



FMCS

FEDERAL MEDIATION &
CONCILIATION SERVICE

**Congressional
Budget
Submission**

2024

Fiscal Year 2024

FEDERAL MEDIATION AND CONCILIATION SERVICE

FISCAL YEAR 2024

Congressional Budget Submission

**Submitted to the
Congress
March 13, 2023**

FEDERAL MEDIATION AND CONCILIATION SERVICE

FISCAL YEAR 2024

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Fiscal Year 2024 Budget Request

I. Executive Summary

Seventy-five years ago, Congress created the Federal Mediation and Conciliation Service (FMCS) through the Labor-Management Relations Act of 1947 (Taft-Hartley) amendments to the National Labor Relations Act (NLRA) as an independent agency of the federal government. Congress charged FMCS 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 conflict management and prevention professionals must provide useful and relevant services to successfully accomplish its mission. Every day, the Agency's small corps of skilled professionals 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 services is just as great in 2024 as it was 75 years ago. In recent years, as employers and employees have struggled with the consequences of COVID-19 pandemic, FMCS has been at the forefront of mediating the very issues that are currently redefining the concept of how Americans work: telework, remote work, mandatory vaccinations, and managing a dispersed workforce. The scope and speed of these changes present enormous challenges and opportunities for American workers and

employers across all economic sectors. FMCS commits to assist with making this transition as smooth as possible.

Budget Request Overview

FMCS requests \$55,815,000 for 2024. This request consists of an increase of \$2.110 million above the 2023 appropriation to cover anticipated salary and benefit cost increases and increased program delivery cost. In addition, FMCS will be playing a significant role in carrying out more than 25 specific recommendations of the first and second White House Task Force Reports on Worker Organizing and Empowerment (Task Force) issued pursuant to Executive Order 14025.ⁱ

Key among the Task Force recommendations is for FMCS to undertake early intervention activities in newly certified or recognized bargaining units. Once a union is certified or recognized, the NLRA requires both parties to negotiate in good faith. According to Bloomberg Law, on average, it takes 409 days between the time a union is certified and the time a collective bargaining agreement is finalized with the employer, and that average varies greatly between sectors. Health care workers, for example, take an average of 528 days to reach a collective bargaining agreement.

At best, newly organized or recognized groups struggle to understand their new roles, responsibilities, and processes. Commonly, the contentious relationship from protracted organizing battles carries over to the new collective bargaining process, resulting in long delays, litigation, and or disruptions to the economy. Parties need assistance at this critical moment of their newly established long-term relationship. And the need is growing—during the first nine months of 2022 (October 1–June 30), union representation petitions filed at the National Labor Relations Board (NLRB) have increased 56 percent.ⁱⁱ

With its deep and long-standing relationship with both labor and management, FMCS is uniquely positioned to assist parties with collective bargaining and their legal obligation to negotiate in good faith. With so many new parties, FMCS is now augmenting outreach and providing mediator assignments for all newly organized units. A concerted effort by FMCS to train and assist newly recognized bargaining units will provide them the skills and knowledge to effectively communicate, problem-solve, and negotiate agreements in a less contentious environment.

Rising to the Challenge of the 21st Century Workplace

In 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, FMCS's role today is no less important than in the past.

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 alternative 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 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 most instances, less than a day.

In response to the Task Force, FMCS has partnered with other agencies, including the Department of Labor, Office of Labor-Management Standard (DOL-OLMS), Office of Personnel Management (OPM), Small Business Administration (SBA), NLRB, and Federal Labor Relations Authority (FLRA), regarding outreach and training. These synergies have resulted in more efficient and effective services to the public. FMCS plans to continue these partnerships in 2024 and beyond.

FMCS is proud of its past accomplishments and looks forward, in 2024, to intensifying its efforts to educate and inform business and labor of the value and benefits of the Agency's training, facilitation, and conflict management services.

II. Program Structure and Service Descriptions

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

The Agency achieves its mission through a number of activities, including:

- Preventing and minimizing the impact of work stoppages by assisting parties to settle their disputes through mediation in a timely manner;
- Preserving and promoting labor peace through the development of sound and stable labor-management relationships and practices;
- Fostering the establishment and maintenance of joint processes to improve labor-management relationships, employment security, and organizational effectiveness;
- Advocating for collective bargaining, mediation, and voluntary arbitration as the preferred processes for resolving disputes between employers and employee representatives;
- Assisting parties in dispute by providing a full spectrum of high-quality conflict management and prevention services, including mediation, dispute systems design, strategic planning, facilitation, and coaching;
- Mediating negotiated rulemaking and public policy negotiations with expert facilitation and process guidance;
- Offering practical, skills-based education and training courses to interested parties;
- Maintaining a roster of qualified arbitration service providers; and
- Collaborating with colleagues, universities, professional organizations, and other groups to further develop the art, science, and practice of conflict management and prevention.

In addition to collective bargaining mediation, FMCS offers a variety of facilitation, training, and other services to labor-management groups of all sectors to help strengthen

relationships and build constructive problem-solving and negotiation skills. FMCS also maintains and provides a roster of private, non-federal arbitrators available for parties seeking arbitration of grievance disputes concerning the meaning, interpretation, and enforcement of provisions in existing collective bargaining agreements.

Collective Bargaining Mediation

FMCS helps prevent work stoppages and minimize their cost to the economy. FMCS mediates collective bargaining negotiations for initial contract negotiations—which take place between an employer and a newly certified or recognized group—and for renewal and successor collective bargaining agreements. FMCS provides mediation services to the private and the public sectors, including federal agencies, and state and local governments.

Throughout the mediation process, the mediator helps the parties identify alternative solutions and potential compromises, encourages settlement where appropriate, controls the timing of offers, and persuades the parties to honestly discuss their differences.

United Food and Commercial Workers (UFCW) and Dierbergs

In June 2022, United Food and Commercial Workers (UFCW) Local 655, representing more than 1,800 employees throughout the St. Louis region, approved a new three-year union contract with grocery chain Dierbergs.

FMCS participated in bargaining from day one. UFCW Local 655 President David Cook noted that “FMCS plays a really important role, and they are critical in this process... This is arguably the best contract in our history.”

In a separate statement, CEO of Dierbergs Markets, Greg Dierberg, noted: “We are pleased we could work together to finalize an agreement that demonstrates our investment in the long-term career of our Associates.”

To promote equity pursuant to Executive Order 14035 and pursuant to a recommendation of the Task Force, FMCS will begin sending notices filed at FMCS by a party to both parties, along with information on FMCS and its services.

Early Intervention

Once a union is certified or recognized, federal law requires both parties to negotiate in good faith. However, newly organized, or recognized groups often struggle to understand their new roles, responsibilities, and process. It is common for the contentious relationship from lengthy organizing/recognition battles to carry over to the new collective bargaining process, resulting in long delays, litigation, and or disruptions to the economy.

Renewed Federal Focus on Initial Contracts

In February 2022 FMCS sprang into action following the initial recommendations of the President's Task Force on Worker Organizing and Empowerment. Within months, FMCS strengthened its assistance to parties negotiating initial contracts by increasing outreach to parties, assigning mediators to all newly certified or recognized unions (including after card checks), updating external training to parties, creating internal training for mediators, partnering with the NLRB and FLRA on training for mediators, updating marketing materials to parties, and collaborating with other agencies.

Parties need assistance at this key moment of their newly established working relationship. FMCS is uniquely positioned to assist parties with collective bargaining and their legal obligation to negotiate in good faith based on its deep and long-standing relationship with both labor and management groups.

Collective Actions

FMCS has 75 years of experience working to resolve disputes between employers and their union-represented workforces. Throughout this period, a trend has emerged of workers acting in concert to address workplace issues outside of the traditional unionized environment. Congress' original mandate for FMCS authorized it to "proffer its services in any labor dispute in any industry affecting commerce, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial interruption of commerce."

Over the past decade, non-certified worker associations, worker centers, social justice movements, and other groups have supported concerted worker activity that has at times resulted in job actions that impacted the economy. It is this impact on commerce resulting from a workplace disruption that prompts FMCS involvement. When collective actions impact commerce, FMCS has a role and responsibility to become involved as the Agency was specifically created to minimize the number and duration of such actions.

Relationship-Development and Training

FMCS also works to prevent conflict that may arise during the term of a collective bargaining agreement. To that end, the Agency has designed its relationship development and training (RDT) programs to improve labor-management relationships by helping parties build collaborative problem-solving approaches. Active participation in these programs better enables the parties to jointly respond to rapidly changing business and economic conditions during the term of the contract and makes any future mediation efforts more effective.

FMCS offers the following, non-exhaustive list of RDT programs:

- **Relationship by Objective:** Improves the parties' working relationship, particularly in situations 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 culture, identifies perceptions within the organization, creates a vision for the future, and designs systems that effect change.
- **Labor-Management Work-Site Committee Training:** Supports labor-management committees in extending to the work-site level, forming committees, promoting group interactions, and learning techniques to manage change.
- **Contract Administration and Steward-Supervisor Training:** Trains shop stewards and front-line supervisors on their roles and responsibilities in contract administration, grievance processing, arbitration procedures, and interpersonal communication that supports positive working relationships.
- **Cultural Awareness Skills Training for Labor and Management:** Trains the parties to function and work effectively in a multicultural work setting, including skills for the resolution of cross-cultural conflicts in a workplace.
- **Collective Bargaining and Mediation Training:** Trains the parties on effective negotiation and communication skills.
- **Collaborative Negotiation and Problem-Solving Training:** Trains the parties in joint non-adversarial decision-making approaches.

Pursuant to a recommendation from the Task Force, FMCS launched a card check program on April 1, 2022.ⁱⁱⁱ FMCS conducts card checks for parties that request the service, and that agree on the appropriate bargaining unit. The card check process is non-adversarial, expedient, and allows for the self-determination of the parties. As a card check avoids an election process, which can be contentious, the card check process can establish a positive start to the labor-management relationship. FMCS offers training on collective bargaining to all card check parties, and assigns a mediator for all newly recognized units to assist with initial contract negotiations.

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. Mediators provide this service when unresolved grievances threaten the stability of the labor-management relationship. Pending grievances can also complicate upcoming collective bargaining and so resolving grievances prior to the commencement of negotiations is an essential part of FMCS's work.

Alternative Dispute Resolution (ADR) Services to Government

The federal government has long recognized that ADR provides a much less expensive and time-consuming alternative to litigation. The Administrative Dispute Resolution Act of 1996 authorizes FMCS as a neutral third party to participate “in the resolution of issues in controversy”. As neutrals, FMCS conflict management and prevention professionals may provide or refer services including, but not limited to, conciliation, facilitation, mediation, factfinding, minitrials, arbitration, and use of ombuds.

FMCS provides ADR services to federal agencies on a cost-reimbursable basis to reduce litigation costs and promote better government decision-making.

ADR Services in Government

In August 2022, a federal judge approved a motion filed by a coalition of tribes, environmental groups, the State of Oregon, and the U.S. Government to continue working with FMCS for the next year outside of the courtroom. The court’s expectation is that FMCS will be able help resolve a long-standing legal dispute that has been circulating through the court system for decades. This dispute regards the impact of 14 hydroelectric dams on native fish populations in the Columbia River Basin.

More than a dozen sovereign Native American tribes, multiple conservation organizations, four U.S. states (Idaho, Montana, Oregon, and Washington), and commercial, port, and navigation groups started working with FMCS mediators in April, 2022 when the Agency was first requested to enter the negotiations as a neutral to formulate and facilitate a transparent process.

In federal district court cases, for example, FMCS operates during the court ordered stay in planning milestones, setting goals, and reporting on progress updates, all towards the goal of helping the parties create successful agreements.

ADR services offered by FMCS include the following:

- **Workplace and Employment Disputes:** FMCS mediates workplace and employment disputes for federal agencies. The majority of these disputes are related to claims of employment discrimination, other types of personnel issues, and workplace conflicts. FMCS mediates individual and multi-party conflicts for line of service provision.
- **Administrative Program Disputes:** FMCS also mediates disputes between federal agencies and their “regulated public,” including whistleblower complaints and disputes involving contracts, grants, licenses, enforcement, and administrative programs.

- **Training in ADR Skills and Processes:** FMCS provides training in conflict resolution skills to aid in the effective use of ADR in the federal government. To that end, FMCS offers live and web-based training on a variety of topics related to conflict dynamics, management, and prevention.
- **Facilitation During Decision-Making:** FMCS offers facilitation services, particularly in times of budgetary constraint, to help agencies achieve cost-savings when decision-making is delegated to a committee, task force, or other such group. FMCS facilitation services also include consultation, convening, and training, as needed, to ensure that groups accomplish their tasks within specified time frames.
- **Agency Cooperation and 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 in these instances.
- **Public Policy Dialogues:** FMCS also facilitates public policy dialogues that involve federal agencies and public-private stakeholders, such as those conducted under the Federal Advisory Committee Act. These multi-party stakeholder conversations benefit from the assistance of a skilled and neutral facilitator who has experience synthesizing discussion points and interests, as well as establishing and managing meeting structures and processes. Training and coaching are also available for participants.
- **Negotiated Rulemaking:** FMCS facilitates negotiated rulemaking processes, in which a government agency invites individuals and groups potentially impacted by a proposed rule to participate in its drafting. Interested parties who might otherwise challenge or oppose the rule are given an opportunity to participate in its formulation, thus reducing post-issuance challenges.

Systemic Interventions

Through its neutrals, FMCS also supports agencies or groups in attaining more comprehensive, holistic solutions through an extensive range of conflict management and prevention services that utilize a full-spectrum, systemic approach. Efforts typically include developing a comprehensive conflict management system. Services 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 structures, relationships, 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-degree assessments to ensure that leaders are working optimally, both individually and as a team. Individually, when leaders do not understand their impact on the workforce, significant interpersonal conflicts can arise within an organization. When leaders operate out of alignment with each other, they often send conflicting messages across the organization, which can lead to systemwide conflict.

- **Conflict Coaching:** FMCS provides leadership, conflict, individual, peer, and cohort coaching to reduce the negative impacts of workplace conflict and enhance positive and resilient workplace culture/environments.
- **Systems Engagement and Large-Group Facilitations:** FMCS engages workplaces as a system and involves full teams and groups; this increases the sustainability of the intervention and ensures that the group reaches a long-term, systemic solution, rather than focusing on “band-aid fixes,” individual conflicts, and transactional outcomes.
- **Dispute Systems Design:** FMCS offers a broad array of services that focus on the design of comprehensive systems for dispute resolution that are specifically tailored to the needs of the organization and parties, as well as the nature of the conflict.

Arbitration Services

National labor policy favors arbitration as a means of settling contract-based disputes. The FMCS Office of Arbitration Services maintains a roster of about 1,000 independent non-federal arbitrators who are qualified to hear and decide disputes over the interpretation or application of collective bargaining agreements. Upon request from the parties and the payment of a nominal fee, FMCS provides a list of qualified names from which the parties may choose an arbitrator to hear their case and render a decision.

FMCS Institute for Conflict Management

The FMCS Institute for Conflict Management delivers practical, experience-based conflict skills 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 in specific groups, as well as the ever-changing world of work. The Institute’s training programs provide participants the opportunity to interact with and learn from experienced practitioners in the field, primarily FMCS federal mediators and private-sector arbitrators.

Courses offered in a typical year include, but are not limited to, Mediation Skills for the Workplace, Labor-Management Negotiation Skills, Evidence and Witness Examination in Arbitration, Arbitration for Federal Advocates, The Art and Science of Inquiry, and Becoming a Labor Arbitrator. Collectively, these courses serve as a tool to address a declining trend in available qualified labor arbitrators and to expand access to conflict skills, as well as the field of labor dispute resolution more broadly, to individuals and groups from underrepresented or traditionally underserved communities. The Institute runs as a reimbursable program and is funded by fees received from training participants.

International Training and Exchange

FMCS also plays an important role in promoting collective bargaining and strengthening conflict management and prevention around the world. Emerging market economies often struggle to compete effectively in a globally integrated marketplace. FMCS helps establish the labor relations institutions that are essential to the 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 multinational corporations that have global impact.

FMCS delivers its international training and systems design programs on a cost-reimbursable basis through interagency agreements (IAAs) with other government agencies, such as the Department of Labor, the Department of State, and USAID. In 2022, FMCS provided programs in Kosovo, Jordan, Panama, Indonesia, Mexico, and Columbia.

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.” FMCS is not able to award grants every year due to funding constraints and looks forward to being able to award \$1,000,000 or more in grants in 2024.

Accountable Government

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 challenges in recent years related to employee recruitment, training, consistent performance, and retention. However, FMCS employees and their focus on accomplishing the agency mission continue to keep the agency at the forefront among similarly sized units of the federal government.

In the coming year, FMCS is committed to meeting and exceeding its performance goals to ensure it can continue to successfully achieve its mission. FMCS is also committed to meeting government-wide initiatives and priorities.

Customer Experience and Digital Service Delivery

In 2024 and beyond, FMCS will further its implementation of Executive Order 14058 and the 21st Century Integrated Digital Experience Act through the following efforts:

- Creating an internal working group that identifies and prioritizes strategies to reduce administrative burdens and improve transparency on the FMCS customer-facing website and in public communications;
- Continued development and build-out of a client access portal that will significantly reduce the “time tax” related to FMCS service requests and forms. The portal will ease client data entry, avoid duplicative information, and improve client access to prior submissions;
- Redesign client-facing and case management processes, streamline request processing, and improve the agency’s understanding of and engagement with clients, including automated client experience surveys;

- Identifying and adopting FedRAMP-compliant client relationship management technology to support targeted outreach and awareness of FMCS services, in particular to underserved communities, and drive greater utilization by the public;
- Implementing a new program in support of the White House Task Force on Worker Organizing and Empowerment to raise awareness of services available to labor groups that are newly-certified by the NLRB and help those new bargaining units and their employers reach more comprehensive collective bargaining agreements in shorter time frames and with less litigation;
- Continue to engage internal and external stakeholders to better understand how existing and future digital products, platforms, and technologies can be applied to service delivery, client support, and staff professional development;
- Modernizing client engagement software to reduce administrative and other barriers; and
- Continue to use virtual service delivery platforms across the country to better access and provide service to historically underserved communities.

Diversity, Equity, Inclusion and Accessibility (DEIA)

FMCS is committed to providing its conflict resolution services with excellence and equitably to all Americans. In support of this goal, FMCS is increasing its virtual service offerings in order to lower the barriers to participation for underserved stakeholders. FMCS is also dedicating itself to provide equal access to its services by reaching out to all private sector labor parties, and particularly those in underserved communities. Through a partnership agreement with the Small Business Administration (SBA) and in accordance with their 8(a) Business Development Program, starting in 2023, FMCS increased set-asides for socially and economically disadvantaged businesses. Finally, FMCS seeks to provide children in Title I schools with the alternative dispute resolution skills needed to de-escalate conflicts.

Through these initiatives, FMCS expects to see increased participation and interest in public policy and regulatory matters, higher utilization rates of its services by underserved stakeholders, and better understanding of the nature of and ability to resolve conflict.

Retaining Records and Safeguarding Information

In 2024, 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, stewardship, and safeguard critical information.

Cybersecurity

As mandated by the Federal Information Security Modernization Act of 2014 (FISMA), FMCS maintains an information security program to support the confidentiality, integrity, and availability of agency information and information systems. FMCS performs routine

IT security operations, as well as implemented programmatic and technological improvements to reduce agency cybersecurity risks.

In recent years, FMCS successfully launched the CDM Defend F dashboard using Qualys agents aligned with DHS CISA’s distributed and automated CDM initiatives, reached 100 percent implementation for privileged account holders to require PIV for computer login, successfully pilot launched MFA access to all Office 365 applications and services, migrated 90 percent its network from physical on premises network to MS Azure cloud based infrastructure, and successfully launched a web based notice submission and service request portal to eliminate paper forms.

NIST Framework (in millions of dollars)	2022 Actual	2023 Estimated	2024 Requested
Identify	0.2929	0.2996	0.3116
Protect	0.6291	0.6503	0.6763
Detect	0.2198	0.2256	0.2346
Respond.....	0.1668	0.1734	0.1803
Recover	0.2657	0.2787	0.2900
Total (\$ millions)	1.5743	1.6276	1.6928

Expanded Hiring Practices and Managing Performance

To ensure adequate succession planning for the ensuing years, FMCS seeks to expand its hiring practices to bring talent in at grade levels that allows for more career growth. This effort includes a GS-12 mediator position and outreach to recent college graduates and underserved communities.

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. In addition to expanding its hiring practices, FMCS is also focused on a workforce of accountability. To do so the agency has recently transitioned to a five-tier performance management system with updated position descriptions and performance plans.

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 2024, FMCS will continue to encourage diverse viewpoints and innovation, solicit employee feedback, and practice open communications and transparency.

FMCS will continue to use different 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; and a continuation of open forums to constructively engage the FMCS workforce on a regular basis.

Conclusion

The 2020 COVID-19 pandemic placed great stress on the U.S. economy. FMCS will continue to lead the effort 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 2024, 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 \$55,815,000.

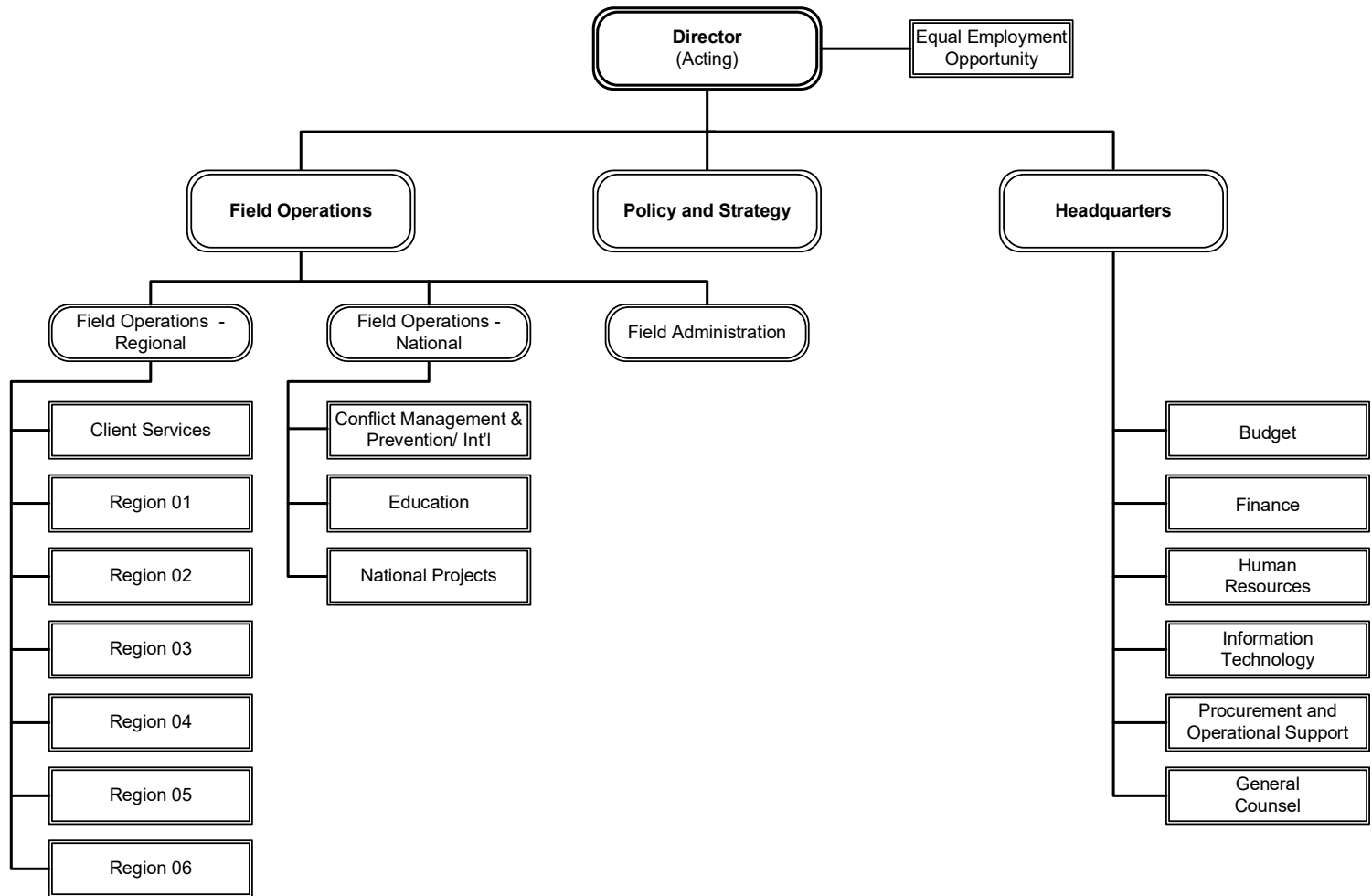
III. Appropriation Language

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, \$55,815,000, of which not to exceed \$1,000,000 shall remain available through September 30, 2025, for assistance activities authorized by the Labor-Management Cooperation Act of 1978: Provided, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: Provided further, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: Provided further, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property, including money, without fiscal year limitation, in the aid of any projects or functions within the Director's jurisdiction.

IV. FMCS Organizational Chart



As of Mar. 13, 2023

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 conflict management 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.

- XIII. Fees and Charges for Government Services and Things of Value (Public Law 97-258, 31 U.S.C. 9701) provides that the FMCS Director may establish a charge for a service or thing of value provided by the agency.

VI. Budget Tables and Detailed Financial Requirements

FEDERAL MEDIATION AND CONCILIATION SERVICE

BUDGET AND STAFFING BY ACTIVITY

	FY 2022 Actual		FY 2023 Enacted		FY 2024 Request		Total Program Increase or (Decrease) 2023 to 2024	
	FTE	Budget Authority (\$1,000s)	FTE	Budget Authority (\$1,000s)	FTE	(+) Budget Request (\$1,000s)	FTE	Budget Authority (\$1,000s)
1. Collective Bargaining and Grievance Mediations (Dispute), Relationship Development Training (Preventive), and Outreach (Public Information) Workloads.....	144	39,104	149	42,021	156	42,302	7	281
2. Arbitration Services	6	778	6	824	6	908	0	84
3. Headquarters and Operational Support.....	44	10,176	45	10,860	46	11,605	1	745
4. Labor-Management Grants	0	0	0	0	0	1,000	0	1,000
Sub-Total Appropriated	194	\$50,058	200	\$53,705	208	\$55,815	8	\$2,110

BUDGET AND STAFFING BY ACTIVITY

	FY 2022		FY 2023		FY 2024		Total Program Increase or (Decrease) 2023 to 2024	
	Actual		Enacted		Request		FTE	Budget Authority (\$1,000s)
	FTE	Budget Authority (\$1,000s)	FTE	Budget Authority (\$1,000s)	FTE	(+) Budget Request (\$1,000s)		
5. Reimbursable programs: ADR Services, Employment Mediation, International Training, Institute Courses, and Conference Fund.....	7	1,804	7	2,387	7	2,408	0	21
6. FMCS Internal Training and Education	0	234	0	1,351	0	974	0	(377)
Sub-Total Reimbursable	7	\$2,038	7	\$3,738	7	\$3,382	0	\$(356)
TOTAL RESOURCES	201	\$49,383	207	\$57,443	215	\$59,197	8	\$1,754

FEDERAL MEDIATION AND CONCILIATION SERVICE

**BUDGET ESTIMATES FISCAL YEAR 2024
FINANCIAL REQUIREMENTS**

(in thousands of dollars)

	FY 2021 Actual	FY 2022 Actual	FY 2023 Estimate	FY 2024 Request	2023 to 2024 Change (+/-)
<u>Personnel Compensation</u>	<u>\$26,773</u>	<u>\$26,318</u>	<u>\$30,947</u>	<u>\$32,880</u>	<u>\$1,933</u>
- Full-Time Permanent	26,003	25,649	30,162	32,095	1,933
- Other Than Full-Time Permanent	54	27	90	90	-
- Other Personnel Compensation	-	-	-	-	-
- Other Premium and Differential Pay	18	8	10	10	-
- Overtime	51	8	10	10	-
- Other Personnel Compensation-Awards	647	586	675	675	-
- Special Personal Services Payments	-	40	-	-	-
<u>Personnel Benefits</u>	<u>\$9,361</u>	<u>\$9,505</u>	<u>\$10,750</u>	<u>\$11,327</u>	<u>\$577</u>
- Benefits/Retirement	9,193	9,395	10,668	11,243	575
- Incentives	16	8	8	4	(4)
- Allowances	1	25	12	20	8
- Special Payments of Other Funds	151	77	62	60	(2)
- Relocation/Permanent Change of Station (PCS)	-	-	-	-	-
<u>Benefits for Former Personnel</u>	<u>\$2</u>	<u>\$0</u>	<u>\$20</u>	<u>\$20</u>	<u>\$-</u>
<u>Travel and Transportation of Persons</u>	<u>\$126</u>	<u>\$454</u>	<u>\$1,243</u>	<u>\$1,291</u>	<u>\$48</u>
- Domestic TDY	126	420	1,243	1,291	48
- Foreign Travel	-	10-	-	-	-
- Training Travel	-	5	-	-	-
- Relocation/Permanent Change of Station (PCS)	-	-	-	-	-
- Conference Travel	-	19	-	-	-

BUDGET ESTIMATES FISCAL YEAR 2024
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2021 Actual	FY 2022 Actual	FY 2023 Estimate	FY 2024 Request	2023 to 2024 Change (+/-)
<u>Transportation of Things</u>	<u>\$43</u>	<u>\$36</u>	<u>\$28</u>	<u>\$28</u>	<u>-</u>
- Transportation of Things	43	36	28	28	-
- Relocation	-	-	-	-	-
<u>Rent, Communications, and Utilities</u>	<u>\$4,621</u>	<u>\$4,874</u>	<u>\$3,742</u>	<u>\$4,002</u>	<u>\$260</u>
- Rental Payments to GSA	3,965	4,283	3,200	3,400	200
- Rental Payments to Others	60	53	60	60	-
- Communications, Utilities, and Misc. Charges	-	-	-	-	-
- Utilities	261	285	360	360	-
- ADP Rental	-	-	-	-	-
- Telecommunications	336	253	102	162	60
- Other Rentals	-	-	-	-	-
- Postage	-	-	20	20	-
<u>Printing and Reproduction</u>	<u>\$5</u>	<u>\$13</u>	<u>\$40</u>	<u>\$40</u>	<u>\$-</u>
- Government Printing	-	-	20	20	-
- Commercial Printing and Duplication	5	13	20	20	-
- Advertising/Radio/TV	-	-	-	-	-
<u>Other Contractual Services</u>	<u>\$4,181</u>	<u>\$4,207</u>	<u>\$5,762</u>	<u>\$4,488</u>	<u>\$(1,274)</u>
- Advisory and Assistance Services	1,224	855	1,498	324	(1,174)
- Other Services from Non-Federal Sources	21	18	8	8	-
- Other Goods and Services from Federal Sources	1,341	1,667	2,100	2,000	(100)
- Operation and Maintenance of Facilities	5	4	100	100	-
- Research and Development Contracts	-	-	-	-	-
- Medical Care	-	-	26	26	-
- Operation and Maintenance of Equipment	-	-	-	-	-

BUDGET ESTIMATES FISCAL YEAR 2024
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2021 Actual	FY 2022 Actual	FY 2023 Estimate	FY 2024 Request	2023 to 2024 Change (+/-)
<u>Other Contractual Services (continued)</u>					
- Operation and Maint. of Equipment (Non-Travel)	1,590	1,663	2,030	2,030	-
- Relocation/PCS	-	-	-	-	-
- Subsistence and Support of Persons	-	-	-	-	-
<u>Supplies and Material</u>	<u>\$125</u>	<u>\$139</u>	<u>\$177</u>	<u>\$177</u>	<u>\$-</u>
- Office Supplies and Publications	87	83	90	90	-
- ADP Supplies and Materials	37	55	84	84	-
- Fuel	-	-	-	-	-
- Materials/Parts	-	-	-	-	-
- Other Supplies	1	1	3	3	-
<u>Equipment</u>	<u>1,155</u>	<u>\$1,799</u>	<u>\$996</u>	<u>\$562</u>	<u>\$(434)</u>
- Manufacturing/Production Equipment	-	-	-	-	-
- ADP Software	964	1,375	460	200	(260)
- ADP Equipment/Hardware	159	385	474	300	(174)
- Telecommunications Equipment	23	32	30	30	-
- Other Equipment and Property	9	7	32	32	-
<u>Grants, Subsidies, and Contributions</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>\$1,000</u>	<u>\$1,000</u>
- Labor-Management Grants (29 U.S.C. 175a)	-	-	-	1,000	1,000
<u>Unobligated</u>	<u>\$2,208</u>	<u>\$2,713</u>			
<u>Sub Total - Appropriations</u>	<u>\$48,600</u>	<u>\$50,058</u>	<u>\$53,705</u>	<u>\$55,815</u>	<u>\$2,110</u>
<u>Total - Appropriations</u>	<u>\$48,600</u>	<u>\$50,058</u>	<u>\$53,705</u>	<u>\$55,815</u>	<u>\$2,110</u>

BUDGET ESTIMATES FISCAL YEAR 2024
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2021 Actual	FY 2022 Actual	FY 2023 Estimate	FY 2024 Request	2023 to 2024 Change (+/-)
Direct Funds					
Personnel Compensation	-	-	-	-	-
Personnel Benefits	-	-	-	-	-
Travel and Transportation of Persons	-	30	795	836	41
Transportation of Things	-	-	-	-	-
Rent, Communications, and Utilities	-	-	-	-	-
Printing and Reproduction	-	-	-	-	-
Other Contractual Services	-	-	-	-	-
Supplies and Material	34	176	500	130	(370)
Equipment	26	28	56	8	(48)
Total - Direct Funds	\$60	\$234	\$1,351	\$974	\$(377)
Reimbursable Funds					
Personnel Compensation	1,175	1,132	1,410	1,450	40
Personnel Benefits	355	363	452	505	53
Travel and Transportation of Persons	-	86	276	200	(76)
Transportation of Things	-	-	-	-	-
Rent, Communications, and Utilities	-	3	-	-	-
Printing and Reproduction	3	1	2	2	-
Other Contractual Services	-	218	226	239	13
Supplies and Material	158	1	21	12	(9)
Equipment	1	-	-	-	-
Total - Reimbursable Funds	\$1,692	\$1,804	\$2,387	\$2,408	\$21
TOTAL - ALL SOURCES	\$48,144	\$49,383	\$57,443	\$59,197	\$1,754

FEDERAL MEDIATION AND CONCILIATION SERVICE

Detail of Total Employment–End of Year

	2022 Actual	2023 Estimated	2024 Requested
Executive Level III	0	0	1
ES.....	3	4	3
Subtotal.....	3	4	4
GS-15.....	27	29	29
GS-14.....	128	121	123
GS-13.....	11	13	13
GS-12.....	7	18	24
GS-11.....	6	12	13
GS-10.....	0	0	0
GS-9.....	14	9	9
GS-8.....	3	5	5
GS-7.....	2	2	2
GS-6.....	0	0	0
GS-5.....	0	0	0
GS-4.....	0	0	0
GS-3.....	0	0	0
GS-2.....	0	0	0
Subtotal.....	201	211	218
Total employment, end of year	201 *	215 **	222 **
Full-time equivalent (FTE)usage	201	207	215
Average ES Salary	\$185,966	\$191,945	\$198,423
Average GS Level.....	14 04	14 04	14 05
Average GS Salary.....	\$131,750	\$135,759	\$144,140

*7 FTE funded by reimbursable revenue

**8 FTE funded by reimbursable revenue

VII. Workload Projections–2023 and 2024

The following pages include FMCS workloads over prior fiscal years, case load estimates, accomplishments for 2022, and estimated workloads in 2023 and 2024.

WORKLOAD OUTPUTS AND PROJECTIONS

FISCAL YEARS 2018-2024

PROGRAM SERVICES	FY2018	FY2019	FY2020	FY2021	FY2022	FY2022	FY2023	FY2024
	Actual	Actual	Actual	Actual	Estimated	Actual	Estimated	Estimated
1. COLLECTIVE BARGAINING								
MEDIATION.....								
Assigned Cases ^{iv}	10,537	10,709	9,655	10,510	10,800	11,004	11,200	11,200
Mediated Cases ^v	3,166	2,923	2,757	2,788	2,811	2,938	2,915	2,915
Closed Cases	10,636	10,705	10,030	10,625	10,863	11,074	11,266	11,266
Closed Mediated Cases	2,602	2,429	1,942	2,242	2,277	2,267	2,361	2,361
Settled and Closed Mediated Cases	2,242	2,103	1,691	2,116	1,951	2,115	2,023	2,023
Percentage of mediated cases settled w/FMCS ^{vi}	86.2%	86.6%	87.1%	94.4%	85.7%	99.3%	85.7%	85.7%
Activity rate in significant cases ^{vii}	39.2%	23.9%	33.3%	26.9%	45.0%	23.9%	45.0%	45.0%
2. GRIEVANCE MEDIATION								
Assigned Cases	1,707	2,511	1,985	1,967	2,200	1,174	1,500	1,500
Mediated Cases	1,641	2,441	1,927	1,869	2,130	1,127	1,452	1,452
Settled GM Cases	1,152	1,763	1,280	1,125	1,565	608	1,067	1,067
Percentage of cases settled w/ FMCS ^{viii}	70.2%	72.2%	66.4%	60.2%	73.5%	53.9%	73.5%	73.5%
3. RELATIONSHIP-DEVELOPMENT AND TRAINING								
Number of training programs provided	1,815	1,956	1,675	1,284	1,700	1,199	1,700	1,700
4. ADR Services.....								
Mediated Cases	1,081	1,212	1,370	1,169	1,600	1,041	1,200	1,200
Settled ADR Cases	523	554	683	435	747	356	560	560
Percent of ADR cases settled w/ FMCS ^{ix}	48.4%	45.7%	49.9%	37.2%	46.7%	34.2%	46.7%	46.7%
5. OUTREACH								
Outreach cases ^x	3,045	2,600	1,921	1,508	2,000	1,383	2,000	2,000

PROGRAM SERVICES	FY2018 Actual	FY2019 Actual	FY2020 Actual	FY2021 Actual	FY2022 Estimated	FY2022 Actual	FY2023 Estimated	FY2024 Estimated
6. ARBITRATION SERVICES.....								
Number of panels issued	11,617	10,944	10,340	10,544	11,000	9,693	10,000	10,000
Number of arbitrators appointed	4,524	4,342	4,070	4,417	4,771	4,114	4,252	4,252
7. GRANTS.....								
Number of grants funded	4	1	0	0	0	0	0	5
8. FMCS INSTITUTE								
Number of courses provided	10	10	23	19	22	23	22	22
Number of participants	190	192	598	746	850	598	850	850

VIII. Annual Performance Plan

Performance expectations for each service area are guided by the FMCS current four-year strategic plan. For each strategic goal, FMCS has identified several 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: Efficiently provide top-tier conflict management and prevention services

FMCS was established as a non-regulatory, non-adjudicative agency; this limits its ability to require parties to participate in the mediation process. Consequently, the Agency relies on its reputation for delivering high-value services to fulfill its statutory role and mission. With this context in mind, Strategic Goal #1 represents the Agency's first and most expansive strategic goal. It places emphasis on FMCS' ability to consistently leverage decades of experience and expertise to provide high-quality, professional conflict management and prevention services that support client needs and add value. In the coming years, the Agency intends to build upon its reputation, streamline and improve upon its processes, and expand the use of and access to its services, using the strategies and actions outlined below.

Objectives:

- Provide a full spectrum of high-quality conflict management and prevention services that effectively meet client needs.
- Expand utilization of and access to FMCS services.

Strategies:

- Prioritize efficient resource distribution across traditional boundaries.
- Implement a collaborative teaming approach at all levels of the organization.
- Exercise professional judgement regarding effective and efficient modes of service delivery across all activities.
- Maximize opportunities to develop mediator subject matter expertise, as well as breadth and depth of experiences.
- Increase engagement with newly represented groups to support them in attaining initial contracts.
- Transition from transactional engagements to full spectrum, client-driven conflict management, prevention, and resolution services.
- Increase cooperation between FMCS and other agencies.

Actions:

- Grow network of federal sector connections to increase awareness of FMCS and expand access to FMCS services.
- Share knowledge and techniques across the Agency through mentoring, shadowing, coaching, and other collaborative learning opportunities.
- Prioritize client needs in the assignment of mediators based on style, skills, knowledge, and acceptability, among other factors.
- Survey clients regarding their satisfaction with FMCS services.

- Create finer distinctions in tracking of RDT work to capture a more complete spectrum of services, including activities such as coaching, facilitation, assessments, trainings, professional development, dispute systems design, negotiated rulemaking, and/or complex multi-party negotiations.
- Monitor any disruptions to commerce and identify strategies to assist.
- Increase exposure of all mediators to advanced cases, tools, and techniques.
- Create promotional materials to educate newly organized groups about FMCS services, including training and collective bargaining mediation.
- Identify and conduct outreach to low-utilization industries, bargaining groups, and geographic areas.

Expected Outputs:

- Greater utilization of FMCS services in private and federal sector cases with potential for impact on interstate commerce.
- Increased involvement and acceptability in cases of note (i.e. national level, high-profile, significant impact on interstate commerce, etc.).
- Better understanding of client satisfaction with FMCS services.
- Reduced litigation and improved organizational effectiveness on the part of clients.
- Comprehensive tracking of engagements with newly represented groups and correlation to success in attaining initial contracts.
- Expanded FMCS involvement in historically underserved industries and areas.
- Greater number of concluded and implemented IAAs that involve full-spectrum service provision.

Strategic Goal #2: Increase agencywide application and effectiveness of evidence-based decision-making

FMCS has prioritized Strategic Goal #2 in accordance with the Evidence-Based Policymaking Act of 2018 and subsequent presidential actions, including President Biden's Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking (January 27, 2021). The Agency seeks to consistently improve its internal collection, use, and management of data; its use of data tools in allocating resources effectively; and its participation in interagency information sharing that supports an informed, whole-of-government approach to decision-making. The following efforts reflect an agencywide commitment to pursuing data collection and management practices that incorporate government-wide best practices.

Objectives:

- Broadly improve collection and application of data.
- Leverage available data and data management tools in resource allocation and programmatic decisions.
- Support a whole-of-government approach to data-based decision-making.

Strategies:

- Improve systems for data collection, standardization, and analysis.
- Maximize mediator placement in areas with greater concentrations of work, as evidenced by contract expiration notices and active cases.
- Prioritize electronic collection of information and data analysis.
- Partner with other labor-related agencies, including the National Labor Relations Board (NLRB), the National Mediation Board (NMB), the Federal Labor Relations Authority (FLRA), and the Department of Labor (DOL), to share data.

Actions:

- Evaluate and implement a client relationship management system.
- Survey clients regarding their satisfaction with FMCS services.
- Actively monitor case assignments and workload distribution to ensure balance.
- Identify geographic concentrations of potential work, with a focus on underserved areas, for effective resource placement and management.
- Standardize and validate data inputs to ensure consistency and accuracy.
- Coordinate efforts and activities with the NLRB, FLRA, NMB, and DOL, as appropriate.

Expected Outputs:

- Maintenance of more accurate datasets.
- Effective prioritization of resources on a regional and national scale.
- Optimized distribution of cases, personnel, and resources.
- Better understanding of client satisfaction with FMCS services.
- Improved data-sharing, more efficient federal resource allocation, and minimized duplication of efforts across agencies

Strategic Goal #3: Improve communication both internal and external to FMCS

FMCS firmly believes that effective communication is central to the efficiency of its internal operations and the quality of its external service delivery. As such, Strategic Goal #3 contains two sub-priorities: (1) communication within FMCS, and (2) communication between FMCS and its clients, other agencies, and the general public. In both areas, FMCS seeks to emphasize engagement, expand access, and increase coordination efforts—whether between departments, internal program areas, or with other agencies. The strategies and actions outlined below intend to support the Agency in prioritizing this effort through 2026 and beyond.

Objectives:

- Streamline vertical communication between senior leadership, management, and employees, as well as lateral communication between departments.
- Increase coordination between departments and activities within FMCS.
- Increase outreach to and engagement of external stakeholders.

Strategies:

- Implement a collaborative teaming approach at all levels of the organization.
- Cascade information in a centralized, consistent, and easily accessible manner.
- Solicit and provide input and feedback whenever possible.

Actions:

- Centralize internal communications into as few platforms as possible.
- Collect success stories from across FMCS.
- Communicate regularly and consistently to interested external stakeholders regarding notable activities, program offerings, and promotional information.
- Regularly update the public-facing website and social media platforms.

Expected Outputs:

- Better coordination and utilization of resources with minimal duplication of efforts.
- Informed and engaged workforce.
- Information sharing between departments and across the federal government.
- Broadly improved morale.
- Greater compliance with federal and FMCS requirements.

Strategic Goal #4: Prioritize lifelong learning in support of agency mission and individual professional development

Over the past 75 years, FMCS has traditionally played a variety of roles in the national labor relations community—as a neutral mediator, facilitator, trainer, convener, conflict management professional, and more. These roles, and the responsibilities implied therein, apply equally to employees. A key through line consistent in this set of roles is the principle of lifelong learning. As neutrals, and in fact, across all areas of the agency, it is important to remain open to and actively seek out new theories, methods, processes, dynamics, and practices. As such, FMCS seeks to establish structures and practices that (a) encourage its employees to pursue individual craft mastery and ongoing professional development, and (b) support the Agency more broadly in adapting to changes in the field and/or in the federal government.

Objectives:

- Enhance reputation of FMCS as a leader in advanced, current conflict management and prevention techniques and service delivery methods.
- Encourage mediators to pursue craft mastery and ongoing professional development.

Strategies:

- Hold all employees to a high standard of subject matter expertise and professionalism.
- Stay current in the fields of industrial relations, conflict management and prevention, and ADR regarding innovative service delivery methods and techniques.
- Promote a culture of giving and receiving constructive criticism and feedback.
- Establish structures to promote and incentivize the pursuit of craft mastery.

Actions:

- Provide ongoing incumbent professional development opportunities.
- Encourage coaching of mediators by managers, in addition to peer mentoring.
- Regularly update core professional development training modules and activities that ensure mediators deliver consistent, value-add content that supports client needs.
- Expand outreach and coordination efforts in the federal ADR community.

Expected Outputs:

- Greater awareness and use of FMCS services within federal sector.
- Increased engagement in job actions affecting commerce in non-traditional areas and industries of labor relations.

Stewardship Goal #1: Effectively manage human capital

FMCS believes that its employees are its greatest asset. The Agency's mission and activities are inherently people-focused; as such, FMCS relies on the skills, professional judgement, and expertise of its employees, whether in conflict management or in operations, to meet its goals. Stewardship Goal #1 prioritizes a strong human capital program that maximizes employee engagement, performance, and opportunities, thus allowing FMCS to deliver its high-quality mission-driven services. To that end, the Agency commits to the following activities:

Objectives:

- Establish a diverse, highly qualified, and skilled workforce.
- Encourage employees to be highly motivated, high-performing, and engaged.
- Develop a shared sense of responsibility amongst all employees for fostering an inclusive, welcoming workplace.
- Provide employees with a flexible working environment that maximizes remote/telework opportunities as permitted by duties.

Strategies:

- Foster an engaged workforce that is aligned with Administration and organizational goals, initiatives, directives, and values.
- Prioritize DEIA principles and FMCS values, outlined in Section 2, across activities.
- Strengthen the performance management process.
- Establish opportunities for professional development and collaboration with team members, coworkers, and clients in the virtual workplace.

Actions:

- Empower supervisors to engage employees, recognize performance, foster high morale, and strengthen accountability measures.
- Modify performance work plans (PWP) to prioritize DEIA principles and FMCS values outlined in Section 2.
- Modify PWPs to include proficiency with technology and remote meeting platforms.
- Enhance training and development opportunities for all employees.
- Use recruitment flexibilities to ensure that FMCS is attracting a diverse and qualified workforce that reflects historically underrepresented identities and backgrounds.
- Ensure that all employee PWPs cascade critical elements from the Agency mission and strategic plan.
- Tie employee FEVS feedback to management decision-making.
- Remain apprised of and implement current U.S. Office of Personnel Management guidelines on effective human resource management practices.
- Remain apprised of all relevant laws, regulations, and Executive Orders and cascade action items to staff as appropriate.
- Provide robust, cloud-based tools and trainings that are secure, and fully functional in an in-person or virtual setting.

Expected Outputs:

- Increased employee participation in the FEVS and improved Agency rating therein.
- Greater alignment between performance objectives and measurable criteria.
- 100 percent employee participation in mandatory training requirements.
- Broader array of trainings, coaching, and mentoring offerings and programs that further incumbent professional development and lifelong learning.

Stewardship Goal #2: Ensure responsible financial management

Stewardship Goal #2 is a foundational goal in successfully meeting the FMCS' obligation for taxpayer resources to be allocated wisely and efficiently. Strong, modern financial systems and practices, coupled with targeted investments, work to improve reporting, decision-making, and accountability, which can lead to cost savings and further efficiencies in how FMCS manages its public funds in support of its mission. FMCS will adhere to relevant policies, guidance, and regulation to manage appropriated dollars in an efficient manner and ensure compliance.

Objectives:

- Compile financial statements that accurately reflect the Agency's financial position.
- Ensure broad operational efficiency and effectiveness at all levels.
- Remain compliant with all applicable laws and regulations.
- Ensure an annual budget execution rate of over 99 percent.

Strategies:

- Coordinate with internal program areas to identify and plan appropriately for resources needed in current and future years.
- Provide timely and regular financial and budget feedback.
- Review high risk areas of operations to ensure the implementation of comprehensive policies and procedures.
- Ensure that managers consider resource management in all decision-making.

Actions:

- Create and monitor monthly report of subscription lists and sets of standard reports and reporting deadlines.
- Design and apply internal controls frameworks to specific areas of highest risk.
- Promote employee and manager accountability for efficient modes of service delivery; namely, in person or virtual.
- Analyze geographic placement of all staff, in both Headquarters and Field Operations, to maximize efficiency of operations.

Expected Outputs:

- Timely submission of reports to intended audience(s).
- Establishment of internal control reference guides for high-risk program areas.
- Completion of monthly budget reports for program areas and offices.
- Completion of monthly financial statements of position reports for senior leadership.
- Clear delegations of authority for managers and employees.
- Overall cost savings in travel as a result of virtual service provision.

Stewardship Goal #3: Optimize information technology investments to improve process efficiency and foster innovation in support of program mission goals

Technological advancements and current events present a near-constant change to government operations and the world of work more broadly. This impacts the expectations that Congress, the Administration, clients, and the general public have for how FMCS manages its operations and delivers its services. When targeted to specific activities, the right technology investments can make vast improvements in process and cost-efficiency, as well as the adaptability and responsiveness of the Agency. FMCS seeks to explore innovative technology solutions, while maximizing the use and life of its current platforms and tools, in support of its mission.

Objectives:

- Provide high-quality information technology support to enhance FMCS activities.
- Ensure that technology selected maximizes access to FMCS services and ensures smooth delivery of those services by FMCS employees to the American public.
- Establish secure digital networks free from unwanted intrusion or misuse.
- Maximize use of current assets to further Agency mission.

Strategies:

- Maintain a regular hardware and software refresh cycle that incorporates prevailing cybersecurity tools and methods.
- Research and assess new technology opportunities as they arise to further enhance FMCS service delivery, case management, and data analysis.

Actions:

- Maintain a highly functional, under-warranty environment for hardware and software.
- Ensure that all Agency-issued hardware and software have the most current updates, patches, and cyber protections available.
- Transition to all-electronic filing of F7 notices that flows into internal case assignment and management processes.
- Remain apprised of developments in the field through research, conferences, vendor demonstrations, and other means.

Expected Outputs:

- Maintenance of technology solutions that are effective, yet unobtrusive, and that maximize network and information security.
- Implementation of technology solutions that enhance service delivery and monitoring.
- 100 percent compliance with information technology security updates and patches.

Stewardship Goal #4: Protect the safety and integrity of our human, physical, and digital assets

Ensuring safety across all aspects of internal and external operations remains a top priority for the Agency and is therefore reflected in Stewardship Goal #4. Herein, FMCS seeks to prioritize the continuity and health of its daily operations, facilities, digital assets, and employees. This includes digital security countermeasures and prevention of data breaches, emergency response preparedness, flexible workplace opportunities, and other actions. Notably, FMCS also builds on prior strategic plans by placing emphasis on not only the physical health, but the mental health and wellbeing of its employees. The Agency monitors and updates its technology related to safety and integrity to ensure that it remains current and compliant with regulation.

Objectives:

- Safeguard confidential employee and business information.
- Ensure the physical safety of FMCS employees, resources, and physical assets.
- Prevent data breaches and disclosure of personally identifiable information.

Strategies:

- Assess FMCS operations and facilities to ensure compliance with federal regulations.
- Continue to improve relationships with the General Services Administration, Federal Protective Services, and lessors.
- Provide employees with seamless security systems and measures.
- Promote the mental and physical health of all employees.
- Enable security countermeasures that automatically detect threats.

Actions:

- Assess the adequacy of physical security plans, policies, and procedures for FMCS Field Offices.
- Require multi-factor authentication at initial computer login.
- Use Geographic Information Systems to visualize employee locations and respond to all safety needs (i.e., severe weather or other emergency event) in a timely fashion, in accordance with Agency COOP planning.
- Perform gap analysis to ensure alignment with minimum cybersecurity standards, in accordance with the Interagency Security Committee and relevant guidance from the Cybersecurity and Infrastructure Security Agency.
- Implement agencywide Controlled Unclassified Information program and provide training to all employees.
- Provide greater flexibility around working hours and collaboration time, as well as respect for non-work time of employees.
- Provide training to maximize emergency readiness and awareness such that employees can effectively prevent and/or respond to cyber threats.

- Manage software and hardware inventories through use of agents to monitor current status of applications and programs that are running and installed on each system.

Expected Outputs:

- Mitigated risk of physical or digital asset theft, terrorism, fire, other physical harm, and/or compromise to sensitive information.
- Efficient and timely response to ensure safety of personnel and physical assets in response to weather or other emergency events.
- Respect for physical and mental health of employees.

Stewardship Goal #5: Maximize available resources through effective procurement management and inventory control

Stewardship Goal #5 reflects FMCS' commitment to meeting the highest levels of procurement integrity in accordance with federal regulations. Adherence to procurement laws, policies, and related Executive Orders allows FMCS to maximize the value of taxpayer dollars and maintain public trust in government. FMCS remains mindful that among these policies are Executive Order 13985 "Advancing Racial Equity and Support for Underserved Communities through the Federal Government" (January 20, 2021) and its associated OMB guidance (December 2, 2021), which seek to increase equity in procurement solutions. The Agency seeks to regularly review and update its procurement activities and inventory controls to ensure that they remain up-to-date, accurate, and compliant with industry and government-wide best practices.

Objectives:

- Ensure compliance with all procurement and purchasing laws and requirements, while ensuring equity in procurement solutions.
- Prioritize accurate inventory control.

Strategies:

- Use acquisition planning in procurement activities to ensure that Agency needs are met in the most effective, efficient, ethical, and timely manner.
- Maximize use of current supply and equipment inventory.
- Use Hardware Asset Management and Software Asset Management inventory agents to monitor current state, as well as level of readiness and compliance.

Actions:

- Review and update procurement policies and directives, in accordance with relevant Executive Orders and other Administration guidelines.
- Develop procurement-related training for program staff.
- Increase use of government-wide acquisition and best in class solutions.
- Use a comprehensive approach to acquisition planning.
- Actively maintain inventories of network connected assets and their software to optimize licensing, warranties, and future procurement needs.

Expected Outputs:

- Mitigation of wasteful spending for services, supplies, and equipment.
- Enhanced procurement regulations, policies, and procedures knowledge.
- Reduced risk of procurement fraud and conflicts of interest.
- Use of up-to-date computer hardware and software.
- Smaller inventories of equipment and licensing.

Endnotes

- ⁱ <https://www.whitehouse.gov/wp-content/uploads/2022/02/White-House-Task-Force-on-Worker-Organizing-and-Empowerment-Report.pdf>, Accessed 3/24/2022.
- ⁱⁱ <https://www.nlr.gov/news-outreach/news-story/first-three-quarters-union-election-petitions-up-56-exceeding-all-fy21>, Accessed 8/16/2022.
- ⁱⁱⁱ A card check is part of a voluntary recognition process. An employer agrees to recognize a labor organization as the exclusive representative of their employees for purposes of collective bargaining if a majority of employees in an appropriate unit indicate that they would like to be represented by that organization. It typically involves an agreed-upon neutral third party counting cards signed by employees and determining whether a majority of employees desire such representation.
- ^{iv} 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 2022 FMCS case intake was more than 16,000.
- ^v Mediated cases represent the number of cases in the FY where mediators have become active in the negotiations.
- ^{vi} Defined as the number of mediated cases settled divided by the total number of mediated cases.
- ^{vii} Significant cases are generally defined as situations where the bargaining unit exceeds 1,000.
- ^{viii} Defined as the number of grievance mediation cases settled and closed within the fiscal year divided by the number of closed GM assignments.
- ^{ix} Defined as the number of ADR cases settled divided by the number of mediated cases closed.
- ^x 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.