

# Congressional Budget Submission



**Fiscal Year**

# 2020



**FEDERAL MEDIATION AND CONCILIATION SERVICE**

**FISCAL YEAR 2020**

**Congressional Budget Submission**

**Submitted to  
Congress  
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## **Fiscal Year 2020 Budget Request**

### **I. Executive Summary**

More than 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 essential 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 71 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 or in conventional industries and sectors of the economy—such as cargo shipping, oil refining,

and automobile and steel manufacturing—or among service industry workers or those participating in the today’s high-tech economy, labor disputes arise from complex decisions relating to costs, hiring and retaining skilled workers, managing technology, and winning globally. FMCS, headquartered in Washington, D.C., has strategically positioned ten regional offices and maintains more than 60 field stations across the country where it can best help American workers and business thrive and succeed.

The 2020 budget requests \$47.2 million, an amount which will allow FMCS to continue meeting anticipated demand for its statutory activities.

### **A. Rising to the Challenge of the 21<sup>st</sup> 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; however this time in the throes of a transitioning economy that, in addition to manufacturing, includes advanced technology, knowledge, and services.

Labor and management continue to rely upon traditional collective bargaining methods and models. However, new bargaining forms have emerged in the past few years, such as multi-party dialogues, local legislative initiatives, high profile social media campaigns, and community-based strategies. These new forms of multi-party and community-based bargaining strategies present challenges that traditional collective bargaining does not. Thanks to their training and expertise in dispute resolution techniques and multi-party dialogues, FMCS mediators are able to assist parties who are trying to navigate these new realities.

Even in today’s high-tech economy and in the wide range of settings in which bargaining takes place, the interests of labor and management in 2020 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. The FMCS “affinity” bargaining model is a recent and notable example of this ethos. FMCS mediators use the affinity model to help parties negotiate complex issues, such as those relating to employee pay and benefits, in a collaborative, transparent fashion. Through this process, FMCS can significantly reduce the amount of time the parties take to reach agreement: helping them reach agreement in hours instead of the days or even weeks more typical of the traditional negotiating model. The power of this model is demonstrated by its high success rate, the broad applicability of it to industries as diverse as the defense industry and university professors, and its acceptance among state and international mediation agencies.



## B. Mediation and Conflict Management & Prevention Services

With its 72-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.

In addition to providing labor-management dispute resolution services, the Administrative Dispute Resolution Act of 1996 (ADRA) calls 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.

In 2019, the Department of Health and Human Services (HHS) transferred to FMCS the responsibility for administering the Federal Shared Neutrals program. This program provides mediators free of charge to participating Federal agencies in the Washington, D.C. metropolitan area. Program mediators are Federal employees from over 40 participating agencies and sub-agencies who have mediation training and experience and who mediate as a collateral duty for Federal agencies other than their own, in exchange for like services back to their own agency.

FMCS is proud of its accomplishments and looks forward, in 2020, 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 2020, FMCS will increase its efforts to:

- Use FMCS mediators' extensive conflict resolution experience and skills 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.
- Build upon the specific Congressional mandate embodied in the Administrative Dispute Resolution Act of 1996 (5 U.S.C. § 571, *et seq.*) and assist other Federal government agencies in resolving conflict in a variety of ways, *i.e.*:
  - Facilitate dialogue among affected stakeholders prior to the finalization of regulations issued by Federal agencies. For decades, this process has

reduced litigation challenging such regulations and thereby avoids the direct and indirect costs of such litigation to both Federal agencies as well as the non-federal stakeholders. Recent beneficiaries include the Bureau of Indian Affairs at the U.S. Department of Interior, the U.S. Department of Energy, and the U.S. Department of Transportation.

- Expanding systems within FMCS mediation services to improve the efficient dispute resolution of other Federal agencies. Recent agreements include a project to reduce a backlog of 1,000 complaints by the general public against the Social Security Administration, and reducing a 13,000 case backlog at the EEOC's Administrative Judge stage of litigation. These agreements are in addition to longstanding mediation services provided to various agencies within the Department of Homeland Security (*e.g.*, ICE, CBP, USCIS), the U.S. Postal Service, the National Institutes of Health, and the Department of Health & Human Services Office of Civil Rights, among many others.
- Working with the 28 Federal Executive Boards (FEBs) to provide mediation trainings to shared neutrals to boost the capacity of Federal agencies to provide dispute resolution services without having to reimburse one another. FMCS mediators deliver the initial trainings and co-mediate and mentor the shared neutrals until they gain enough experience to serve as lead mediators and subsequently mentor others. FMCS is currently working with the FEBs to provide trainings to shared neutrals in Boston, Chicago, Minneapolis, New Orleans, New York, Newark, Pittsburgh, and St. Louis, and is holding discussions with other FEBs to develop future training programs.
- Training mediators outside of the Shared Neutrals program at a variety of Federal agencies. Recent clients include the Department of Health & Human Services, Internal Revenue Service, Office of Personnel Management's Senior Executive Service Training program, among others.

#### **Managing Bargaining Challenges: Anticipating Major Contract Negotiations.**

In 2020, FMCS expects to receive approximately 19,000 notices of expiring collective bargaining agreements. Some 240 of the known expiring contracts involve bargaining units of 1,000 members or more and represent a total of more than 1 million members. Many of these expiring agreements are in key private sector industries, such as the construction and mechanical trades, groceries, telecommunications, transportation, and health care, and also in Federal agencies with critical national security roles.

- Nearly 20,000 grocery workers at Safeway, and Giant in Maryland face expiring contracts on October 29, 2019.

- Contracts covering more than 24,000 grocery workers in Western Washington State expire on November 1, 2019.
- In the Federal sector, the contract for 45,000 Transportation Security Agency (TSA) security screeners expires on December 31, 2019.
- Also at the end of 2019, the contract for approximately 16,000 commercial and recorded voice actors represented by the Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA) will expire.
- At the end of February, 2020, more than 9,000 workers for AT&T Mobility in the South Western U.S. will seek a new contract.
- Throughout February, 2020, more than 5,000 Atlantic City, NJ casino workers will be seeking a new contract.
- In April, 2020, more than 30,000 service workers in the defense and private industry will renegotiate their contracts.
- More than 31,000 construction workers in Seattle, WA will seek a new contract by May 31.
- Approximately 41,000 AT&T Mobility workers will see their 4-year contract expire on June 1, 2020.
- In July, 2020 nationwide contracts covering nearly 20,000 mechanical service contractors will expire.
- A master agreement covering nearly 14,000 automobile transporters expires on August 31, 2020. The same day, a contract for nearly 6,000 Disney Parks & Resorts employees will expire.

#### **Promoting Collaborative Solutions: Labor-Management Training**

Though the Agency's priority will always be to prevent or to promptly resolve labor disputes that could have an 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 labor 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 employers and unions develop collaborative, problem-solving approaches for managing conflict. FMCS developed its labor relations model through decades of hands-on dispute resolution experience. This model encourages an ongoing, joint problem-solving approach characterized by open communication, respect, trust, and transparency.

## 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 2018:

- **Bath Iron Works in Bath, ME and the Bath Marine Draftsmen's Association.** Timely behind-the-scenes work by an FMCS mediator dissipated considerable momentum for a strike by 760 employees at this key naval shipbuilding facility in Bath, ME. To obtain the agreement of the parties, the FMCS mediator engaged in 36 hours of mediation over three days and helped the parties avoid confrontation over flex-time issues.
- **Advanced Disposal and Operating Engineers Local 324.** Friday, October 13, 2017 represented good luck for an FMCS mediator, whose work in bringing the parties to an agreement ended a five-day strike and restored service at a Detroit-area landfill. Thanks to the efforts of the mediator, the parties were able to reach agreement on their first collective bargaining contract after more than a year of negotiations.
- **Centerra and United Professional Pro-Force of Savannah River Local 125.** FMCS mediators won praise for their work from both sides in negotiations that ended a seven-week work-stoppage by 350 security guards at the Savannah River Nuclear Site in Aiken, SC., The Savannah River site processes and stores nuclear materials used in the U.S. nuclear defense industry and one of the nation's most sensitive nuclear facilities. The mediators were able to persuade both sides to return to the bargaining table after initial negotiations had broken down.
- **Entergy and Utility Workers Union of America, Local 1-2.** FMCS mediators persevered in January, 2018 through lengthy negotiations and long nights at the bargaining table to assist the operator of Indian Point nuclear energy plant and 330 plant workers in reaching an agreement that assured uninterrupted nuclear power from the facility for the metropolitan New York City area.
- **Arconic Power & Propulsion and UAW Local 1243.** An FMCS mediator who had just become a father gave up a day of leave to see negotiations successfully concluded between the manufacturer of aerospace and automotive components and some 1,320 employees in the bargaining unit. With 2,200 total workers, Arconic is the second largest employer in Muskegon County, Michigan.
- **Utilities of East Syracuse and the International Brotherhood of Electrical Workers (IBEW).** A Syracuse-based FMCS mediator helped keep the lights on in upstate New York when the 1,300 workers who trim trees for electrical power companies reached an agreement with their employer. The growth of

brush and trees interfere with transmission wires and threaten the reliability of the New York state electrical grid.

- **Walt Disney World Resort and the Services Trades Council.** Perseverance and patience paid off for a team of FMCS mediators who were asked to assist the parties in what became a year-long, highly contentious negotiation between a coalition of six local unions, representing 38,000 resort employees, and Walt Disney World Resort in Orlando, FL. Negotiations for the four-year contract began in summer 2017 with the parties reaching agreement in August, 2018. Utilizing “shuttle diplomacy” during the difficult talks and working over holidays, FMCS mediators helped the parties reach a tentative agreement, with a final union ratification vote to approve the contract a week later.

### **C. Accountable Government**

In 2020, FMCS will continue to meet the highest standards of government efficiency, integrity, employee engagement, and customer service by sustaining a culture of continuous improvement among the Agency’s highly motivated workforce. Like many Federal agencies, FMCS has experienced occasional challenges related to employee recruitment, training, consistent performance, and retention. However, FMCS employees and their level of commitment continue to keep the agency at the forefront among similarly sized units of the Federal government. Year after year, FMCS has typically scored among the top agencies in the results of the Federal Employee Viewpoint Survey (FEVS), administered by the Office of Personnel Management (OPM).

More specifically, the FEVS results recognized FMCS as one of the best places to work in in 2014 (2<sup>nd</sup> place among small agencies), 2015 (1<sup>st</sup> place among small agencies), 2016 (3<sup>rd</sup> place among small agencies), 2017 (1<sup>st</sup> place among small agencies), and 2018 (1<sup>st</sup> place among small agencies). For 2020, and beyond, FMCS is committed to meeting and exceeding its performance goals and surpassing its past successes as documented by the FEVS results.

#### **Increasing Compliance and Strengthening Internal Controls**

In 2020, FMCS will continue to implement the new policies and procedures recommended by the National Archives and Records Administration (NARA) in conjunction with the Controlled Unclassified Information (CUI) initiative and document management program. Improved records management, in concert with strengthened financial policies and procedures will allow FMCS to continue 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. Poor name recognition and perceived or real lack of career advancement opportunities are chief among these challenges. In 2020, 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 requires that FMCS recruit from a broader base of potential applicants from the neutral and management community. In 2020 and thereafter, FMCS will build an accelerated mediator promotion track and also broaden its developmental mediator program to include new hires at the GS-11 and GS-12 levels. Doing so will allow FMCS to recruit from groups that may have the requisite skill set but not necessarily the experience that FMCS has required in the past.

Also by the end of 2020, FMCS will have completed a new set of mediator performance criteria and also will have transitioned to an automated performance management system. In combination, these systems will provide more opportunity for the Agency to focus on improving the quality and effectiveness of the service it provides.

### **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 2020, FMCS will continue to encourage diverse viewpoints and innovation, solicit employee feedback, and practice open communications and transparency.

FMCS will continue to use a number of strategies to achieve its objectives including: regular communications from the Agency leadership; daily 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 that focus on 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 2020, FMCS will have in place an updated 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.

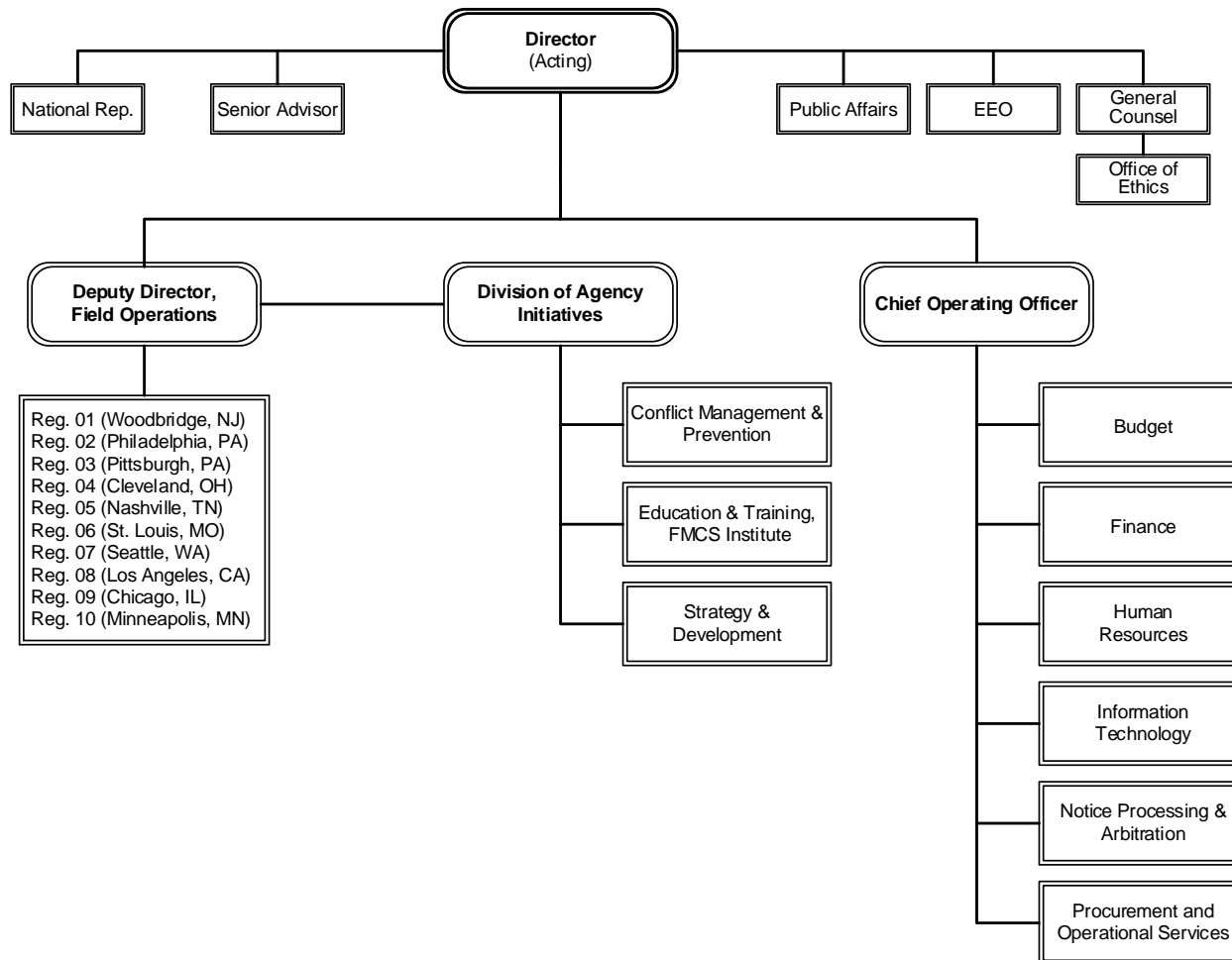
## **D. Conclusion**

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 more than 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 2020, 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 \$47,200,000.

## II. FMCS Organizational Chart



As of Mar. 18, 2019



### 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, \$47,200,000: 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.*

## IV. 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 (FMCS) 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 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 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. 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.

- VII. 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.
- VIII. 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 conflict management and prevention assistance to Federal agencies. Under this legislation, FMCS continues to assist agencies in negotiated rulemaking processes as well as other conflict resolution procedures by providing training, facilitation, mediation, and other neutral skills.

- IX. 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.
- X. The Federal Aviation Reauthorization Act of 1996 (Public Law 104-264, as amended by Public Laws 106-181, 112-95 and 114-242; 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 two will be selected by the parties and a third by these two, to form an arbitration board. This board will render a final and binding determination.

- XI. 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.
  
- XII. 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.

V. Budget Tables and Detailed Financial Requirements

FEDERAL MEDIATION AND CONCILIATION SERVICE

BUDGET AND STAFFING BY ACTIVITY

	FY 2018		FY 2019		FY 2020		Total Program	
	Actual		Enacted		Request		Increase or (Decrease)	
	Full-Time Equivalent Employment	Budget Authority (\$1,000s)	Full-Time Equivalent Employment	Budget Authority (\$1,000s)	Full-Time Equivalent Employment	Budget Request (\$1,000s)	Full-Time Equivalent Employment	Budget Authority (\$1,000s)
1. Collective Bargaining and Grievance Mediations (Dispute), Relationship Development Training (Preventive), and Outreach (Public Information) Workloads	156	34,805	160	35,054	170	35,240	10	186
2. Arbitration Services.....	8	708	7	721	7	724	0	3
3. National Office and Operational Support .....	45	10,738	48	10,875	48	11,236	0	361
4. Labor-Management Grants..	0	399	0	0	0	0	0	0
<b>Sub-Total Appropriated</b>	<b>209</b>	<b>\$46,650</b>	<b>215</b>	<b>\$46,650</b>	<b>225</b>	<b>\$47,200</b>	<b>10</b>	<b>\$550</b>

### BUDGET AND STAFFING BY ACTIVITY

	FY 2018		FY 2019		FY 2020		Total Program Increase or (Decrease) 2019 to 2020	
	Actual		Enacted		Request		Full-Time Equivalent Employment	Budget Authority (\$1,000s)
	Full-Time Equivalent Employment	Budget Authority (\$1,000s)	Full-Time Equivalent Employment	Budget Authority (\$1,000s)	Full-Time Equivalent Employment	Budget Request (\$1,000s)	Full-Time Equivalent Employment	Budget Authority (\$1,000s)
5. Reimbursable programs: Conflict Resolution Services, Employment Mediation, International Training, Institute Courses, and Conference Fund.....	8	2,765	8	1,821	8	2,744	0	923
6. FMCS Internal Training and Education.....	1	1,030	1	1,015	1	951	0	(64)
<b>Sub-Total Reimbursable</b>	<b>9</b>	<b>\$3,795</b>	<b>9</b>	<b>\$2,836</b>	<b>9</b>	<b>\$3,695</b>	<b>0</b>	<b>859</b>
<b>TOTAL RESOURCES</b>	<b>218</b>	<b>\$50,445</b>	<b>224</b>	<b>\$49,486</b>	<b>234</b>	<b>\$50,895</b>	<b>10</b>	<b>\$1,409</b>

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

**BUDGET ESTIMATES FISCAL YEAR 2020  
FINANCIAL REQUIREMENTS**

(in thousands of dollars)

	FY 2017 Actual	FY 2018 Actual	FY 2019 Estimate	FY 2020 Request	2019 to 2020 Change (+/-)
<b><u>Personnel Compensation</u></b>	<b><u>\$25,335</u></b>	<b><u>\$25,320</u></b>	<b><u>\$25,584</u></b>	<b><u>\$26,390</u></b>	<b><u>\$806</u></b>
<b>Full-time permanent</b>	<b>24,908</b>	<b>24,843</b>	<b>25,100</b>	<b>25,900</b>	<b>800</b>
- Full-time permanent positions	24,908	24,843	25,100	25,900	800
<b>Other than full-time permanent</b>	<b>90</b>	<b>77</b>	<b>74</b>	<b>76</b>	<b>2</b>
- Other than full-time permanent positions	90	77	74	76	2
<b>Other Personnel Compensation</b>	<b>337</b>	<b>400</b>	<b>410</b>	<b>414</b>	<b>4</b>
- Overtime & holiday pay	27	10	20	20	-
- Cash incentive awards	309	390	390	394	4
<b><u>Personnel Benefits</u></b>	<b><u>\$8,144</u></b>	<b><u>\$8,060</u></b>	<b><u>\$8,305</u></b>	<b><u>\$8,687</u></b>	<b><u>\$382</u></b>
<b>Civilian Personnel Benefits</b>	<b>8,144</b>	<b>8,060</b>	<b>8,305</b>	<b>8,687</b>	<b>382</b>
- Retirement - CSRS	132	89	58	68	10
- Retirement - FERS	3,108	3,100	3,188	3,352	164
- Retirement - TSP	1,086	1,082	1,130	1,124	(6)
- Life Insurance - FEGLI	46	46	56	56	-
- Health Benefits - FEHB	1,781	1,750	1,800	1,968	168
- FICA - OASDI	1,326	1,385	1,498	1,500	2
- FICA - Medicare (HI)	350	345	346	370	24
- Employee Compensation - OWCP	239	178	143	149	6



**BUDGET ESTIMATES FISCAL YEAR 2020**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2017 Actual	FY 2018 Actual	FY 2019 Estimate	FY 2020 Request	2019 to 2020 Change (+/-)
<b><u>Personnel Benefits (continued)</u></b>					
<b><u>Civilian Personnel Benefits (continued)</u></b>					
- Cost of Living Allowance (COLA)	15	15	16	16	-
- Relocation (PCS)	0	-	-	-	-
- Subsidy for Commuting Costs	62	70	70	84	14
<b><u>Benefits of Former Personnel</u></b>	<b><u>\$57</u></b>	<b><u>\$-</u></b>	<b><u>\$20</u></b>	<b><u>\$20</u></b>	<b><u>\$-</u></b>
- Unemployment compensation	57	-	20	20	-
- Voluntary separation incentive	0	-	-	-	-
<b><u>Travel and Transportation of Persons</u></b>	<b><u>\$1,668</u></b>	<b><u>\$1,924</u></b>	<b><u>\$1,865</u></b>	<b><u>\$1,891</u></b>	<b><u>\$26</u></b>
- National office travel	220	350	219	224	5
- PCS family travel	0	-	-	-	-
- Official car	5	7	6	7	1
- Field office travel	1,442	1,567	1,640	1,660	20
<b><u>Transportation of Things</u></b>	<b><u>\$0</u></b>	<b><u>\$-</u></b>	<b><u>\$2</u></b>	<b><u>\$-</u></b>	<b><u>\$(2)</u></b>
- Transportation of household goods (PCS)	0	-	2	-	(2)
<b><u>Rents, Communications, and Utilities</u></b>	<b><u>\$6,054</u></b>	<b><u>\$6,028</u></b>	<b><u>\$6,296</u></b>	<b><u>\$5,530</u></b>	<b><u>\$(766)</u></b>
<b><u>Rental Payments to GSA</u></b>	<b><u>4,900</u></b>	<b><u>5,090</u></b>	<b><u>5,450</u></b>	<b><u>4,450</u></b>	<b><u>(1,000)</u></b>
- Rental payments to GSA	4,900	5,090	5,450	4,450	(1,000)

**BUDGET ESTIMATES FISCAL YEAR 2020**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2017 Actual	FY 2018 Actual	FY 2019 Estimate	FY 2020 Request	2019 to 2020 Change (+/-)
<b><u>Rents, Communications, and Utilities (continued)</u></b>					
<b>Rental Payments to Others</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>200</b>	<b>196</b>
- Conference/Meeting room rental	4	4	4	200	196
<b>Communications, Utilities, and Miscellaneous</b>	<b>1,149</b>	<b>934</b>	<b>842</b>	<b>880</b>	<b>38</b>
- GSA Telephone	141	5	2	2	-
- Commercial Telephone	363	425	350	380	30
- Data Communications	599	461	444	454	10
- Postal Services and Rentals	46	43	46	44	(2)
<b><u>Printing and Reproduction</u></b>	<b>\$63</b>	<b>\$40</b>	<b>\$40</b>	<b>\$40</b>	<b>\$-</b>
- FMCS forms and other printing	63	40	40	40	-
<b><u>Other Contractual Services</u></b>	<b>\$3,581</b>	<b>\$4,017</b>	<b>\$3,916</b>	<b>\$3,944</b>	<b>\$28</b>
<b>Advisory and Assistance Service</b>	<b>2,797</b>	<b>2,541</b>	<b>1,957</b>	<b>1,842</b>	<b>(115)</b>
- Management & Professional Services	586	265	420	421	1
- IT Support Services	2,080	2,221	1,484	1,350	(134)
- Computer Assisted Legal Research	14	15	16	16	-
- Lump Sum Settlements in Lieu	80	-	-	-	-
- Transaction Fees	33	35	32	50	18
- Official Representation Fund	3	5	5	5	-

**BUDGET ESTIMATES FISCAL YEAR 2020**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2017 Actual	FY 2018 Actual	FY 2019 Estimate	FY 2020 Request	2019 to 2020 Change (+/-)
<b>Other Services from non-Federal Sources</b>	<b>0</b>	<b>82</b>	<b>84</b>	<b>80</b>	<b>(4)</b>
- Annual Financial Audit	0	82	84	80	(4)
<b>Other Goods and Services from Federal Sources</b>	<b>231</b>	<b>206</b>	<b>341</b>	<b>390</b>	<b>49</b>
- Payroll & Personnel Operations	48	31	136	124	(12)
- Federal Protective Service	130	135	160	226	66
- OPM Background Investigations	53	40	45	40	(6)
<b>Operation and Maintenance of Facilities</b>	<b>86</b>	<b>210</b>	<b>152</b>	<b>150</b>	<b>(2)</b>
- Office repairs and alterations	86	210	152	150	(2)
<b>Medical Care</b>	<b>21</b>	<b>25</b>	<b>26</b>	<b>26</b>	<b>-</b>
- Medical care	21	25	26	26	-
<b>Operation and Maintenance of Equipment</b>	<b>446</b>	<b>953</b>	<b>1,356</b>	<b>1,456</b>	<b>100</b>
- Office Equipment Maintenance	127	143	140	130	(10)
- Office Equipment Moving	4	4	6	6	-
- IT Equipment Maintenance	314	806	1,210	1,320	110
- Storage of Household Goods (PCS)	0	-	-	-	-

**BUDGET ESTIMATES FISCAL YEAR 2020**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2017 Actual	FY 2018 Actual	FY 2019 Estimate	FY 2020 Request	2019 to 2020 Change (+/-)
<b><u>Supplies and Materials</u></b>	<u>\$285</u>	<u>\$262</u>	<u>\$248</u>	<u>\$250</u>	<u>\$2</u>
- Office supplies and materials	185	160	150	150	-
- Information technology supplies and materials	100	102	98	100	2
<b><u>Equipment</u></b>	<u>\$564</u>	<u>\$600</u>	<u>\$374</u>	<u>\$448</u>	<u>\$74</u>
- Furniture and fixtures	130	225	80	100	20
- Information technology equipment	390	369	250	320	70
- Machinery and equipment	43	6	44	28	(16)
<b><u>Grants, Subsidies and Contributions</u></b>	<u>\$900</u>	<u>\$399</u>	<u>\$0</u>	<u>\$-</u>	<u>\$0</u>
<b>Sub-total appropriated</b>	<b>\$46,650</b>	<b>\$46,650</b>	<b>\$46,650</b>	<b>\$47,200</b>	<b>\$550</b>

**BUDGET ESTIMATES FISCAL YEAR 2020**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2017 Actual	FY 2018 Actual	FY 2019 Estimate	FY 2020 Request	2019 to 2020 Change (+/-)
<b><u>Reimbursable Programs (non-appropriated)</u></b>	<u>\$1,399</u>	<u>\$2,765</u>	<u>\$1,821</u>	<u>\$2,744</u>	<u>\$923</u>
- Compensation	814	983	984	992	8
- Benefits	244	282	290	302	12
- Travel	200	300	240	240	-
- Rent, Communications, and Utilities	0	-	-	-	-
- Other contractual services	131	205	300	300	-
- Supplies and materials	10	10	7	10	-
- FMCS Conference	0	985	-	900	900
<b>Sub-total of Reimbursable Programs</b>	<b>\$1,399</b>	<b>\$2,765</b>	<b>\$1,821</b>	<b>\$2,744</b>	<b>\$923</b>
<b><u>Internal Training and Education (non-appropriated)</u></b>	<u>\$984</u>	<u>\$1,030</u>	<u>\$955</u>	<u>\$951</u>	<u>\$(4)</u>
- Compensation	144	152	107	111	4
- Benefits	47	53	36	36	-
- Seminars, workshops, conferences and training	399	389	431	428	(3)
- New mediator training costs	194	153	166	161	(5)
- Tuition	91	130	100	100	-
- Other contractual services	11	23	25	25	-
- Supplies & materials	5	5	5	5	-
- Subscriptions	94	126	85	85	-
<b>Sub-total of FMCS Training and Education</b>	<b>\$984</b>	<b>\$1,030</b>	<b>\$955</b>	<b>\$951</b>	<b>\$(4)</b>
<b>Sub-total of non-appropriated (reimbursable obligations)</b>	<b>\$2,383</b>	<b>\$3,795</b>	<b>\$2,776</b>	<b>\$3,695</b>	<b>\$919</b>
<b>TOTAL RESOURCES</b>	<b>\$49,033</b>	<b>\$50,445</b>	<b>\$49,426</b>	<b>\$50,895</b>	<b>\$1,469</b>

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

**Detail of Total Employment – End of Year**

	2018 Actual	2019 Estimated	2020 Requested
Executive Level III .....	0	0	1
ES .....	2	3	3
<b>Subtotal</b> .....	<b>2</b>	<b>3</b>	<b>4</b>
GS-15.....	25	25	25
GS-14.....	109	113	129
GS-13.....	45	47	35
GS-12.....	4	4	6
GS-11.....	11	11	14
GS-10.....	0	0	0
GS-9.....	13	13	13
GS-8.....	4	4	4
GS-7.....	6	6	6
GS-6.....	1	1	1
GS-5.....	0	0	0
GS-4.....	0	0	0
GS-3.....	0	0	0
GS-2.....	0	0	0
<b>Subtotal</b> .....	218	224	233
<b>Total employment, end of year</b> .....	220 *	227 *	237 *
<b>Full-time equivalent (FTE) usage</b> .....	<b>218 *</b>	<b>224 *</b>	234 *
Average ES Salary.....	\$173,687	\$175,734	\$177,000
Average GS Level .....	13:06	13:06	13:07
Average GS Salary .....	\$115,943	\$114,629	\$115,700

\* 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 conflict resolution and prevention 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 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. 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 2018, FMCS mediators were actively involved in nearly 3,200 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 2018, FMCS mediated 1,641 grievance mediation cases and helped the parties reach agreement in 1,152 of these (70 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 2018, FMCS mediators conducted more than 1,800 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.
- **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 Prevention 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 prevention services nearly 1,100 times in FY 2018. These services included mediation, convening, facilitation, and systems design. FMCS also provided regulatory negotiations assistance to the Department of Education and the Department of Energy.

- **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 relating to conflict dynamics.
- **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.
- **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 FY 2018, FMCS completed training and consultation programs in Honduras, Thailand, and Jordan. During all these programs, FMCS mediators provided instruction for government 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 2018, FMCS met with international delegations from the International Visitors Program sponsored by the U.S. Department of State

## **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 2018, the Office of Arbitration Services processed nearly 12,000 requests and oversaw the appointment of more than 4,100 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 2018, FMCS awarded nearly \$400,000 in grants.

## **VII. Workload Projections – FY 2019 and FY 2020**

The following pages include FMCS workload over prior fiscal years, caseload estimates, accomplishments for 2018, and estimated workloads in 2019 and 2020.

## WORKLOAD OUTPUTS AND PROJECTIONS

### FISCAL YEARS 2014 - 2020

<b>PROGRAM SERVICES</b>	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2018	FY 2019	FY 2020
	Actual	Actual	Actual	Actual	Estimated	Actual	Estimated	Estimated
<b>1. COLLECTIVE BARGAINING</b>								
<b>MEDIATION.....</b>								
Assigned Cases <sup>i</sup>	12,054	11,636	11,734	11,280	11,800	10,537	11,400	11,400
- Private Sector	10,856	10,620	10,678	10,465	10,674	9,694	10,382	10,382
- Public Sector (state and municipal)	905	749	738	564	847	614	740	740
- Federal Sector	293	267	318	251	279	229	278	278
Mediated Cases <sup>ii</sup>	4,009	3,719	3,540	3,230	3,883	3,166	3,514	3,514
- Private Sector	2,697	2,600	2,435	2,352	2,707	2,268	2,431	2,431
- Public Sector (state and municipal)	1,020	842	808	641	918	672	814	814
- Federal Sector	292	277	297	237	259	226	268	268
Closed Cases	12,032	11,644	11,605	11,261	11,533	10,636	11,410	11,410
Closed Mediated Cases	3,299	3,081	2,941	2,616	3,423	2,602	3,107	3,107
Settled and Closed Mediated Cases	2,852	2,605	2,516	2,278	2,954	2,242	2,681	2,681
Percentage of mediated cases settled w/FMCS <sup>iii</sup>	86.5%	84.6%	85.5%	87.1%	86.3%	86.2%	86.3%	86.3%
Activity rate in significant cases <sup>iv</sup>	40.6%	42.6%	38.7%	36.4%	45.0%	39.2%	45.0%	45.0%
<b>2. GRIEVANCE MEDIATION .....</b>								
Assigned Cases	1,762	1,729	1,713	1,719	1,825	1,707	1,850	1,850
Mediated Cases	1,704	1,676	1,670	1,650	1,779	1,641	1,791	1,791
- Private Sector	1,330	1,319	1,269	1,283	1,387	1,313	1,387	1,387
- Public Sector (state and municipal)	256	240	267	229	265	225	265	265
- Federal Sector	118	117	134	138	128	103	139	139
Settled GM Cases	1,308	1,221	1,264	1,224	1,336	1,152	1,351	1,351
Percentage of cases settled w/ FMCS <sup>v</sup>	76.8%	72.9%	75.7%	74.2%	75.1%	70.2%	75.4%	75.4%

<b>PROGRAM SERVICES</b>	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Estimated	FY 2018 Actual	FY 2019 Estimated	FY 2020 Estimated
<b>3. RELATIONSHIP-DEVELOPMENT AND TRAINING .....</b>								
Number of training programs provided	1,884	1,923	1,941	1,956	2,200	1,815	2,200	2,200
- Private Sector	1,111	1,090	1,107	1,179	1,298	1,142	1,284	1,284
- Public Sector (state and municipal)	436	472	471	410	539	411	517	517
- Federal Sector	337	361	363	367	363	262	399	399
<b>4. CONFLICT MANAGEMENT AND PREVENTION SERVICES .....</b>								
Mediated Cases	910	1,193	1,076	1,200	1,200	1,081	1,200	1,200
- Federal Sector	884	1,152	1,057	1,185	1,175	1,070	1,173	1,173
- Public Sector (state and municipal)	6	3	3	4	5	1	4	4
- Private	20	38	16	11	19	10	23	23
Settled OCMP Cases	410	536	479	594	556	523	552	552
Percent of OCMP cases settled w/ FMCS <sup>vi</sup>	45.1%	44.9%	44.5%	49.5%	46.4%	48.4%	46.0%	46.0%
<b>5. OUTREACH .....</b>								
Outreach cases <sup>vii</sup>	2,710	2,722	3,049	2,837	2,900	3,045	2,900	2,900
<b>6. ARBITRATION SERVICES .....</b>								
Number of panels issued	13,179	12,744	12,250	11,836	12,500	11,968	12,500	12,500
Number of arbitrators appointed	5,836	5,415	5,296	5,247	5,391	4,116	5,514	5,514
<b>7. GRANTS.....</b>								
Number of grants funded	0	8	3	11	10	4	0	0
<b>8. FMCS INSTITUTE .....</b>								
Number of courses provided	8	8	9	9	10	10	10	10
Number of participants	114	151	142	189	180	190	190	190

## 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 needed for achieving each goal. The following section details each goal and the programs impacted by them.



## Strategic Goal #1: Mediation

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

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### 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.
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### 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.

## Strategic Goal #2: Building Problem-Solving Relationships

Improve labor-management relationships.

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### 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.
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### Discussion:

Relationship development and training 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 high level of cooperation between labor and management. This is particularly true with respect to new circumstances confronting both parties in the collective bargaining relationship. 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.

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#### **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.
- Encourage on-line arbitration referral service case filings.

#### **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.

## Strategic Goal #4: Promoting Conflict Management and Prevention

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

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### 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 conflict management and prevention 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.
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### Discussion:

The FMCS conflict management and prevention 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.

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.

## Endnotes

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- <sup>i</sup> 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 2018 FMCS case intake was more than 18,400.
- <sup>ii</sup> Mediated cases represent the number of cases in the FY where mediators have become active in the negotiations.
- <sup>iii</sup> Defined as the number of mediated cases settled divided by the total number of mediated cases.
- <sup>iv</sup> Significant cases are generally defined as situations where the bargaining unit exceeds 1,000.
- <sup>v</sup> Defined as the number of grievance mediation cases settled and closed within the fiscal year divided by the number of closed GM assignments.
- <sup>vi</sup> Defined as the number of conflict management and prevention cases settled divided by the number of mediated cases closed.
- <sup>vii</sup> 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.