	357	293	293	301	301
Mediated Cases ⁱⁱ	4,919	4,665	4,528	4,122	4,009	4,387	4,387
- Private Sector	3,632	3,271	3,079	2,826	2,697	3,074	3,074
- Public Sector (state and municipal)	991	1,091	1,111	981	1,020	1,025	1,025
- Federal Sector	296	303	338	315	292	289	289
Closed Cases	12,992	13,776	13,652	12,651	12,032	12,466	12,466
Closed Mediated Cases	4,005	3,815	3,764	3,339	3,299	3,592	3,592
Activity Rate ⁱⁱⁱ	31%	28%	28%	26%	27.4%	28.8%	28.8%
Settled and Closed Mediated Cases	3,428	3,234	3,159	2,807	2,852	3,347	3,347
Percentage of mediated cases settled w/FMCS ^{iv}	86%	85%	84%	84%	86.5%	93.2%	93.2%
Activity rate in significant cases ^v	46%	33%	46%	47%	40.6%	48.0%	48.0%
2. GRIEVANCE MEDIATION							
Assigned Cases	2,124	1,968	1,837	1,872	1,762	1,900	1,900
Mediated Cases	2,084	1,905	1,784	1,809	1,704	1,857	1,857
- Private Sector	1,708	1,513	1,372	1,398	1,330	1,451	1,451
- Public Sector (state and municipal)	239	261	264	267	256	280	280
- Federal Sector	137	131	148	144	118	135	135
Settled GM Cases	1,532	1,428	1,367	1,383	1,308	1,427	1,427
Percentage of cases settled w/ FMCS ^{vi}	74%	75%	77%	76%	76.8%	76.8%	76.8%

PROGRAM SERVICES	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Actual	FY 2014 Actual	FY 2015 Estimated	FY 2016 Estimated
3. RELATIONSHIP-DEVELOPMENT AND TRAINING							
Number of training programs provided	2,200	2,301	2,128	2,027	1,884	2,200	2,200
- Private Sector	1,471	1,267	1,262	1,174	1,111	1,314	1,314
- Public Sector (state and municipal)	433	493	463	533	436	545	545
- Federal Sector	296	541	403	320	337	341	341
4. ADR Services.....							
Mediated Cases	1,392	1,330	1,110	1,118	910	1,100	1,100
- Federal Sector	1,387	1,323	1,090	1,089	884	1,081	1,081
- Public Sector (state and municipal)	2	3	5	1	6	5	5
- Private	3	4	15	28	20	14	14
Settled ADR Cases	675	641	537	488	410	518	518
Percent of ADR cases settled w/ FMCS ^{vii}	48%	48%	48%	44%	45.1%	47%	47%
5. OUTREACH							
Outreach cases ^{viii}	3,240	3,190	3,019	2,911	2,710	3,080	3,080
6. ARBITRATION SERVICES							
Number of panels issued	16,486	13,500	13,538	13,361	13,179	14,000	14,000
Number of arbitrators appointed	6,870	5,575	6,129	6,020	5,836	5,693	5,693
Average number of days for arbitrator appointment	2.1	3.9	2.0	2.9	4.1	2.0	2.0
7. INSTITUTE.....							
Number of courses provided	12	5	8	10	8	10	10
Number of participants	207	93	179	188	114	200	200

VIII. 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 2014, and performance goals for FY 2015 and FY 2016.

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:

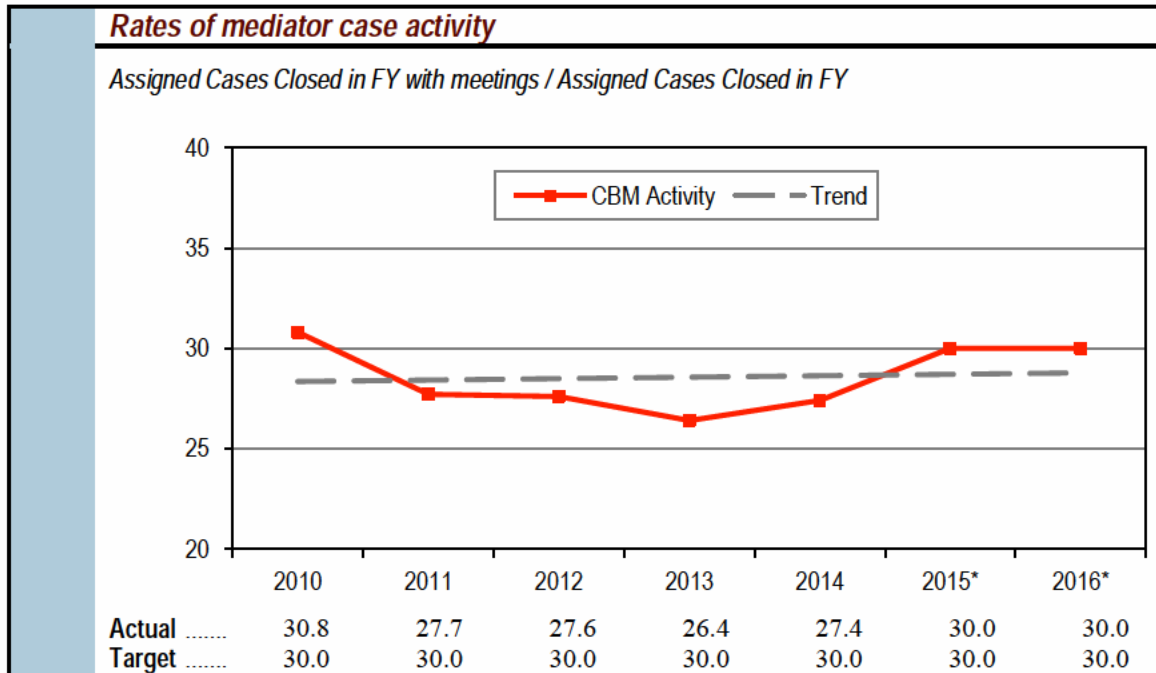
Collective bargaining mediation represents the core of the FMCS mission and its most publicly visible work. An independent study conducted for the FMCS found that mediation prior to a contract's expiration date significantly reduces the duration of any work stoppage that occurs. Previously, three separate 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.

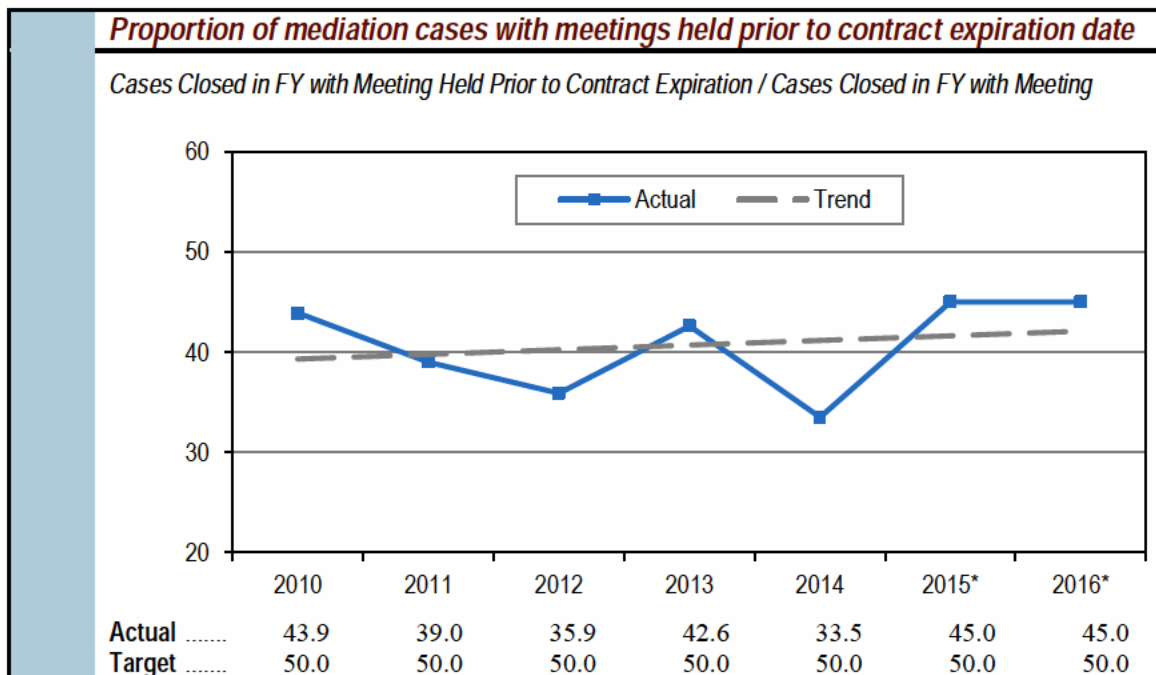
The FMCS evaluates its success in these areas by looking at how many negotiations use mediation services, whether or not a work stoppage occurred, the duration of any stoppage, and the timing of mediators' involvement. On an aggregate basis, the FMCS also estimates the financial cost of work stoppages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



* Estimated



* 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:

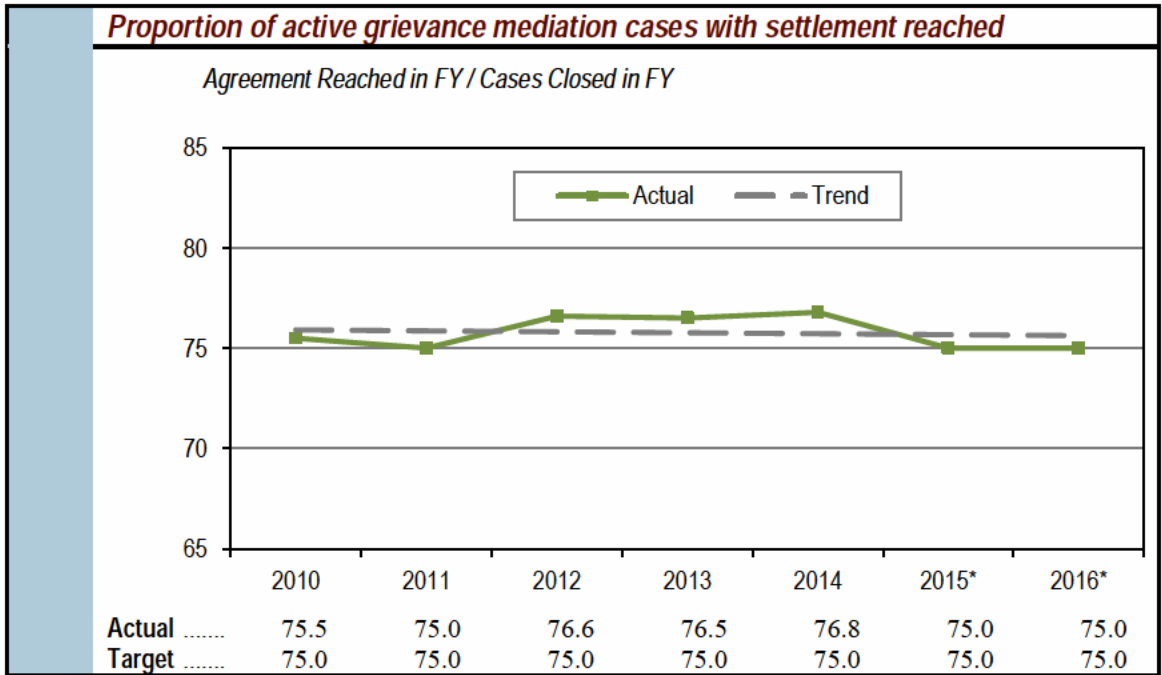
Grievance mediation, joint problem-solving facilitation, and arbitration are three approaches for resolving disputes that may arise from differing interpretations of a labor contract's terms and conditions. Grievance mediation and joint problem-solving facilitation are voluntary processes that rely upon 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 and variety of dispute mediation services provided to government agencies, including, but not limited to, employment mediation, regulatory negotiations, public policy disputes, systems design, skills development and training, facilitation of inter- and intra-Agency cooperation and collaboration, mediator coaching and mentoring.

Strategy:

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

Expected Outputs:

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

Discussion:

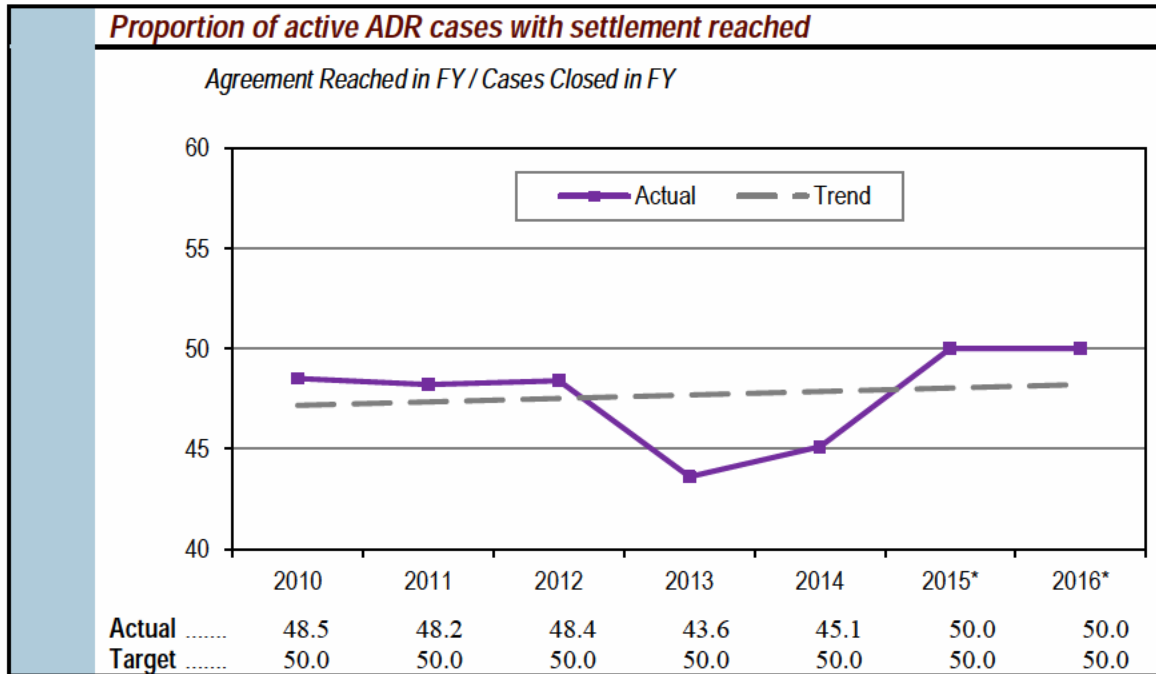
The FMCS alternative dispute resolution (ADR) work is defined by the Administrative Dispute Resolution Act of 1996 and is designed to help resolve disputes that do not result from a collective bargaining relationship. Under the Act, the FMCS is generally limited to work in the federal sector, but may 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 conflict management services and regulatory/enforcement services that the FMCS takes and achieving an increased number of resolved matters, 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 2014 FMCS case intake exceeded 20,500.
- 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.