

Congressional Submission



Fiscal Year

2018

FEDERAL MEDIATION AND CONCILIATION SERVICE

FISCAL YEAR 2018

Congressional Budget Submission

&

Annual Performance Plan

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FEDERAL MEDIATION AND CONCILIATION SERVICE

FISCAL YEAR 2018

Congressional Budget Submission & Annual Performance Plan

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Fiscal Year 2018 Budget Request

I. Executive Summary

Seventy years ago Congress created the Federal Mediation and Conciliation Service (FMCS) through the Labor-Management Relations Act of 1947 (Taft-Hartley) as an independent agency of the Federal Government and charged it with preventing and minimizing labor-management disputes affecting interstate commerce by providing mediation, conciliation, and voluntary arbitration services. Congress had the wisdom and foresight to recognize that although workplace conflict is inevitable, disruptive work stoppages and dysfunctional labor-management relationships need not be. Through FMCS, the Federal Government plays a critical role in strengthening America's workplaces by providing limited, voluntary, and strategic assistance that minimizes or averts the adverse economic impacts of conflict. More importantly, thriving labor-management relationships, collaboration, and pragmatic problem solving between companies and their workers not only prevent disputes, but also significantly contribute to increased competitiveness, job growth, and enhanced economic well-being.

As a non-regulatory and independent agency, the services that FMCS provides to American business and Federal agencies are largely voluntary. Consequently, FMCS mediators must uphold the Agency's long and proud record of success in helping its customers resolve disputes, learn joint problem-solving skills, and create successful, collaborative problem-solving relationships in order to accomplish its mission. Every day, the Agency's small corps of skilled mediators provides its customers with appropriate conflict resolution strategies designed to enhance organizational effectiveness, improve competitiveness, increase jobs and job security, and promote organizational efficiency.

The need for FMCS conflict resolution strategies is just as great in this second decade of the 21st Century as it was 70 years ago. As in earlier periods of economic transition, new technologies and business models are fundamentally changing nearly every sector of the U.S. economy and as a result, increasing the likelihood of workplace conflict. Additionally, employers and workers continue to confront instability and rapid change in both retirement and health care benefits. Such change presents enormous challenges and opportunities for American workers and employers across all economic sectors. FMCS is well equipped to assist with making these changes as smooth as possible.

Whether a dispute takes place in traditional labor-management settings and in conventional industries and sectors of the economy—such as cargo shipping, oil refining, and automobile and steel manufacturing—or among service industry workers and those

participating in the new “gig” economy, labor disputes create complex decisions relating to costs, hiring and retaining skilled workers, managing technology, and competing globally. FMCS, headquartered in Washington, D.C., has strategically positioned ten regional offices and maintains more than 60 field stations across the country to help American workers and business thrive and succeed.

The 2018 budget requests \$48.7 million, an amount which will allow FMCS to continue meeting anticipated demand for its statutory activities.

A. Rising to the Challenge of the 21st Century Workplace

FMCS was born during the economic turmoil following the Second World War. Then, the U.S. was in the final stages of a disruptive transition from a predominantly agricultural to a mostly industrial economy. Now, the U.S. is at a similar point, this time in the throes of a transitioning economy that, in addition to manufacturing, includes advanced technology, knowledge, and services.

Although labor and management most often continue to rely upon traditional collective bargaining methods, new bargaining forms have emerged in the past few years, such as multi-party dialogues and local legislative initiatives, including high profile social media campaigns and community-based rallies. At the same time, there has been a surge of traditional organizing and demands for collective bargaining rights among "new economy" and previously unorganized workers.

Regardless of the forum or framework, the issues faced in 2018 will be fundamentally the same: workers will be seeking to improve their terms and conditions of employment and businesses will be seeking to ensure their competitiveness and profitability. In all cases, FMCS's highly skilled, professional mediators are uniquely positioned to help parties find durable solutions in a transitioning economy and competitive world.

FMCS understands that just as business and labor must innovate and embrace new workplace models during times of change, so too must FMCS. Accordingly, the agency recently engaged in an in-depth review of its operations and updated its structure and services to ensure that it provided the operational excellence, employee engagement, and culture of innovation needed to meet the evolving needs of its labor, management, and government customers.

B. Mediation and Conflict Resolution Services

With its 70-year history of providing mediation, training, and facilitation services, FMCS has more aggregate experience in dispute resolution than any other government agency. For the U.S. economy, the FMCS's statutory mandate to prevent or minimize economically disruptive labor disputes remains as vital today as it was when Congress created the agency.

FMCS is proud of its accomplishments to date and looks forward, in 2018, to intensifying its efforts to educate and inform business and labor of the value and benefits of the Agency's training, facilitation, and dispute resolution services. In 2018, FMCS will increase its efforts to:

- Use FMCS mediators' extensive conflict resolution experience and skill to improve relationships and create the trust, respect and problem-solving skills essential for continued economic growth, increased job security, and greater efficiency.
- Offer its expertise in varied models of bargaining, including traditional, modified traditional, and expedited interest-based bargaining.
- Assist other government agencies to manage their disputes and resolve stakeholder conflict through alternative dispute resolution processes, including the facilitation of public policy discussions, and negotiated rulemaking.

Managing Bargaining Challenges: Anticipating Major Contract Negotiations.

In 2018, FMCS expects to receive approximately 20,000 notices of expiring collective bargaining agreements. Some 250 of the known expiring contracts involve bargaining units of 1,000 members or more and represent a total of more than 1.4 million members. Many of these expiring agreements are in key private sector industries, such as manufacturing, telecommunications, groceries, health care, trucking, steelmaking, and sea ports.

- In October 2017, contracts covering more than 22,000 Safeway and Fry's grocery workers in Arizona will expire.
- Contracts for AT&T Mobility, covering more than 12,000 telecommunications workers in nine southern states, will expire in February 2018. In April, a contract covering 24,000 AT&T Global Services workers in the greater Chicago area will also expire.
- In early March, 2018, contracts for more than 7,000 Lockheed Martin aerospace workers represented by the Machinists union (IAMAW) will expire in California and Georgia.
- A contract with the International Brotherhood of Teamsters (IBT) covering nearly 25,000 truckers for ABF Freight will expire on March 31, 2018.
- On May 31, 2018, contracts with the Culinary Workers union and covering nearly 40,000 Las Vegas casino workers at MGM Resorts and Caesars Entertainment will expire.
- In July, 2018 the contract between United Parcel Service and the International Brotherhood of Teamsters (IBT) covering approximately 230,000 workers across the nation will expire.
- On September 1, 2018, the master agreement for both ArcelorMittal and US Steel Corp will expire. This agreement covers nearly 18,000 US Steel

workers across the state of Pennsylvania and another 13,000 ArcelorMittal workers.

- In September, 2018, a contract between the US Maritime Alliance (USMX) and the International Longshoremen Association (ILA) covering approximately 14,000 longshoremen in critical East Coast ports will expire.
- Kaiser Permanente and the Coalition of Kaiser Permanente Unions will negotiate a new contract in September, 2018 for approximately 105,000 workers.
- In September, 2018 the League of Voluntary Hospitals and Service Employees Union (SEIU) will renegotiate the New York Citywide agreement for almost 70,000 employees.

Promoting Collaborative Solutions: Labor-Management Training

While the Agency's first priority will always be to prevent or to promptly resolve labor disputes that could have an immediate adverse impact on the U.S. economy, FMCS experience demonstrates the enormous value of training parties in the tools and techniques of collaboration and joint problem-solving well in advance of any contract dispute.

In the private and Federal sectors, FMCS will continue to offer a wide range of programs designed to prevent workplace disputes and improve labor-management relationships. These programs help the parties develop collaborative, problem-solving approaches for managing conflict. Developed through decades of hands-on dispute resolution experience, the FMCS labor relations model encourages an ongoing, joint problem-solving approach characterized by open communications, respect, trust, and transparency.

Promoting Collaborative Solutions: Seed Money for Labor-Management Committees

The Labor-Management Cooperation Act of 1978 created the FMCS Labor-Management grants program and authorized appropriations of up to \$10 million annually to finance this authority. The act directs FMCS to encourage and support joint labor-management activities conducted by plant, area, and industry-wide committees that are designed to improve labor-management relationships, competitiveness, economic development, and innovative joint approaches to achieving organizational effectiveness. Congress' intent was for FMCS to use this program to support and expand upon the success of locally created area labor-management committees.

Through its grants program FMCS provides seed money to support plant, area, and industry-wide labor-management committees that come together to confront a specific, definable problem for which they have developed a defined solution. FMCS funding provides innovative solutions through detailed, measurable, and benchmarked strategies identified in the application.

The integrity of the funds is monitored through regular reviews, which include a local FMCS mediator assigned to the project, as well as monthly reporting to the program manager. Grantees are not permitted to use funds for training or other services available through FMCS's appropriated programs.

The ongoing shift in labor market trends, coupled with the fact that significant labor-management reform activity is taking place across industries and at the city, state, and regional level, requires greater efforts to coordinate activities and successfully prevent and manage the conflict that historically accompanies economic and technological change. Collaborative solutions, achieved through multi-stakeholder consensus and more permanent mechanisms for responding to workplace challenges as they arise are arguably more durable and cost effective than piecemeal approaches.

Focusing on community-wide and industry-wide challenges associated with transitions in the economy fully supports FMCS grant-making as contemplated by Congress in 1978.

Alternative Dispute Resolution Services to Government

In addition to providing labor-management dispute resolution services, the Administrative Dispute Resolution (ADR) and Negotiated Rulemakings Acts of 1996 call upon FMCS to assist Federal, state, and local government entities in resolving disputes arising under their jurisdictions.

On a cost-reimbursable basis, FMCS provides a wide variety of professional services to more than 130 Federal agencies and bureaus. These services include: mediating employment disputes and disputes involving administrative programs; training in the skills and procedures of alternative dispute resolution; consulting, evaluating, designing, and building capacity in conflict management systems; facilitating public policy and intra/inter-agency discussions; and developing tools for interagency and public-private cooperation and collaboration.

Based upon its proven record of past successes, the administration's focus on reducing regulatory burdens, and a growing interest from other Federal agencies, FMCS expects to increase its work with Federal regulatory negotiations in 2018. In prior years FMCS mediators have played a critical role in regulatory negotiations.

An example of FMCS's past success in the area of negotiated rule making involved what has been hailed as the one of the biggest energy-saving standards rulemaking. FMCS assisted a cross section of industry, government, and advocacy group stakeholders in achieving major new consensus energy standards for commercial heating and air conditioning equipment. The new standards have the potential to save nearly 15 quadrillion BTUs (quads) of energy over 30 years and reduce energy consumption and costs by billions of dollars over the lifespan of the equipment.

Managing Bargaining Challenges: Recent Major Contract Negotiations

To illustrate the value of its work, the following summaries describe FMCS efforts in major cases and activities during fiscal 2016:

- **Nexteer Automotive Corporation and UAW Local 699.** A Saginaw, MI-based mediator successfully assisted the Nexteer Automotive Corporation and their 3,350-plus UAW-represented members in reaching a new four-year contract. Following a tentative agreement which was soundly rejected, the membership went on strike for one day. A subsequent session mediated by FMCS resulted in an end to the strike and averted plant shutdowns at production lines of the Detroit “Big Three” automaker plants. The giant automotive-steering maker has a global workforce of more than 12,000, with 5,000 based in Michigan.
- **St. Cloud VA Medical Center and the American Federation of Government Employees (AFGE) Local 390.** Local AFGE representatives and managers at the St. Cloud Medical Center jointly participated in intensive training under FMCS auspices to improve workplace cooperation and delivery of patient care at the facility. The U.S. Department of Veterans Affairs Secretary praised the work of FMCS mediators during a visit to the St. Cloud VA Medical Center in St. Cloud, MN and credited FMCS with the improved labor-management relations at St. Cloud.
- **Allegheny Technologies Inc. (ATI) and the United Steelworkers (USW).** Assisted by Pittsburgh-based mediators, the members of the bargaining committee reached a new four-year contract bringing an end to a six-month long lockout. The contract affected 2,200 steelworkers at 12 ATI plants located in six different states.
- **Verizon Communications, Inc. and the Communications Workers of America (CWA) and International Brotherhood of Electrical Workers (IBEW).** Following the announcement of an agreement in principle in Verizon-CWA-IBEW talks covering some 39,000 workers in the Northeast, ending a six-and-a-half-week strike, union officials praised the efforts of the Labor Secretary, FMCS Director, and other officials who assisted in the successful negotiations.
- **Brigham and Women’s Hospital and the Massachusetts Nurses Association.** With several days of late-night assistance from an FMCS mediator in negotiations between Brigham and Women’s Hospital (BWH) in Boston, MA and the Massachusetts Nurses Association (MNA), labor and management representatives averted a potentially disruptive strike by approximately 3,300 care-givers at the hospital that would have begun if talks between the two had failed.
- **Kaleida Health System and CWA, SEIU Health care Workers and the IUOE.** Kaleida Health System is a major health care provider in western New

York with more than 7,000-plus workers at various facilities. A Buffalo-based mediator worked tirelessly with the parties over several months, chairing almost two dozen bargaining sessions, the last of which required a marathon 20-plus hours to avert a highly disruptive work stoppage.

- **New York’s Con Edison and the Utility Workers Union of America Local 1-2.** When New York’s Consolidated Edison, Inc. (Con Edison) and the Utility Workers Union of America Local 1-2 announced that they had reached a new labor settlement, it was after long hours and intensive efforts at the bargaining table under the auspices of FMCS mediators, averting a potential work stoppage that could have disrupted power to customers and affected thousands of working families.
- **Southern California Supermarket Negotiations.** With help from FMCS mediators over many months, southern California grocery workers, represented by local unions of the United Food and Commercial Workers (UFCW) and the Ralphs and Albertsons supermarket chains, averted a possibly damaging work stoppage, affecting approximately 50,000 supermarket employees in the region and countless supermarket customers. A previous strike by the UFCW locals in 2003-2004 had lasted four-and-a half months.
- **Catholic Health Systems (CHS) and the Communications Workers of America (CWA).** A Buffalo based mediator assisted labor and management in negotiations covering more than 2,500 workers in reaching new contract agreements in FY2016. The CHS negotiations included registered nurses at Sisters of Charity Hospital, St. Joseph Campus; technical associates at Kenmore Mercy Hospital; and registered nurses and service, technical and clerical associates at Mercy Hospital of Buffalo.

C. Accountable Government

In 2018, FMCS will ensure that it is a model of government efficiency, integrity, employee engagement, and customer service through the continuation of a 2016 initiative called “Securing the Future of FMCS Together.” Like many Federal agencies, FMCS has experienced many challenges related to employee recruitment, training, consistent performance, and retention. For 2018, and beyond, FMCS is committed to meeting and exceeding its performance goals.

Creating Structural Integrity and Operational Consistency

As in past years, FMCS continues to use a business-based model for reviewing field office utilization for efficiency and cost-effectiveness. This evaluation occurs on a bi-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—FMCS makes sure to place employees in areas where they can provide the greatest benefit at the least cost. FMCS will continue to use a workload evaluation model

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.

Increasing Compliance and Strengthening Internal Controls

Concurrent with the move of its national office in early FY 2017, FMCS contracted with the National Archives and Records Administration (NARA) to review its records keeping policies and systems. In 2018 FMCS will continue to implement the new policies and procedures recommended by NARA. Also, FMCS is currently reviewing and updating, as necessary, all internal policy statements (FMCS Directives). Improved records management, in concert with strengthened financial policies and procedures will allow FMCS to demonstrate effective and efficient use of public resources.

Reforming Hiring Practices and Managing Performance

Small agencies often face a challenge in attracting talented job applicants. In 2018, and in the ensuing years, FMCS seeks to maintain and improve upon its position as one of the most desirable places to work in government. Achieving this goal enables FMCS to nationally recruit the most diverse, best qualified applicants, while retaining the most effective and efficient workforce. To this end, FMCS has revamped and modernized its HR office. Improvements include: OPM granting FMCS delegated hiring authority; FMCS being the first agency to beta test and use the new USA Staffing system; developing and implementing consistent on-boarding and mentoring practices across its operations; and reviewing and revising employee position descriptions and performance standards.

As previously mentioned, FMCS has experienced a significant number of retirements and, consequently, new mediator hiring. This turnover places greater emphasis on the importance of training and institutional knowledge transfer.

In 2018, FMCS will expand upon the initial success of a new internal training platform for employees that it calls its Virtual Academy. This “academy” leverages new internet-based technologies to provide FMCS employees with on-demand programs and live webinars that sharpen their skills, develop expertise in new and complex areas, and help share institutional knowledge and best practices through mediator “success stories” and experiences with colleagues.

Using the Virtual Academy platform is a schedule-friendly and cost-effective way to offer training to the FMCS workforce. Recent offerings have focused on timely topics such as health care industry bargaining and the bargaining impact of statutes affecting health care benefits. This format also allows for mediator-to-mediator peer sharing of institutional knowledge critical for diffusion of information and successful innovative programs.

Promoting Employee Engagement

Employee engagement is a process designed to ensure that employees are committed to the organization’s goals and values, vested in the organization’s success, and are

simultaneously able to enhance their own sense of well-being. To meet its employee engagement goals for 2018, FMCS will continue to encourage diverse viewpoints, solicit employee feedback and innovation, and practice open communications and increased transparency.

FMCS will continue to use a number of strategies to achieve its objectives including, among other things: regular communications from the Director; daily internal and external news roundups; quarterly virtual town hall meetings; regular newsletters featuring up-to-date information about significant cases and training programs; regular meetings with all levels of staff; holding monthly meetings with national office managers focused upon goals, action plans, and deliverables; providing field directors with opportunities for regular information exchange and collaboration; and a continuation of open forums to constructively engage the FMCS workforce on a regular basis.

Modernizing Communications with Customers

FMCS strives to provide high-quality, high-value services to its customers in order to meet and fulfill its statutory mission. Equally important is FMCS's commitment to using allocated resources as efficiently as possible in order to ensure that customers and taxpayers receive the most value for the services it provides.

In 2018, FMCS will have in place an updated employee intranet and document management system. This is in concert with earlier efforts to update Agency technology to better serve current and future customers, including: launching a new public website; using social media (Facebook, Twitter, and YouTube) to communicate with customers and employees; and using a new email service delivery system designed to reach larger audiences with information about upcoming live and web-based conflict resolution presentations and training events.

As part of its evaluation effort, FMCS relies, in part, upon the results of the annual Federal Employee Viewpoint Survey (FEVS). The FEVS results have consistently recognized FMCS as one of the best places to work in the Federal Government, including in 2014 (2nd place among small agencies), 2015 (1st place among small agencies), and 2016 (3rd place among small agencies). The 2015 results also designated FMCS 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.

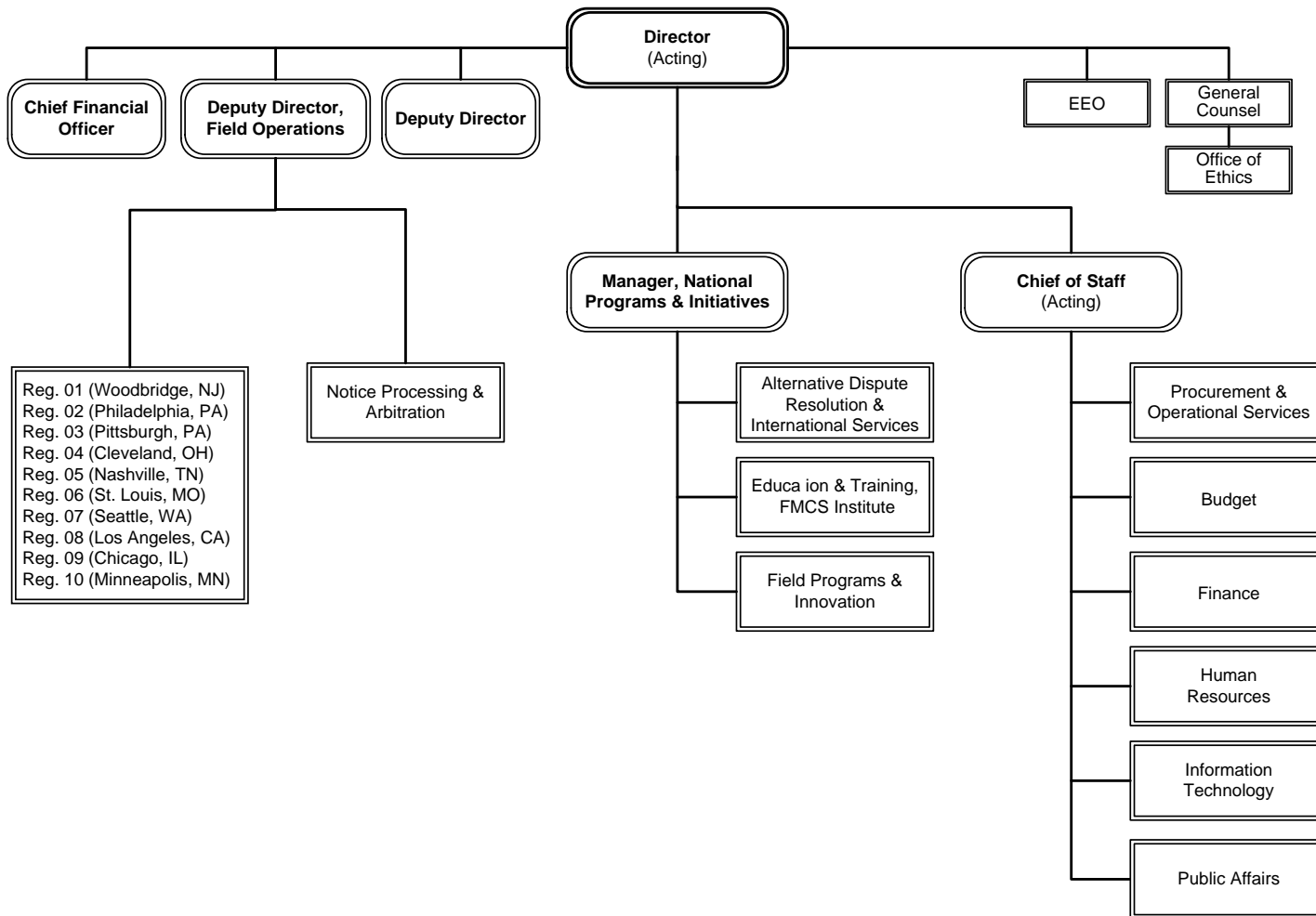
D. Conclusion

The U.S. economy is in a period of transition on many levels. While these transformations present great opportunities, they also present the challenge of increased workplace conflicts as workers and businesses grapple with issues of technology, automation, competition, skills, and cost-cutting. Workplace disputes are arising in both traditional labor-management collective bargaining settings, as well as in high profile social media and community based campaigns for improved wages and working conditions.

Over seven decades, FMCS has compiled a proud record of success in helping parties resolve disputes, learn joint problem-solving skills, and create successful, collaborative problem-solving relationships. As the nature, complexity, and range of the issues confronting managers and employees in business and government have evolved, so too has FMCS, constantly seeking new and innovative methods to prevent disruptions to the U.S. economy, to reduce costs to U.S. taxpayers, and, most importantly, to help managers and workers together overcome the challenges of the changing economy in business and government workplaces.

Given the anticipated size and number of collective bargaining agreements expiring in FY 2018, the need to fill vacant mediator positions to meet the anticipated demand for FMCS services, and the ongoing need for labor and management to work collaboratively to achieve competitiveness, economic development, and job security, we urge you to favorably consider this request for \$48,655,000.

II. FMCS Organizational Chart



As of Feb. 1, 2017

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, \$48,655,000 including up to \$399,000 to remain available through September 30, 2019, 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.

Notes

A full-year 2017 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Further Continuing Appropriations Act, 2017 (P.L. 114–254). The amounts included for 2017 reflect the annualized level provided by the continuing resolution.

The period of availability for labor management grants is misstated in the 2018 Budget Appendix. The correct period of availability should be through September 30, 2019.

I. Statutory and Other Legal Authority

FEDERAL MEDIATION AND CONCILIATION SERVICE

Title II of the Labor-Management Relations Act of 1947 (Taft-Hartley) established the Federal Mediation and Conciliation Service 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, 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 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 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 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 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 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 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 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 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. 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 FMCS may provide all forms of ADR assistance to Federal agencies. Under this legislation, 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 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 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, 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, as amended by Public Law 111-163, 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 FMCS 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 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 FMCS or other agreed-upon entity, and requires TSA and the unions subject to bargaining to attend training in interest-based negotiations conducted by FMCS.

II. Budget Tables and Detailed Financial Requirements

FEDERAL MEDIATION AND CONCILIATION SERVICE

BUDGET AND STAFFING BY ACTIVITY

(in thousands of dollars)

	FY 2016		FY 2017		FY 2018		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	166	\$34,862	172	\$37,311	172	\$37,436	0	\$125
2. Arbitration Services.....	8	702	8	714	8	742	0	28
3. National Office and Operational Support	43	12,784	46	10,231	46	10,078	0	(153)
4. Labor-Management Grants.....	0	400	0	399	0	399	0	0
Sub-Total Appropriated	217	\$48,748	226	\$48,655	226	\$48,655	0	\$0

BUDGET AND STAFFING BY ACTIVITY
(in thousands of dollars)

	FY 2016		FY 2017		FY 2018		Total Program Increase or (Decrease) 2017 to 2018	
	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...	9	\$1,711	9	\$1,880	9	\$2,030	0	\$150
6. FMCS Internal Training and Education.....	1	824	1	\$1,070	1	\$955	0	\$(115)
Sub-Total Reimbursable	10	\$2,535	10	\$2,950	10	\$2,985	0	\$35
TOTAL RESOURCES	227	\$51,283	236	\$51,605	236	\$51,640	0	\$35

FEDERAL MEDIATION AND CONCILIATION SERVICE

**BUDGET ESTIMATES FISCAL YEAR 2018
FINANCIAL REQUIREMENTS**

(in thousands of dollars)

	FY 2015 Actual	FY 2016 Actual	FY 2017 Estimated	FY 2018 Request	2017 to 2018 Change (+/-)
<u>Personnel Compensation</u>	<u>\$24,992</u>	<u>\$25,763</u>	<u>\$27,133</u>	<u>\$27,784</u>	<u>\$651</u>
Full-time permanent	24,625	25,249	26,600	27,235	635
- Full-time permanent positions	24,625	25,249	26,600	27,235	635
Other than full-time permanent	68	235	243	248	5
- Other than full-time permanent positions	68	235	243	248	5
Other Personnel Compensation	299	279	290	301	11
- Overtime & holiday pay	15	21	15	15	0
- Cash incentive awards	284	258	275	286	11
<u>Personnel Benefits</u>	<u>\$7,848</u>	<u>\$8,247</u>	<u>\$8,980</u>	<u>\$9,239</u>	<u>\$259</u>
Civilian Personnel Benefits	7,848	8,247	\$8,980	\$9,239	\$259
- CSRS Retirement Contribution	136	149	125	103	(22)
- FERS Retirement Contribution	2,911	3,095	3,393	3,541	148
- Federal Retirement Thrift Savings Plan Contribution	1,070	1,102	1,224	1,268	44
- Group life insurance	49	45	52	53	1
- Health Insurance Contribution	1,682	1,786	1,958	2,049	91
- OASDI – FERS	1,325	1,317	1,502	1,570	68
- Employee compensation	285	304	239	177	(62)
- Relocation expenses (PCS)	0	87	0	0	0

BUDGET ESTIMATES FISCAL YEAR 2018
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2015 Actual	FY 2016 Actual	FY 2017 Estimated	FY 2018 Request	2017 to 2018 Change (+/-)
<u>Personnel Benefits (continued)</u>					
<u>Civilian Personnel Benefits (continued)</u>					
- Cost-of-living allowance	15	16	17	18	1
- Subsidy for commuting costs	35	5	150	160	10
- Medicare contribution	340	341	320	300	(20)
<u>Benefits of Former Personnel</u>	<u>\$0</u>	<u>\$2</u>	<u>\$3</u>	<u>\$3</u>	<u>\$0</u>
- Unemployment compensation	0	2	3	3	0
- Voluntary separation incentive	0	0	0	0	0
<u>Travel and Transportation of Persons</u>	<u>\$1,708</u>	<u>\$1,917</u>	<u>\$1,743</u>	<u>\$1,743</u>	<u>\$0</u>
- National office travel	183	222	188	188	0
- PCS family travel	0	1	0	0	0
- Official car	5	6	5	5	0
- Field office travel	1,520	1,688	1,550	1,550	0
<u>Transportation of Things</u>	<u>\$0</u>	<u>\$10</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
- Transportation of household goods (PCS)	0	10	0	0	0
<u>Rents, Communications, and Utilities</u>	<u>\$6,501</u>	<u>\$6,572</u>	<u>\$5,292</u>	<u>\$6,673</u>	<u>\$1,381</u>
<u>Rental Payments to GSA</u>	5,780	5,606	4,300	5,750	1,450
- Rental payments to GSA	5,780	5,606	4,300	5,750	1,450

BUDGET ESTIMATES FISCAL YEAR 2018
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2015 Actual	FY 2016 Actual	FY 2017 Estimated	FY 2018 Request	2017 to 2018 Change (+/-)
<u>Rents, Communications, and Utilities (continued)</u>					
Rental Payments to Others	7	1	13	13	0
- Conference room rental	7	1	5	5	0
- Equipment rental	0	0	8	8	0
Communications, Utilities, and Miscellaneous	714	965	979	910	(69)
- GSA Phones	150	119	90	15	(75)
- FTS Phones	24	13	10	5	(5)
- Commercial Phones	180	234	360	360	0
- Data communication services	320	544	466	477	11
- Postal services and rentals	40	55	53	53	0
<u>Printing and Reproduction</u>	<u>\$40</u>	<u>\$40</u>	<u>\$55</u>	<u>\$45</u>	<u>\$(10)</u>
- FMCS forms and other printing	40	40	55	45	(10)
<u>Other Contractual Services</u>	<u>\$3,677</u>	<u>\$4,064</u>	<u>\$3,192</u>	<u>\$1,699</u>	<u>(\$1,493)</u>
Advisory and Assistance Service	50	70	117	95	(22)
- Computer assisted legal research	10	0	21	14	(7)
- OPM background investigations	36	64	90	75	(15)
- Office equipment and machinery relocation	4	6	6	6	0

BUDGET ESTIMATES FISCAL YEAR 2018
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2015 Actual	FY 2016 Actual	FY 2017 Estimated	FY 2018 Request	2017 to 2018 Change (+/-)
<u>Other Contractual Services (continued)</u>					
Other Services	618	444	682	460	(222)
- Management and professional services	613	442	677	455	(222)
- Official representation fund	5	2	5	5	0
Other purchases of goods and services	252	235	135	135	0
- Guard security and Federal Protective Services	252	235	135	135	0
Operation and Maintenance of Facilities	1,860	2,084	150	75	(75)
- Office repairs and alterations	60	1	150	75	(75)
- National Office moving (cabling, furniture, fixtures, equipment, and IT)	1,800	2,083	0	0	0
Medical Care	15	25	25	25	0
- Medical care	15	25	25	25	0
Operation and Maintenance of Equipment	882	1,206	2,083	909	(1,174)
- Maintenance of office equipment	100	169	150	100	(50)
- Maintenance of information technology equipment	265	347	335	260	(75)
- Information technology support services	468	659	1,564	515	(1,049)
- Support of payroll/personnel operations	49	29	34	34	0
- Household goods storage (PCS)	0	2	0	0	0

BUDGET ESTIMATES FISCAL YEAR 2018
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2015 Actual	FY 2016 Actual	FY 2017 Estimated	FY 2018 Request	2017 to 2018 Change (+/-)
<u>Supplies and Materials</u>	<u>\$230</u>	<u>\$326</u>	<u>\$360</u>	<u>\$300</u>	<u>(\$60)</u>
- Office supplies and materials	150	145	158	148	(10)
- Information technology supplies and materials	80	181	202	152	(50)
<u>Equipment</u>	<u>\$270</u>	<u>\$1,407</u>	<u>\$1,498</u>	<u>\$770</u>	<u>(\$728)</u>
- Furniture and fixtures	80	68	170	80	(90)
- Information technology hardware/software	150	1,080	1,293	655	(638)
- Machinery and equipment	40	259	35	35	0
<u>Grants, Subsidies and Contributions</u>	<u>\$400</u>	<u>\$400</u>	<u>\$399</u>	<u>\$399</u>	<u>\$0</u>
Sub-total appropriated	\$45,666	\$48,748	\$48,655	\$48,655	\$0

BUDGET ESTIMATES FISCAL YEAR 2018
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2015 Actual	FY 2016 Actual	FY 2017 Estimated	FY 2018 Request	2017 to 2018 Change (+/-)
<u>Reimbursable Programs (non-appropriated)</u>	<u>\$1,910</u>	<u>\$1,711</u>	<u>\$1,880</u>	<u>\$2,030</u>	<u>\$150</u>
- Compensation	800	879	950	970	20
- Benefits	230	260	305	310	5
- Travel	245	228	300	305	5
- Communications	4	0	0	0	0
- Other contractual services	621	341	315	435	120
- Supplies and materials	10	3	10	10	0
Sub-total of Reimbursable Programs	\$1,910	\$1,711	\$1,880	\$2,030	\$150
<u>Internal Training and Education (non-appropriated)</u>	<u>\$950</u>	<u>\$824</u>	<u>\$1,070</u>	<u>\$955</u>	<u>\$(115)</u>
- Compensation	135	141	143	145	2
- Benefits	42	42	43	43	0
- Seminars, workshops, conferences and training	332	205	254	254	0
- New mediator costs	189	129	130	133	3
- Tuition	90	219	250	250	0
- Other contractual services	65	9	140	20	(120)
- Supplies & materials	19	5	10	10	0
- Subscriptions	78	74	100	100	0
Sub-total of FMCS Training and Education	\$950	\$824	\$1,070	\$955	\$(115)
Sub-total of non-appropriated (reimbursable)	\$2,860	\$2,535	\$2,950	\$2,985	\$35
TOTAL RESOURCES	\$48,526	\$51,283	\$51,605	\$51,640	\$35

FEDERAL MEDIATION AND CONCILIATION SERVICE

Detail of Total Employment – End of Year

	2016 Actual	2017 Estimated	2018 Requested
Executive Level III.....	1	1	1
ES.....	3	4	4
Subtotal.....	4	5	5
GS-15.....	24	23	23
GS-14.....	125	121	117
GS-13.....	34	42	46
GS-12.....	7	8	8
GS-11.....	5	8	8
GS-10.....	1	1	1
GS-9.....	2	11	11
GS-8.....	13	4	4
GS-7.....	9	10	10
GS-6.....	3	3	3
GS-5.....	0	0	0
GS-4.....	0	0	0
GS-3.....	0	0	0
GS-2.....	0	0	0
Subtotal.....	223	231	231
Total employment, end of year.....	227 *	236 *	236 *
Full-time equivalent (FTE) usage.....	227 *	236 *	236 *
Average ES Salary.....	\$169,270	\$170,886	\$172,590
Average GS Level.....	13.02	12.96	12.93
Average GS Salary.....	\$112,122	\$111,414	\$114,046

* 10 FTE funded by reimbursable revenue

III. 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 70 years, 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 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 FMCS’s 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. 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 2016, FMCS mediators were actively involved in more than 3,500 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 becoming contentious issues in future contract negotiations. Lengthening contract terms increase the importance of resolving contentious issues arising during the term of a contract. In FY 2016, FMCS mediated more than 1,670 grievance mediation cases and helped the parties reach agreement in 1,264 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 FMCS. The Agency'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 2016, FMCS mediators conducted more than 1,900 training programs with collective bargaining partners.

Alternative Bargaining Training, such as Interest Bargaining, teaches techniques and the potential benefits of a non-adversarial, joint problem-solving approach to negotiation. FMCS regularly develops, based on the needs of the parties, alternative bargaining models to enhance problem-solving and mitigate adversarial relationships. Core training programs consist of:

- **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.
- **Interest-Based Bargaining and Interest-Based Problem Solving**
- **Collective Bargaining and Mediation Training.** Trains the parties on effective negotiation and communication skills.

D. Conflict Resolution and ADR Services for Government

Outside the collective bargaining arena, FMCS provides professional services to a wide range of Federal, state, and government agencies on a cost-reimbursable basis. ADRA authorizes FMCS to assist in resolving disputes, train persons in skills and procedures employed in alternative means of dispute resolution, design conflict management systems, build capacity for constructive conflict management, and strengthen inter-agency and public-private cooperation. Through this work, FMCS seeks to reduce litigation costs and to promote better government decision-making.

In this context, FMCS provided conflict management and ADR services more than 1,100 times in FY 2016. These services included mediation, convening, facilitation, and systems design:

- **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.

- **Training Persons in the Skills and Procedures Employed in Alternative Means of Dispute Resolution.** FMCS also provides training in conflict resolution to aid in the effective use of alternative dispute resolution throughout the Federal Government. To that end, FMCS offers both live and web-based training on a variety of topics.
- **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 involving Federal agencies and public-private stakeholders such as those conducted under the Federal Advisory Committee Act (FACA). 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, FMCS plays an important role in promoting collective bargaining and conflict resolution around the world. FMCS delivers its international training programs using cost-reimbursable funds, largely through interagency acquisition

agreements with other government agencies, such as the Departments of State, Labor, and USAID.

The FMCS international work is a small, but integral, part of its services. 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. In 2016, FMCS completed training and consultation programs in Bangladesh, Burma, Lesotho, Morocco, Honduras, Haiti, and Swaziland. During these programs, FMCS trainers provided instruction for labor inspectors, labor representatives, employer representatives, government officials and other labor dispute stakeholders. They also provided consultative support for governments in these countries to assist in their efforts to develop effective dispute resolution systems and organizations.

In addition to programs delivered abroad, every year FMCS mediators host numerous foreign delegations visiting the United States and educate them in U.S. labor-management relations and conflict resolution practices. In 2016, FMCS hosted visiting delegations from Taiwan and Honduras at the Agency's Washington, D.C. headquarters.

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 1,000 independent arbitrators who are qualified to hear and decide disputes over the interpretation or application of collective bargaining agreements. Upon request from the parties, FMCS furnishes a list of names from which they may choose an arbitrator to hear their case and render a decision. FMCS administers its established policies and procedures on arbitration which also incorporate the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes, to which FMCS is a signatory.

During FY 2016, the Office of Arbitration Services processed more than 12,000 requests and oversaw the appointment of more than 5,400 arbitrators nationwide.

G. FMCS Institute for Conflict Management

The FMCS Institute for Conflict Management (Institute) delivers accessible, innovative, 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. 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 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 FMCS annual appropriations, and grants are competed and awarded to encourage labor-management committees to develop innovative joint approaches to workplace problems. In FY 2016, FMCS awarded \$514,486 in grants. Awarded funds included:

- **Helen Miller Member Education and Training Center & SEIU HCII.** Funds addressed a need to engage front-line hospital employees and hospital management to jointly identify areas for improvement in order to successfully transition health care delivery into the new performance-based systems that reward patient satisfaction, successful health care outcomes, and efficient service delivery. The grantees expect that the partnership projects will lead to stronger performance on value-based purchasing and other frontline worker performance metrics. This will in turn lead to reduced payment reimbursement penalties by Medicare and Medicaid.
- **Manufacturing Renaissance & Chicago Federation of Labor.** Between 1979 and 2009, manufacturing employment fell by 41 percent and wages have remained historically stagnant due to global competition, the infusion of new technologies, and lean processes. This, in turn, has negatively impacted communities, schools, local services, and the ability of workers to provide for their families. Grant funds will be used to build strategic public-private partnerships focused on creating a vision for advances manufacturing in the 21st century. The project expects to foster healthy communities by developing collaborative, locally tailored programs that will fuel manufacturing innovation and competitiveness.
- **Golden Living Nursing Home Centers & SEIU Health care PA Training and Education Fund.** Nursing homes are being inundated with standards, regulations, best practice guidelines for efficient processes, and many other obligations or recommendations set forth by the Centers for Medicare and Medicaid Services (CMS) and the Affordable Care Act (ACA). While these are intended to improve patient safety, they can also have a negative impact on the flow of work if labor and management are not communicating well. By creating a Quality Assurance and Performance Improvement (QAPI) committee at each participating facility, one which includes management and frontline staff, the three facilities will improve employee satisfaction, work flow, and patient outcomes.

IV. Workload Projections – FY 2017 and FY 2018

The following pages include FMCS workload over prior fiscal years, caseload estimates, accomplishments for 2016, and estimated workloads in 2017 and 2018.

WORKLOAD OUTPUTS AND PROJECTIONS

FISCAL YEARS 2012 - 2018

PROGRAM SERVICES	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2016	FY 2017	FY 2018
	Actual	Actual	Actual	Actual	Estimated	Actual	Estimated	Estimated
1. COLLECTIVE BARGAINING								
MEDIATION.....								
Assigned Cases ⁱ	13,114	12,938	12,054	11,636	12,500	11,734	12,360	12,360
- Private Sector	11,814	11,802	10,856	10,620	11,307	10,678	11,180	11,180
- Public Sector (state and municipal)	943	843	905	749	898	738	888	888
- Federal Sector	357	293	293	267	295	318	292	292
Mediated Cases ⁱⁱ	4,528	4,122	4,009	3,719	4,267	3,540	4,230	4,230
- Private Sector	3,079	2,826	2,697	2,600	2,971	2,435	2,949	2,949
- Public Sector (state and municipal)	1,111	981	1,020	842	1,011	808	1,000	1,000
- Federal Sector	338	315	292	277	285	297	282	282
Closed Cases	13,652	12,651	12,032	11,644	12,217	11,605	12,081	12,081
Closed Mediated Cases	3,764	3,339	3,299	3,081	3,497	2,941	3,466	3,466
Activity Rate ⁱⁱⁱ	28%	26%	27.4%	28.8%	28.6%	25.3%	28.7%	28.7%
Settled and Closed Mediated Cases	3,159	2,807	2,852	2,605	2,972	2,516	2,955	2,955
Percentage of mediated cases settled w/FMCS ^{iv}	84%	84%	86.5%	84.6%	85%	85.5%	85.3%	85.3%
Activity rate in significant cases ^v	46%	47%	40.6%	42.6%	48.0%	38.7%	45.0%	45.0%
2. GRIEVANCE MEDIATION								
Assigned Cases	1,837	1,872	1,762	1,729	1,850	1,713	1,750	1,750
Mediated Cases	1,784	1,809	1,704	1,676	1,805	1,670	1,708	1,708
- Private Sector	1,372	1,398	1,330	1,319	1,411	1,269	1,334	1,334
- Public Sector (state and municipal)	264	267	256	240	267	267	253	253
- Federal Sector	148	144	118	117	128	134	121	121
Settled GM Cases	1,367	1,383	1,308	1,221	1,376	1,264	1,301	1,301
Percentage of cases settled w/ FMCS ^{vi}	77%	76%	76.8%	72.9%	76.2%	75.7%	76.2%	76.2%

PROGRAM SERVICES	FY 2012 Actual	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimated	FY 2016 Actual	FY 2017 Estimated	FY 2018 Estimated
3. RELATIONSHIP-DEVELOPMENT AND TRAINING								
Number of training programs provided	2,128	2,027	1,884	1,923	2,000	1,941	2,000	2,000
- Private Sector	1,262	1,174	1,111	1,090	1,192	1,107	1,192	1,192
- Public Sector (state and municipal)	463	533	436	472	491	471	491	491
- Federal Sector	403	320	337	361	317	363	317	317
4. ADR Services.....								
Mediated Cases	1,110	1,118	910	1,193	1,200	1,076	1,200	1,200
- Federal Sector	1,090	1,089	884	1,152	1,177	1,057	1,177	1,177
- Public Sector (state and municipal)	5	1	6	3	6	3	6	6
- Private	15	28	20	38	17	16	17	17
Settled ADR Cases	537	488	410	536	562	479	562	562
Percent of ADR cases settled w/ FMCS ^{vii}	48%	44%	45.1%	44.9%	46.8%	44.5%	46.8%	46.8%
5. OUTREACH								
Outreach cases ^{viii}	3,019	2,911	2,710	2,722	2,900	3,049	3,000	3,000
6. ARBITRATION SERVICES								
Number of panels issued	13,538	13,361	13,179	12,744	13,500	12,250	12,500	12,500
Number of arbitrators appointed	6,129	6,020	5,836	5,415	5,489	5,296	5,391	5,391
7. GRANTS.....								
Number of grants funded	0	0	0	8	3	3	10	10
8. INSTITUTE.....								
Number of courses provided	8	10	8	8	10	9	10	10
Number of participants	179	188	114	151	200	142	180	180

V. 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 2016, and performance goals for 2017 and 2018.

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:

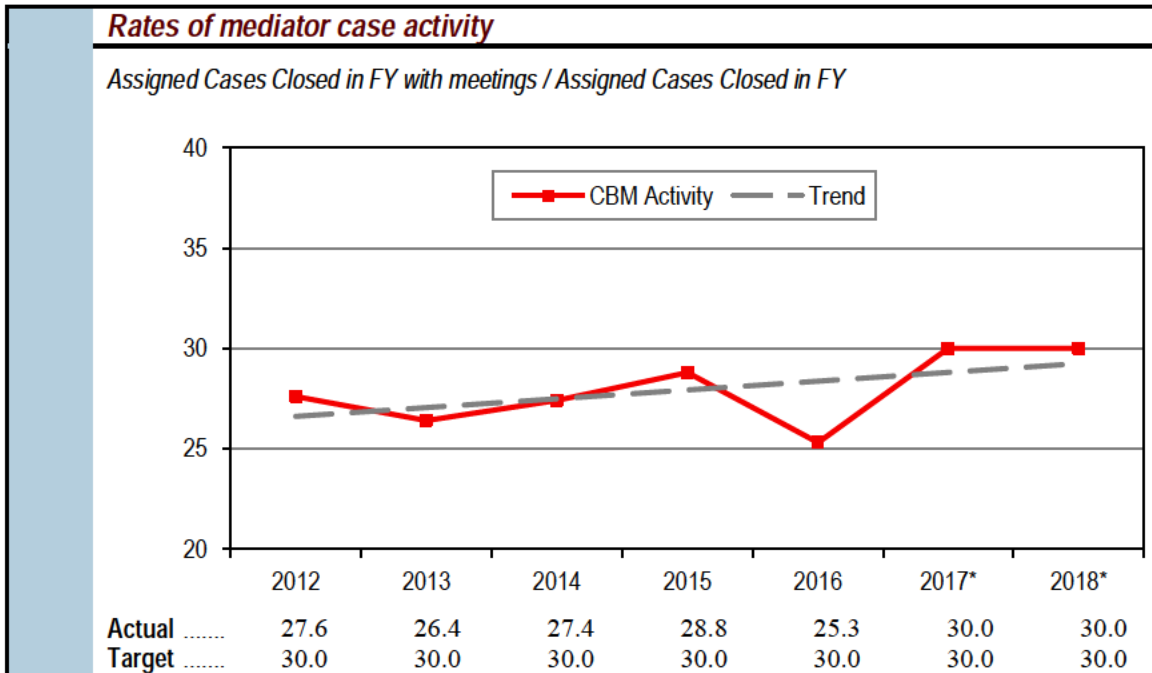
Collective bargaining mediation represents the core of the FMCS mission and its most publicly visible work. An independent study conducted for the FMCS found that mediation prior to a contract's expiration date significantly reduces the duration of any work stoppage that occurs. Previously, three separate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

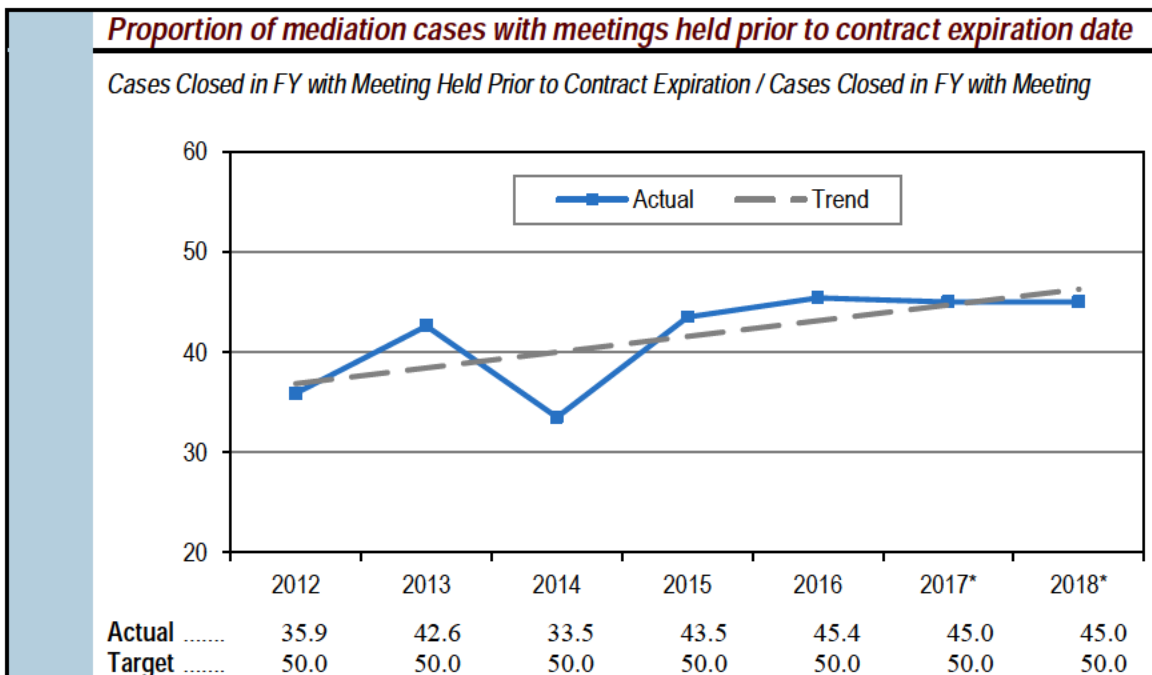
The FMCS evaluates its success in these areas by looking at how many negotiations use mediation services, whether or not a work stoppage occurred, the duration of any stoppage, and the timing of mediators' involvement. On an aggregate basis, the FMCS also estimates the financial cost of work stoppages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

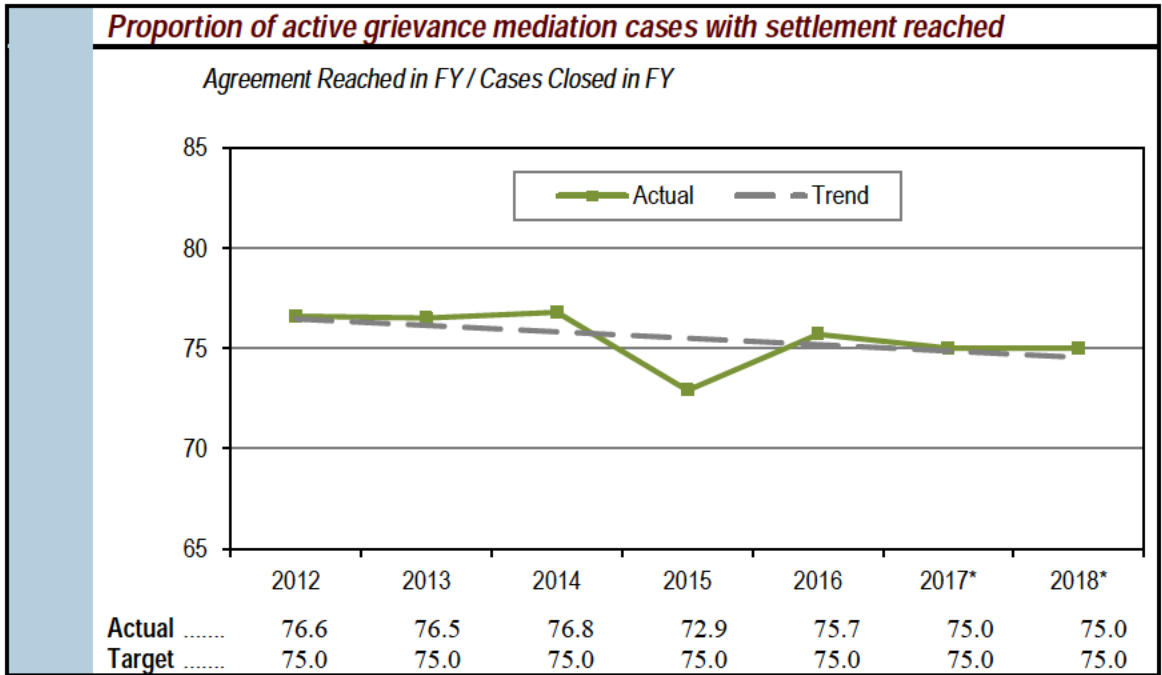
Grievance mediation, joint problem-solving facilitation, and arbitration are three approaches for resolving disputes that may arise from differing interpretations of a labor contract's terms and conditions. Grievance mediation and joint problem-solving facilitation are voluntary processes that rely upon 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:

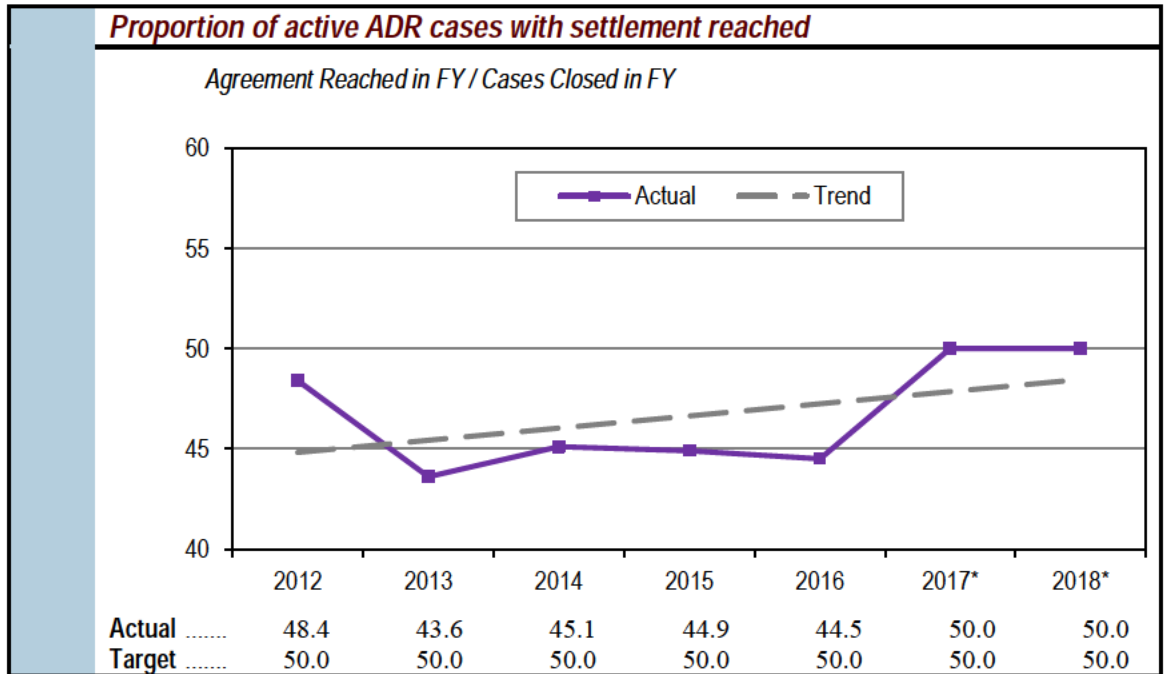
The FMCS alternative dispute resolution (ADR) work is defined by the Administrative Dispute Resolution Act of 1996 and is designed to help resolve disputes that do not result from a collective bargaining relationship. Under the Act, the FMCS is generally limited to work in the Federal sector, but may 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 assigned, conflict management services and regulatory/enforcement services that the FMCS provides 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 2016 FMCS case intake was nearly 20,000.
- 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.