

# Congressional Budget Submission



Fiscal Year

# 2022

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

**FISCAL YEAR 2022**

**Congressional Budget Submission**

**Submitted to Congress  
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## **Fiscal Year 2022 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. In 1978, and again in 1990, Congress expanded FMCS's mission to include: resolving Federal sector labor disputes; encouraging labor-management cooperative activities; resolving disputes arising out of grants, contracts, licenses, or other agency administrative actions; and assisting in the negotiated rulemaking process.

Congress had the wisdom and foresight to recognize that although workplace conflict is inevitable, disruptive work stoppages, dysfunctional labor-management relationships, and protracted disputes need not be. Through FMCS, the Federal Government plays a critical role in strengthening America's private sector and Federal workplaces by providing limited, voluntary, and strategic assistance that minimizes or averts the adverse economic impacts of conflict. More importantly, an environment of thriving labor-management relationships, collaboration, and pragmatic problem solving between parties in dispute not only prevents costly disputes, but also significantly contributes to increased competitiveness, efficiency, 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 provide useful and relevant services in order to successfully accomplish its mission. Every day, the Agency's small corps of skilled mediators provide private sector and Federal 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 third decade of the 21st Century as it was 75 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. In particular, the COVID-19 pandemic in 2020 dramatically accelerated growth in informal workplaces and the knowledge economy. The scope and speed of these changes presents enormous challenges and opportunities for American workers and employers across all economic sectors. FMCS commits to assist with making these changes as smooth as possible.

## A. Budget Request Overview

FMCS requests \$50 million for 2022. The \$1.4 million increase (2.9 percent) above the 2021 appropriation will allow FMCS to continue to achieve its mission and, by restructuring critical business processes, allow electronic filing of all dispute notices. In particular, these additional funds will provide for:

**Technological Investments in Online Mediation Services (\$200,000).** FMCS first explored the possibility of conducting mediation online in the late 1990s. The online mediation system at the time used expensive teleconference equipment and dedicated data lines and thus could only reach customers in a few major urban areas. As technology progressed, FMCS was able to move to a web-based platform and reach into almost every region of the country. By 2020, FMCS offered a hosted solution with secure video, document sharing, and breakout rooms. However, FMCS customers did not generally take advantage of this capability.

This situation changed overnight with the advent of COVID-19. Travel restrictions, unprecedented disruptions to business operations, and dramatic changes in working conditions at many employers led to a renewed interest in online mediation. In the last 200 days of 2020, following the COVID-19 restrictions, FMCS provided nearly 11,000 meetings, met with more than 300,000 participants, and in all provided more than 12,400,000 online meeting minutes. FMCS proposes to enhance its online mediation capabilities in 2022 to handle 50 percent of all mediations online.

## **B. Rising to the Challenge of the 21<sup>st</sup> Century Workplace**

As FMCS enters its 75th year strengthening the conflict management and resolution capacities of numerous Federal agencies and resolving some of the country's most intractable and economically threatening labor disputes, its role today is no less important than in the past. FMCS mediators have mediated labor negotiations in the entertainment, ship building, professional sports, manufacturing, and education industries.

Through its experiences with the specialized issues of numerous industries, working in a variety of settings, and adapting to the challenges that social media communications bring to training and bargaining, FMCS has learned to assist labor and management in new ways using new methods. At the same time, FMCS has remained true to the intent of Congress, both when it created the Agency and when it subsequently expanded FMCS's role to include dispute resolution in the Federal sector.

Building upon its core traditional negotiation and relationship development training program, FMCS has added cutting-edge conflict theory to its skill set. Recent examples of trainings in this area includes: The Neuroscience of Conflict, Communicating Across Perceptions, Alternative Bargaining Models, the Art of Negotiation, Repairing Broken Relationships, and Conflict Coaching. In recent years, FMCS mediators have pioneered an innovative economic bargaining model—Affinity Economic Bargaining—which accomplishes a once-thought impossible goal of bargaining over distributive proposals in an integrative fashion. This model has enabled parties, in even the most strained financial circumstances, to reach mutually satisfying outcomes in record time. In some instances, less than a day.

FMCS is proud of its past accomplishments and looks forward, in 2022, 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.



## II. Program Structure and Service Descriptions

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.

In support of its mission, 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 75 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. Alternative Dispute Resolution Services to Government

The Federal Government has long recognized that ADR provides a much less expensive and time-consuming alternative to litigation in the Federal courts. FMCS provides ADR services to Federal agencies on a cost-reimbursable basis to reduce litigation costs and promote better government decision-making. Services offered by FMCS include:

- **Workplace and Employment Disputes.** FMCS mediates workplace and employment disputes for Federal 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 Federal 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 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.
- **Facilitation During Decision-Making.** Particularly in times of limited budgets, FMCS facilitation services 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 online, another valuable time and cost saving feature of FMCS facilitation services.
- **Agency Cooperation & Collaboration.** FMCS facilitates 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 facilitates 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 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.

- **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.

#### **Tribal Transportation Self-Governance Program (TTSGP)**

*The Indian Self Determination and Education Assistance Act (ISDEAA) of 1975 requires federal agencies, where practicable, to allow “self-governance” Tribes to receive Federal program funds directly, rather than have the Federal agency provide the service. This enables eligible Tribes to administer and implement their own programs using the same Federal funds as would have been expended if the agency ran the programs.*

*Upon completion of the negotiated rulemaking process, Tribes eligible for the TTSGP program will receive funds directly from the U.S. Department of Transportation (DOT) for all manner of transportation infrastructure improvements and to implement and run their own transport programs.*

*DOT and Tribal negotiators began the TTSGP negotiations without mediation assistance and initially made good progress. By June 2018, however, talks collapsed and the success of TTSGP was in doubt. Tribal negotiators suggested contacting FMCS and the TTSGP negotiations restarted September 2018, led by a team of FMCS mediators.*

*By October 2019, the parties had successfully completed the draft rule and on March 5, 2020, at the plenary sessions hosted by the Morongo Band of Mission Indians in Cabazon, CA, all DOT and Tribal TTSGP negotiators reached agreement on the final rule text. DOT published the TTSGP final rule on June 1, 2020.*

*Upon the conclusion of the agreement, all parties and participants thanked FMCS and publicly stated that the rule “might never have been published” absent the FMCS and the mediation process they implemented. A letter issued by the Tribes to the Secretary of Transportation requested future FMCS involvement to facilitate all manner of meetings and discussions as the parties implement the program and in case disputes arise.*

In addition to its traditional ADR services, FMCS offers extensive conflict management and prevention services when an agency requires more comprehensive solutions. Whereas traditional ADR processes, such as mediation and facilitation, focus on specific transactional issues, FMCS helps agencies run more effectively and efficiently through full-spectrum, systemic approaches. Systemic approaches include:

- **Climate Assessment.** FMCS convenes and facilitates focus groups and individual meetings to assess and define the scope of workplace conflict. This enables FMCS conflict management professionals to better understand the structural, relationship, values, interests and interpersonal conflicts that may be impacting the workplace, and make more effective recommendations and approaches.
- **Leadership alignment and development.** FMCS provides leadership development training and 360 assessments to ensure that leaders are working optimally both individually and as a team. Individually, when leaders do not understand their individual impact on the workforce, tremendous interpersonal conflicts can arise within an organization. When leaders operate out of alignment with each other they send conflicting across the organization, which can lead to numerous conflicts system wide.
- **Conflict Resolution Coaching.** FMCS provides leadership, conflict, individual, peer, and cohort coaching to reduce negative impacts of workplace conflict, and enhance positive and resilient work culture/environments.
- **Whole systems engagement and large group facilitated sessions.** Engaging workplaces as a system, and involving whole teams and groups increases the chance that the intervention will have a positive long term, systemic resolution rather than the band aid approach, which focus on individual conflicts and transactional based outcomes.
- **Culture change and change management initiatives.** Many agencies suffer from low engagement scores and employees feel distanced and disconnected with each other, customers, and leadership. FMCS's efforts in this arena focus on creating healthy, resilient and inclusionary work cultures that lead to better productivity and engagement with the workforce.
- **Dispute Systems Design.** FMCS offers a broad array of services around designing comprehensive systems for dispute resolution that are specifically and tailored to the needs of the organization, parties, and nature of the conflict.

## **B. Collective Bargaining Mediation**

Through collective bargaining mediation, FMCS helps avert or minimize the cost of work stoppages to the U.S. economy. As part of its core work, FMCS mediates 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 and the public sectors, including Federal agencies, and state and local governments.

During mediation, the mediator’s task is to help the parties identify alternative solutions and compromises, encourage settlement where appropriate, control the critical timing of offers, and persuade the parties to honestly discuss their differences.

***General Dynamics Bath Iron Works and  
International Association of Machinists and Aerospace Workers  
Local Lodge S6***

*Bath Iron Works (BIW) is one of the largest private sector employers in the State of Maine and is the lead designer and builder of the Arleigh Burke class of AEGIS destroyers. These destroyers are critical to the future of the nation’s defense and the contract to build them is the most successful Navy new ship construction program of recent decades.*

*In 2020, this storied shipyard faced a crippling strike when contract negotiations over a new labor contract broke down between BIW and the International Association of Machinists and Aerospace Workers Local Lodge S6 (LS6). After being on strike for nearly three weeks, progress appeared stalled on negotiations for a new contract for the 4,300 shipbuilders.*

*After working with two FMCS mediators, including the FMCS Director, the parties were able to reach a tentative agreement and return to work. As part of the new collective bargaining agreement, the parties established a Joint Schedule Recovery Committee, a group which FMCS works with to smooth the transition to the new agreement.*

In 2022, FMCS expects to receive approximately 18,000 notices of expiring collective bargaining agreements. Some 210 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, arts and entertainment, groceries, telecommunications, and health care.

In 2020, FMCS mediators were actively involved in more than 2,750 collective bargaining contract negotiations in every major industry throughout the United States.

### **C. 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 2020, FMCS mediated nearly 2,000

grievance mediation cases and helped the parties reach agreement in 1,280 of these (66 percent).

#### **Illinois Association of Health Care Facilities and SEIU Healthcare Illinois/Indiana**

*FMCS helped the multi-employer Illinois Association of Health Care Facilities and SEIU Healthcare Illinois/Indiana reach a two-year tentative agreement covering 10,000 nursing home workers one day before a strike of 6,000 nursing home employees would have left thousands of nursing home residents without care in the midst of the COVID-19 pandemic.*

*Immediately prior to FMCS becoming active in the negotiations—only two weeks prior to SEIU's initial strike date of May 1—the parties were not meeting, their positions were distant, and they were engaged in a fierce public media battle. The parties believed that a May 1 strike of thousands of nursing home employees was inevitable.*

*The parties started making progress soon after commencing online mediation sessions with an FMCS mediator, and SEIU postponed its strike date by one week. One day before the new strike date, after a marathon online session, the parties reached a full tentative agreement on all issues, including but not limited to specific COVID-19 pandemic issues such as protective equipment, premium pay during the pandemic, and extended sick leave for employees diagnosed with COVID-19, as well as wage increases for employees.*

#### **D. Relationship-Development and Training**

Preventing conflict that may arise during the term of a collective bargaining agreement is another important goal of 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 expiration. 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 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 communication, respect, trust, and transparency.

In 2020, FMCS mediators conducted nearly 1,675 training programs with collective bargaining partners.

Core training programs consist of:

- **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.
- **Interest Based Problem Solving Training.** Gives the parties a structured methodology to agree on a common definition of a problem, share their respective underlying interests with respect to the problem and then jointly brainstorm solutions that can be justified and supported publicly using agreed upon criteria.
- **Relationship by Objectives.** 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.
- **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.
- **Collective Bargaining and Mediation Training.** Trains the parties on effective negotiation and communication skills.

## **E. International Training and Exchange**

Beyond the nation's borders, FMCS plays an important role in promoting conflict resolution around the world. FMCS delivers its international training programs using cost-reimbursable funds, largely through agreements with other government agencies, such as the US Agency for International Development (USAID), the Department of Labor's Bureau of International Labor Affairs (ILAB), and foreign governments and international organizations.

The FMCS international work is a small but integral, part of its services. FMCS helps establish the labor dispute resolution 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 2020, FMCS completed training and consultation programs in Jordan, Mexico, Portugal, Colombia, Ukraine, Guatemala, and Taiwan.

- **Jordan.** With funding from ILAB, and in consultation with the ILO, FMCS mediators delivered a high-quality training and capacity-building program for labor inspectors in the Jordanian Ministry of Labor. FMCS formed a team of mediation trainers through professional “train-the-trainer” workshops and drafted a comprehensive mediation training manual for the ministry.
- **Mexico.** In 2020, FMCS started a three-year project working alongside experts from ILAB to launch new mediation centers in 29 Mexican states, as well as a national center, which will replace the former Federal and Local Conciliation and Arbitration Boards in Mexico. This project supports recent Mexican labor reforms, which were designed to provide much greater, earlier, and more effective ADR-focused interventions in labor disputes and are expected to increase the efficiency of the labor dispute resolution system in Mexico. FMCS will be responsible for training and mentoring a total of 300 mediators. These high-quality training workshops will be delivered online and entirely in Spanish by a team of experienced FMCS trainers.
- **Portugal.** Under the auspices of the ILO’s International Training Center, an FMCS mediator delivered a training program entirely in Portuguese to mediators from the Ministry of Labor, Solidarity, and Social Security. These workshops covered innovative techniques for dispute resolution and collective bargaining.
- **Columbia.** In 2020, FMCS continued its longstanding collaborative relationship with Colombia by working with stakeholders from civil society, academia, and the government to build capacity for improved labor dispute resolution in the Colombian industrial relations sector. FMCS led a series of webinars directed toward prospective mediators in the Banking, Mining, Agriculture, and Electricity Generation sectors in the second half of 2020.
- **Ukraine.** At the request of the USAID New Justice Program in Kiev, FMCS developed and delivered two online webinars, each two hours in length, for the National Association of Mediators in Ukraine (NAMU). In these online sessions, FMCS Commissioners presented about the U.S. system of labor dispute resolution, various models of mediation, and integrative conflict management systems.
- **Guatemala.** With funding from ILAB, FMCS mediators went on three missions to Guatemala. There, mediators collaborated with the Ministry of Labor and Social Security to engage stakeholders in business, labor, government, academia, and the judiciary with the purpose of strengthening the



capacity of labor dispute resolution through the improved mediation of individual and collective disputes. This project also worked with Guatemalan business and labor leaders to build their understanding of key principles in labor dispute resolution, as well as collaborative skills for bargaining, and provided them with “train-the-trainer” tools to create a multiplier effect of this skill-building within their sectors.

- **ILO International Training Center (ILO-ITC).** In the spring of 2020, FMCS mediators delivered a series of webinars in conjunction with the ILO-ITC’s Program on Tools and Strategies for the Prevention of Labour Disputes in the Workplace. The three webinars were entitled: (i) Building Trust in the Workplace, (ii) Preventive Dialogue, and (iii) Integrated Conflict Management Systems. FMCS is slated to deliver additional trainings in conjunction with the ILO-ITC’s programs on Building Effective Labour Dispute Prevention and Resolution Systems, Conciliation/Mediation of Labour Disputes, and the E-Academy on Social Dialogue and Industrial Relations.

## **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.

### ***Arbitration in the Time of COVID***

*Workplace dispute arbitration is typically conducted face-to-face, yet with numerous workplaces closed or operating under restricted conditions, many employees teleworking, and travel impractical, COVID-19 restrictions also threatened to shutter FMCS's arbitration roster service.*

*The FMCS Office of Arbitration reacted quickly to the COVID-19 pandemic shutdown in 2020. Within weeks of the initial closures the office: hosted a training on the use of video platforms to conduct online hearings and pre-hearing conferences; developed a guide to online arbitration; and worked to resolve hundreds of inquiries concerning pandemic-related issues such as delays, arbitrator policies for health protection, and ethical requirements with respect to online hearings.*

*As a result of these initiatives, the FMCS arbitration roster now has almost 500 arbitrators listed as "video-arbitration capable" and the Office of Arbitration was able to quickly resume this valuable service. In addition, with travel costs eliminated in many situations, arbitration costs are lower, thus making arbitration an even more attractive and beneficial to employers, unions, and employees as they all adjust to the online workplace.*

During 2020, the Office of Arbitration Services processed more than 10,300 requests and oversaw the appointment of 4,070 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. Accountable Government**

In 2022, FMCS continued 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), 2017-2018 (1<sup>st</sup> place among small agencies). The Partnership for Public Service delayed the EVS in 2020 due to the COVID-19 pandemic. For 2022, and beyond, FMCS is committed to meeting and exceeding its performance goals and surpassing its past successes as documented by the FEVS results.

### **Retaining Records and Safeguarding Information**

In 2022, 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 2022, 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 and thus maximize its opportunities to recruit new employees.

Achieving this goal requires that FMCS recruit from a broader base of potential applicants from the neutral and management community. To strengthen its ability to innovate and deliver high-quality services, FMCS is recruiting mediators with a greater diversity of experience and career trajectories beyond collective bargaining experience. In the current environment, the most effective mediator may not be the one with traditional labor experience, but who is able to develop and adapt to a wide range of FMCS services and interactive technologies.

### **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 2022, 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 online 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.

## **I. Conclusion**

The 2020 COVID-19 pandemic placed great stress on the U.S. economy. FMCS will continue to lead the effort to lessen the long-term economic impact of the pandemic by providing high quality mediation services to improve labor and management relationships. FMCS anticipates the challenge of increased workplace conflicts as workers and businesses grapple with issues of telework, 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 2022, the need to update its technical capacity 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 \$50,000,000.

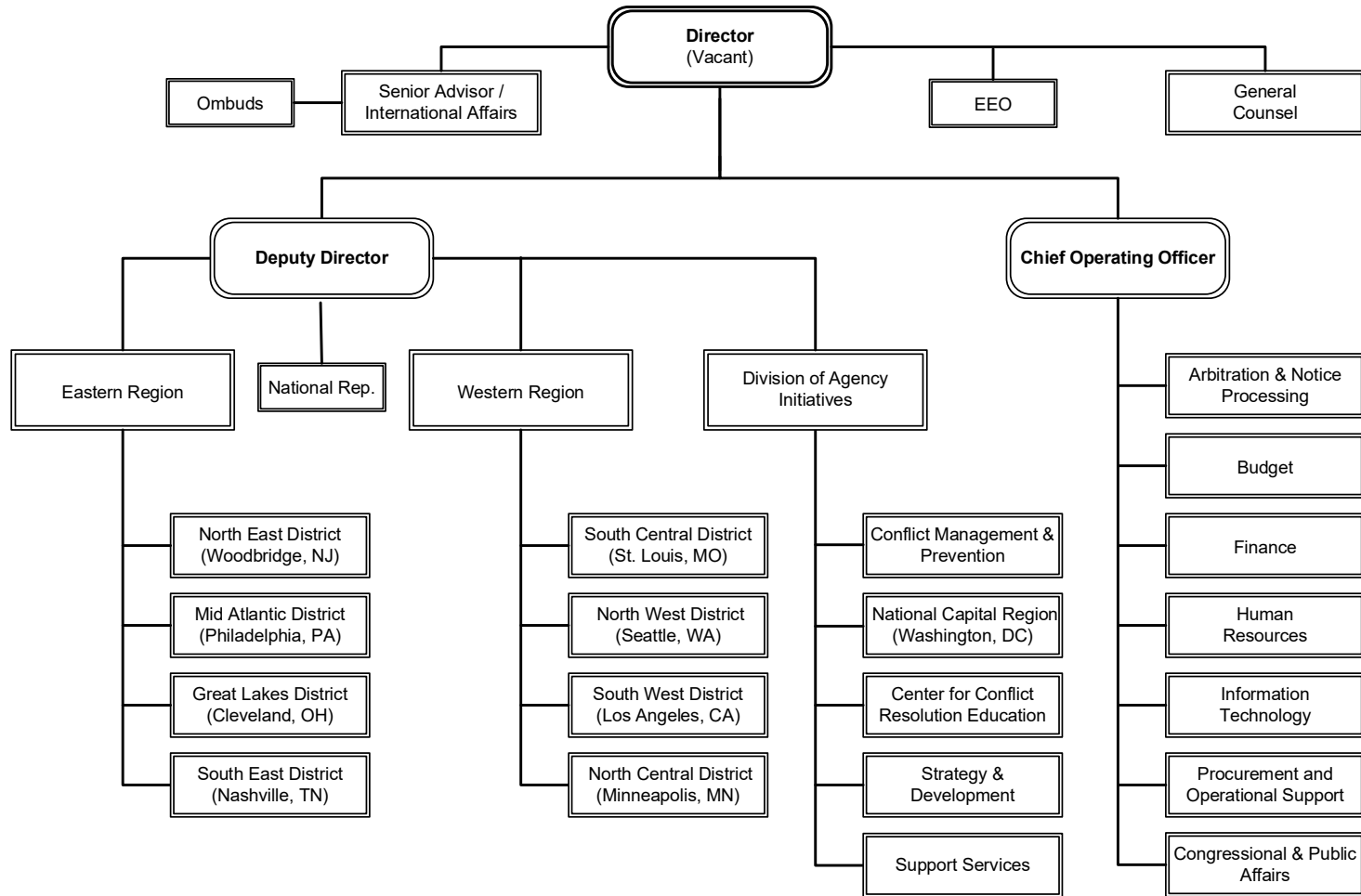
### III. Appropriation Language

#### 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, \$50,000,000: 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. FMCS Organizational Chart



As of May 28, 2021

## V. 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, the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act authorized FMCS 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 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.

- 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.

**VI. Budget Tables and Detailed Financial Requirements**

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

**BUDGET AND STAFFING BY ACTIVITY**

	FY 2020		FY 2021		FY 2022		Total Program Increase or (Decrease) 2021 to 2022	
	Actual		Estimated		Request		Full-Time Equivalent Employment	Budget Authority (\$1,000s)
	Full-Time Equivalent Employment	Budget Authority (\$1,000s)	Full-Time Equivalent Employment	Budget Estimate (\$1,000s)	Full-Time Equivalent Employment	Budget Request (\$1,000s)		
1. Collective Bargaining and Grievance Mediations (Dispute), Relationship Development Training (Preventive), and Outreach (Public Information) Workloads	158	35,541	149	36,595	153	37,725	4	1,130
2. Arbitration Services .....	7	858	7	883	7	910	0	27
3. National Office and Operational Support.....	49	10,801	49	11,122	49	11,365	0	243
4. Labor-Management Grants	0	0	0	0	0	0	0	0
<b>Sub-Total Appropriated</b>	<b>214</b>	<b>\$47,200</b>	<b>205</b>	<b>\$48,600</b>	<b>209</b>	<b>\$50,000</b>	<b>4</b>	<b>\$1,400</b>

**BUDGET AND STAFFING BY ACTIVITY**

	FY 2020		FY 2021		FY 2022		Total Program Increase or (Decrease) 2021 to 2022	
	Actual		Estimated		Request		Full-Time Equivalent Employment	Budget Authority (\$1,000s)
	Full-Time Equivalent Employment	Budget Authority (\$1,000s)	Full-Time Equivalent Employment	Budget Estimate (\$1,000s)	Full-Time Equivalent Employment	Budget Request (\$1,000s)	Full-Time Equivalent Employment	Budget Authority (\$1,000s)
5. Reimbursable programs: ADR Services, Employment Mediation, International Training, Institute Courses, and Conference Fund.....	8	1,534	8	2,000	8	2,810	0	810
6. FMCS Internal Training and Education .....	0	231	0	525	0	831	0	306
<b>Sub-Total Reimbursable</b>	<b>8</b>	<b>\$1,765</b>	<b>8</b>	<b>\$2,525</b>	<b>8</b>	<b>\$3,641</b>	<b>0</b>	<b>\$1,116</b>
<b>TOTAL RESOURCES</b>	<b>222</b>	<b>\$48,965</b>	<b>213</b>	<b>\$51,125</b>	<b>217</b>	<b>\$53,641</b>	<b>4</b>	<b>\$2,516</b>

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

**BUDGET ESTIMATES FISCAL YEAR 2022**

**FINANCIAL REQUIREMENTS**

(in thousands of dollars)

	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Request	2021 to 2022 Change (+/-)
<b><u>Personnel Compensation</u></b>	<b><u>\$25,904</u></b>	<b><u>\$27,195</u></b>	<b><u>\$27,781</u></b>	<b><u>\$28,293</u></b>	<b><u>\$512</u></b>
- Full-Time Permanent	25,420	26,690	27,036	27,520	484
- Other Than Full-Time Permanent	74	92	50	78	28
- Other Personnel Compensation	-	-	-	-	-
- Other Premium and Differential Pay	10	7	10	10	-
- Overtime	10	8	10	10	-
- Other Personnel Compensation-Awards	390	398	675	675	-
- Special Personal Services Payments	-	-	-	-	-
<b><u>Personnel Benefits</u></b>	<b><u>\$8,305</u></b>	<b><u>\$9,230</u></b>	<b><u>\$9,874</u></b>	<b><u>\$9,980</u></b>	<b><u>\$106</u></b>
- Benefits/Retirement	8,090	8,998	9,648	9,828	180
- Incentives	56	68	60	60	-
- Allowances	16	15	12	12	-
- Special Payments of Other Funds	143	149	154	80	(74)
- Relocation/Permanent Change of Station (PCS)	-	-	-	-	-
<b><u>Benefits for Former Personnel</u></b>	<b><u>\$-</u></b>	<b><u>\$2</u></b>	<b><u>\$20</u></b>	<b><u>\$20</u></b>	<b><u>\$-</u></b>
<b><u>Travel and Transportation of Persons</u></b>	<b><u>\$1,895</u></b>	<b><u>\$863</u></b>	<b><u>\$1,161</u></b>	<b><u>\$1,243</u></b>	<b><u>\$82</u></b>
- Domestic TDY	1,895	833	1,127	1,243	116
- Foreign Travel	-	5	-	-	-
- Training Travel	-	8	-	-	-
- Relocation/Permanent Change of Station (PCS)	-	-	-	-	-
- Conference Travel	-	17	34	0	(34)

**BUDGET ESTIMATES FISCAL YEAR 2022**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Request	2021 to 2022 Change (+/-)
<b><u>Transportation of Things</u></b>	<b><u>\$2</u></b>	<b><u>\$32</u></b>	<b><u>\$34</u></b>	<b><u>\$34</u></b>	<b><u>\$-</u></b>
- Transportation of Things	-	32	34	34	-
- Relocation	2	-	-	-	-
<b><u>Rent, Communications, and Utilities</u></b>	<b><u>\$5,996</u></b>	<b><u>\$4,882</u></b>	<b><u>\$4,882</u></b>	<b><u>\$4,948</u></b>	<b><u>\$66</u></b>
- Rental Payments to GSA	5,154	4,036	4,180	4,244	64
- Rental Payments to Others	-	59	56	58	2
- Communications, Utilities, and Misc. Charges	-	-	-	-	-
- Utilities	-	13	12	360	348
- ADP Rental	-	1	-	-	-
- Telecommunications	796	772	590	242	(348)
- Other Rentals	-	-	-	-	-
- Postage	46	1	44	44	-
<b><u>Printing and Reproduction</u></b>	<b><u>\$40</u></b>	<b><u>\$12</u></b>	<b><u>\$40</u></b>	<b><u>\$40</u></b>	<b><u>\$-</u></b>
- Government Printing	-	-	20	20	-
- Commercial Printing and Duplication	40	12	20	20	-
- Advertising/Radio/TV	-	-	-	-	-
<b><u>Other Contractual Services</u></b>	<b><u>\$3,857</u></b>	<b><u>\$4,262</u></b>	<b><u>4,146</u></b>	<b><u>\$4,284</u></b>	<b><u>\$138</u></b>
- Advisory and Assistance Services	1,986	3,176	1,186	862	(324)
- Other Services from Non-Federal Sources	30	35	8	6	(2)
- Other Goods and Services from Federal Sources	337	304	1,500	1,810	310
- Operation and Maintenance of Facilities	122	1	6	100	94
- Research and Development Contracts	-	-	-	-	-
- Medical Care	26	-	26	26	-
- Operation and Maintenance of Equipment	-	-	-	-	-

**BUDGET ESTIMATES FISCAL YEAR 2022**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Request	2021 to 2022 Change (+/-)
<b><u>Other Contractual Services (continued)</u></b>					
- Operation and Maint. of Equipment (Non-Travel)	1,350	746	1,420	1,480	60
- Relocation/PCS	6	-	-	-	-
- Subsistence and Support of Persons	-	-	-	-	-
<b><u>Supplies and Material</u></b>	<b><u>\$255</u></b>	<b><u>\$158</u></b>	<b><u>\$191</u></b>	<b><u>\$303</u></b>	<b><u>\$112</u></b>
- Office Supplies and Publications	152	82	118	198	80
- ADP Supplies and Materials	98	70	70	100	30
- Fuel	-	-	-	-	-
- Materials/Parts	-	1	-	-	-
- Other Supplies	5	5	3	5	2
<b><u>Equipment</u></b>	<b><u>\$396</u></b>	<b><u>\$564</u></b>	<b><u>\$471</u></b>	<b><u>\$855</u></b>	<b><u>\$550</u></b>
- Manufacturing/Production Equipment	-	127	-	-	-
- ADP Software	-	28	146	500	500
- ADP Equipment/Hardware	250	371	100	355	50
- Telecommunications Equipment	-	24	-	-	-
- Other Equipment and Property	146	14	75	-	(75)
Leasehold Improvements			150	-	(150)
Grants, Subsidies, and Contributions	-	-	-	-	-
Interest and Dividends	-	-	-	-	-
Refunds	-	-	-	-	-
Unvouchered	-	-	-	-	-
Financial Transfers	-	-	-	-	-
<b><u>Total - Appropriations</u></b>	<b><u>\$46,650</u></b>	<b><u>\$47,200</u></b>	<b><u>\$48,600</u></b>	<b><u>\$50,000</u></b>	<b><u>\$1,400</u></b>

**BUDGET ESTIMATES FISCAL YEAR 2022**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Request	2021 to 2022 Change (+/-)
<b>Direct Funds</b>					
Personnel Compensation	107	-	-	-	-
Personnel Benefits	36	-	-	-	-
Travel and Transportation of Persons	607	127	487	793	306
Transportation of Things	-	-	-	-	-
Rent, Communications, and Utilities	-	-	-	-	-
Printing and Reproduction	-	-	-	-	-
Other Contractual Services	115	61	30	30	-
Supplies and Material	150	43	8	8	-
Equipment	-	-	-	-	-
<b><u>Total - Direct Funds</u></b>	<b><u>\$1,015</u></b>	<b><u>\$231</u></b>	<b><u>\$525</u></b>	<b><u>\$831</u></b>	<b><u>\$306</u></b>
<b>Reimbursable Funds</b>					
Personnel Compensation	984	993	1,190	1,100	(90)
Personnel Benefits	290	291	374	370	(4)
Travel and Transportation of Persons	245	104	230	310	80
Transportation of Things	-	-	-	-	-
Rent, Communications, and Utilities	-	6	-	-	-
Printing and Reproduction	-	1	2	2	-
Other Contractual Services	294	112	194	1,018	824
Supplies and Material	8	27	10	10	-
Equipment	-	-	-	-	-
<b><u>Total - Reimbursable Funds</u></b>	<b><u>\$1,821</u></b>	<b><u>\$1,534</u></b>	<b><u>\$2,000</u></b>	<b><u>2,810</u></b>	<b><u>810</u></b>
<b>TOTAL - ALL SOURCES</b>	<b>49,486</b>	<b>48,964</b>	<b>51,125</b>	<b>53,641</b>	<b>2,516</b>



**FEDERAL MEDIATION AND CONCILIATION SERVICE**

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

	2020 Actual	2021 Estimated	2022 Requested
Executive Level III.....	1	0	1
ES.....	4	3	4
<b>Subtotal.....</b>	<b>5</b>	<b>3</b>	<b>5</b>
GS-15.....	27	27	28
GS-14.....	139	139	135
GS-13.....	14	8	20
GS-12.....	7	7	7
GS-11.....	7	5	8
GS-10.....	0	0	0
GS-9.....	11	14	13
GS-8.....	6	3	5
GS-7.....	2	2	2
GS-6.....	1	1	1
GS-5.....	1	1	0
GS-4.....	0	0	0
GS-3.....	0	0	0
GS-2.....	0	0	0
<b>Subtotal.....</b>	<b>215</b>	<b>207</b>	<b>210</b>
<b>Total employment, end of year.....</b>	<b>220 *</b>	<b>210 *</b>	<b>215 *</b>
<b>Full-time equivalent (FTE) usage .....</b>	<b>222</b>	<b>213</b>	<b>217</b>
Average ES Salary .....	\$175,390	\$178,838	\$181,264
Average GS Level.....	14 03	14 03	14 02
Average GS Salary.....	\$122,902	\$126,589	\$129,121

\* 8 FTE funded by reimbursable revenue

## **VIII. Workload Projections –2021 and 2022**

The following pages include FMCS workload over prior fiscal years, caseload estimates, accomplishments for 2020, and estimated workloads in 2021 and 2022.

## WORKLOAD OUTPUTS AND PROJECTIONS

### FISCAL YEARS 2016 - 2022

<b>PROGRAM SERVICES</b>	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2020	FY 2021	FY 2022
	Actual	Actual	Actual	Actual	Estimated	Actual	Estimated	Estimated
<b>1. COLLECTIVE BARGAINING</b>								
<b>MEDIATION.....</b>								
Assigned Cases <sup>i</sup>	11,734	11,280	10,537	10,709	10,800	9,655	10,000	10,000
Mediated Cases <sup>ii</sup>	3,540	3,230	3,166	2,923	3,445	2,757	3,136	3,136
Closed Cases	11,605	11,261	10,636	10,705	10,822	10,030	10,018	10,018
Closed Mediated Cases	2,941	2,616	2,602	2,429	2,832	2,440	2,582	2,582
Settled and Closed Mediated Cases	2,516	2,278	2,242	2,103	2,419	2,085	2,208	2,208
Percentage of mediated cases settled w/FMCS <sup>iii</sup>	85.5%	87.1%	86.2%	86.6%	85.4%	85.5%	85.5%	85.5%
Activity rate in significant cases <sup>iv</sup>	38.7%	36.4%	39.2%	23.9%	45.0%	33.3%	45.0%	45.0%
<b>2. GRIEVANCE MEDIATION .....</b>								
Assigned Cases	1,713	1,719	1,707	2,511	2,200	1,985	2,100	2,100
Mediated Cases	1,670	1,650	1,641	2,441	2,128	1,927	2,032	2,032
Settled GM Cases	1,264	1,224	1,152	1,763	1,589	1,280	1,511	1,511
Percentage of cases settled w/ FMCS <sup>v</sup>	75.7%	74.2%	70.2%	72.2%	74.7%	66.4%	74.4%	74.4%
<b>3. RELATIONSHIP-DEVELOPMENT AND TRAINING .....</b>								
Number of training programs provided	1,941	1,956	1,815	1,956	2,500	1,675	2,000	2,000
<b>4. ADR Services.....</b>								
Mediated Cases	1,076	1,200	1,081	1,212	1,500	1,370	1,500	1,500
Settled ADR Cases	479	594	523	554	695	683	694	694
Percent of ADR cases settled w/ FMCS <sup>vi</sup>	44.5%	49.5%	48.4%	45.7%	46.3%	49.9%	46.3%	46.3%
<b>5. OUTREACH .....</b>								
Outreach cases <sup>vii</sup>	3,049	2,837	3,045	2,600	3,200	1,921	2,300	2,300

<b>PROGRAM SERVICES</b>	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Estimated	FY 2020 Actual	FY 2021 Estimated	FY 2022 Estimated
<b>6. ARBITRATION SERVICES.....</b>								
Number of panels issued	12,250	11,836	11,617	10,944	11,200	10,340	11,000	11,000
Number of arbitrators appointed	5,296	5,247	4,524	4,342	4,785	4,070	4,771	4,771
<b>7. GRANTS.....</b>								
Number of grants funded	3	11	4	1	0	0	0	4
<b>8. FMCS INSTITUTE .....</b>								
Number of courses provided	9	9	10	10	16	23	25	25
Number of participants	142	189	190	192	384	598	600	600

## **IX. 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.

---

### **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.

## 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 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 ADR**

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 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.
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### **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.

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.

## **Strategic Goal #5: Promoting Effective and Efficient Management**

Support and cultivate top talent; develop robust and responsive information management systems; and create a safe and secure environment for human, digital, and physical assets.

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### **Objectives:**

- Ensure responsible financial management to ensure program integrity.
- Manage human capital to create an agile and motivated workforce.
- Optimize IT investments to improve process efficiency and enable innovation.

### **Action:**

- Maintain a robust internal controls board and process to ensure compliance with applicable rules, regulations, and directives.
- Increase the use of in-house expertise to reduce contractual service costs.

### **Strategy:**

- Leverage existing internal capacity in IT, logistical support, and other areas.
- Work with FMCS employees to identify outdated or weak internal processes, job descriptions, or inadequate systems.

### **Expected Outputs:**

- Reduced contractual payments for commercial shipping and printer usage fees.
  - Improved use of technology and adoption of productivity software and systems.
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### **Discussion:**

Responsible financial management is FMCS's foundation for meeting its commitment to spend taxpayer dollars wisely. Implementing a strong, modern financial system and internal controls, along with targeted investments, will improve accountability, reporting, and decision making. These in turn will lead to cost savings and efficiencies that improve how our agency manages its public funds.

Investing wisely in information technology can help reduce costs and allow FMCS to become more agile and responsive in an environment of rapid technological change. From externally facing websites to internal applications that manage programs and resources, FMCS will create modern, secure information technology solutions that are responsive to customer demands, meet Federal security guidelines, and promote information-sharing and efficiency within the Agency.

Building a world-class Federal management team and a workforce ready to collaborate with colleagues within FMCS, among other Federal departments, and outside the Federal Government, will create a more engaged, motivated, and satisfied workforce.

## 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 2020 FMCS case intake was less than 18,000.
- <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 ADR 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.