

FEDERAL MEDIATION AND CONCILIATION SERVICE

FISCAL YEAR 2013

Congressional Budget Submission

FEDERAL MEDIATION AND CONCILIATION SERVICE

FISCAL YEAR 2013

Congressional Budget Submission

Table of Contents

I.	Executive Summary	1
A.	Mediation Services.....	3
B.	Operational Excellence	7
C.	Conclusion	8
II.	FMCS Organizational Chart	9
III.	Appropriation Language	10
IV.	Statutory and Other Legal Authority	11
V.	Budget Tables and Detailed Financial Requirements	15
VI.	Mission and Program Structure	24
A.	Collective Bargaining Mediation.....	25
B.	Grievance Mediation.....	25
C.	Relationship-Development and Training	25
D.	Arbitration Services	26
E.	Employment and Regulatory Mediation.....	26
F.	FMCS Institute.....	27
G.	Labor-Management Committee Grants	27
H.	International Training and Exchange.....	27
VII.	Workload Projections – FY 2012 and FY 2013.....	29
VIII.	Program Objectives – FY 2012 and FY 2013.....	32

Fiscal Year 2013 Budget Estimates

I. Executive Summary

More than sixty years ago, the United States Congress recognized the need for third-party, neutral intervention in labor-management disputes to prevent or minimize interruptions to the free flow of commerce. Accordingly, 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."¹ Subsequent acts of Congress and Presidential orders have expanded the FMCS's role to include promoting labor-management relationships in both the private and public sectors, as well as providing employment-based mediation services and alternative dispute resolution (ADR) programs, such as negotiated rulemaking, to government agencies.

The FMCS fulfills its statutory obligations both by mediating collective bargaining disputes and by assisting employers and unions in developing collaborative problem-solving relationships. In all aspects of its work, the FMCS seeks to minimize the potential for and the impact of work stoppages and to promote improved labor management relationships and organizational effectiveness.

As the volatile national and world economies continue to destabilize the U.S. workplace, the FMCS has intensified its efforts in the areas of employer-provided health care, pension benefits, and other major economic issues that will dominate collective bargaining for the foreseeable future. Companies and unions that were able to resolve conflicts during periods of economic growth often find themselves unable to bridge the enormous divide created by a sharply altered economic playing field. State and local governments that historically were able to absorb wage and benefit increases for their

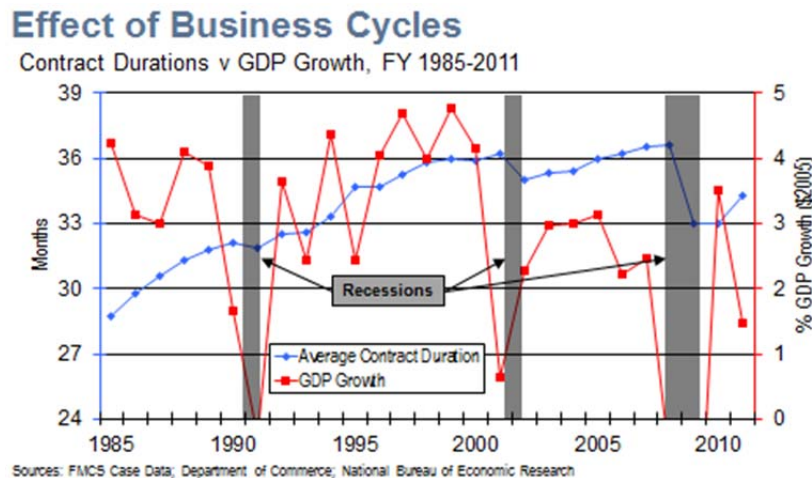
¹ 29 USC § 173. By statute, FMCS's jurisdiction excludes the rail and airline industries, which are covered by the National Mediation Board under the Railway Labor Act.

workers have insisted on deep concessions as their existing tax bases and revenue streams have decreased.

Given the enormous divergence of interests created during these exceedingly difficult economic times, experience teaches that constructive labor-management relationships are fundamental to the parties' ability to solve problems and reach the compromises necessary to achieve productivity and stable employment. To this end, and through its jointly requested relationship building programs, the FMCS works with labor and management to establish collaborative, productivity-enhancing, problem-solving relationships.

The FMCS has a demonstrated record of success in preventing or limiting disruptive workplace conflicts. While many factors have contributed to the overall decline in the number of work stoppages that occur each year, strikes and lockouts can still cause significant damage to the U.S. economy. The FMCS estimates that work stoppages in any one year between 1999 and 2011 cost \$798 million in lost wages and company profits and an additional \$771 million among ancillary businesses. In FY 2011, these stoppages directly affected almost 68,500 workers and indirectly affected another 79,000 in ancillary businesses. The FMCS estimates that direct wage losses alone from a single large work stoppage would easily exceed FMCS's entire annual budget and cause otherwise avoidable losses to the national economy.

For FY 2013, the FMCS expects to receive approximately 23,000 notices of expiring collective bargaining agreements and is already aware of nearly 9,000 expiring contracts covering at least 26 percent of the private sector unionized workforce, or 1.8 million workers. Many of these expiring agreements are in key private sector industries, such as telecommunications, health care, defense, oil refining, entertainment, ship building, and construction.



Another factor in future workloads is related to the decline in average contract durations—from 36.6 months in 2008 to 33 months in 2009 and 2010—and the slow rebound to 34.3 in FY 2011. Shorter average contract durations mean negotiations will

occur with greater frequency, increasing the number of notices that the FMCS must process each year, as well as mediator workloads.

For the reasons described earlier, the FMCS anticipates that labor strife will continue as the U.S. economy makes uncertain progress in its recovery. The FMCS also anticipates that workers will seek to recoup at least some of the wage and benefit concessions many of them made during the depths of the recession. Consequently, the FMCS fully expects labor-management negotiations to remain contentious and to therefore increase the need for FMCS services and workload in FY 2013 and beyond.

A. Mediation Services

With its history of more than 60 years of providing mediation, training, and facilitation services, the FMCS has more aggregate experience in alternative dispute resolution than any other government agency. The FMCS recognizes that demonstrating the economic impact of preventing or minimizing the duration of work stoppages is difficult to quantify. For this reason, the FMCS uses an independently developed modeling system for estimating the impact of its services on the U.S. economy.²

Using this conservative model, the FMCS estimates that its mediation services in FY 2010 and FY 2011 saved the economy \$2.4 billion in wages and profits that otherwise would have been lost to work stoppages. These estimates include direct wages saved among the bargaining unit members, retained company profits, and wages and profits among ancillary companies.

Related research also has shown that the timing of FMCS involvement is absolutely critical to its ability to minimize the duration of work stoppages and to prevent work stoppages from occurring in the first place. Over the past 13 years, FMCS direct involvement in the bargaining process at any time prior to contract expiration is associated with a 40 percent reduction in the duration of any subsequent work stoppage: an average reduction of 27 days.

While the economic model helps demonstrate the direct benefits of mediation, it also understates the real value of FMCS services to the U.S. economy. The reason for this is that the FMCS economic model can only estimate the benefits of mediation to the company and employees taking part in any potential work stoppage, and to ancillary companies that provide goods and services directly to that company. The FMCS economic model cannot provide estimates of benefits to companies and employees that rely upon the flow of goods or services halted by a work stoppage.

² In FY 2005, the FMCS entered into an agreement with the Employment Policy Foundation (EPF), a nonprofit, nonpartisan public policy research foundation with expertise on workplace trends, to develop a model that was capable of estimating the impact of the FMCS's services.

Nevertheless, with such strong evidence demonstrating the positive impact of early intervention in collective bargaining disputes, the FMCS uses a variety of early intervention programs and initiatives to pursue its labor-management conflict resolution mission. Of particular note is the FMCS's new model of relationship building for the most complex and divisive issues and the most troubled sectors of the U.S. economy.

Effectively Managing Health Care Bargaining Challenges

Pension benefits, job security, and the costs of employer-provided health care remain among the most contentious issues in private and public sector negotiations. After reviewing the overall state of collective bargaining during 2010, it became clear that the costs of employer-provided health care were the single most persistent cause of collective bargaining disputes throughout the nation, irrespective of industry or sector—manufacturing, construction, retail, entertainment, high tech, health care facilities or the public sector. This review suggested that an increasing number of major confrontations would likely arise out of disputes about cost shifting, cost containment, chronic disease management, prevention, and wellness.

It was in this context that FMCS initiated a new model of proactive outreach and relationship building. After conferring with labor and management health care experts, service providers, and plan design professionals, a broad consensus emerged on two key factors. First, negotiations over health care-related issues are simply too complicated and contentious to wait until the typical 30-60 days prior to contract expiration when parties often begin to address contract modification. Second, the extraordinarily difficult issues of cost shifting, cost containment, disease management, wellness, and personal responsibility can only be addressed successfully if the parties have a relationship and a process for decision-making based on trust, transparency, and a commitment to joint problem solving.

These two key elements had already been practiced with noteworthy success by a handful of collective bargaining partners. These unions and companies established joint labor-management cooperative health care committees which regularly met in an informal setting far in advance of contract expiration. Both sides also demonstrated, by their conduct, a fundamental commitment to a relationship in which the strongly held competing views of the parties were valued and respected, information was freely and openly exchanged, and a process for collaborative problem solving was observed and honored at the highest levels of management and the union.

The FMCS concluded that these success stories and best practices should be shared to the maximum extent possible with the labor-management community. To that end, the FMCS sponsored a series of three one-day seminars, titled "Working Together: Labor-Management Solutions to the Health Care Challenge." These seminars were held in early FY 2011 in Chicago, New York City, and San Francisco and were designed "to spread the word" to labor and management that a number of their colleagues already had created the processes and developed the relationships necessary to bring about previously unattainable revisions in health care costs and delivery.

Hundreds of attendees were exposed to remarkable achievements grounded in transparency, trust, and respectful relationships. In addition, they learned about FMCS programs and services available to help them achieve similar success by adapting this model to their particular circumstances. The FMCS is optimistic that this model of early, proactive outreach and relationship building will help the labor-management community meet the continuing challenges inherent in bargaining over employer-provided health care benefits.

Relationship Building in the Steel Industry

The example of ArcelorMittal and the United Steelworkers of America (USWA) provide another noteworthy example of how the FMCS model of early, proactive outreach and relationship building works. ArcelorMittal (Arcelor) is a high-profile international corporation that currently is the single largest steel manufacturer in the world. In the last decade, the company acquired six U.S.-based steel companies, which were then competing with each other in the national and international steel markets. The USWA was the bargaining representative for production and maintenance employees at each of the six predecessor companies and succeeded to that status with Arcelor. Both the company and union acknowledged the extremely adversarial and dysfunctional relationship that existed during the early stages of Arcelor's acquisition. Ultimately, Arcelor's top leadership concluded that the relationship was counter-productive and that nothing less than a cultural revolution at every level within the organization was necessary to fix it.

As a result, in July 2009, and as a vital element of a comprehensive collective bargaining agreement, the parties created a labor-management partnership with an exceptionally ambitious agenda: to improve product quality and production efficiency; to improve the health and safety of employees; to improve their quality of life in their working environment; and, more generally, to promote employee involvement in problem solving and to advance company-union relations throughout the organization.

To accomplish these expansive goals, the parties turned to the FMCS for assistance, which continues to date. In addition to providing seed money through the FMCS's labor-management grants program, FMCS mediators are actively involved in one of the most far-reaching labor-management projects in FMCS history. Partnership coordinators selected by each party, together with FMCS mediators, have conducted a series of local labor-management committee meetings at ten individual facilities in Illinois, Indiana, Ohio, Minnesota, Pennsylvania, West Virginia, and South Carolina. These sessions introduced plant-level management and local union representatives to the advantages of conducting themselves in a joint, problem-solving mode and to make them aware of available FMCS resources and services for solving day-to-day plant level issues. The results of this joint effort strongly suggest that this program will be a model for other parties contemplating the creation of their own partnerships.

Advancing Student Achievement through Labor-Management Collaboration

Public education reform is another area where the need for labor-management collaboration has become a priority. Upon the joint request of the parties, the FMCS

assisted in the resolution of a high profile and very contentious public school dispute between a Rhode Island school district and its teachers' union. Shortly thereafter, the Secretary of Education asked the FMCS to partner with his agency in a new initiative to advance student achievement through labor-management collaboration.

The partnership included the two major teachers' unions—the American Federation of Teachers (AFT) and the National Education Association (NEA)—and the organizations representing school administrators, school boards, and major urban school systems (American Association of School Administrators, the National School Boards Association and the Council of the Great City Schools). The FMCS was asked to provide mediation, facilitation, and relationship building training with respect to all aspects of this undertaking. To launch the Secretary's initiative, the partners agreed to co-sponsor a major conference in Denver, Colorado, on February 15-16, 2011, called "Advancing Student Achievement through Labor-Management Collaboration."

More than 150 school districts from urban, suburban, and rural areas of varying sizes and geographical locations attended the conference. Each school district that applied was accepted by the Department of Education provided that the superintendent, together with the local union president and the school board chairman agreed to attend as a team and pledged, in writing, to advancing student achievement through negotiating reform-oriented collective bargaining agreements.

Following the Denver conference, the FMCS facilitated a pioneering effort between the AFT and the American Association of School Administrators (AASA) aimed at providing their respective constituencies an agreed-upon general framework for addressing core education reform issues. A series of joint meetings facilitated by the FMCS resulted in a groundbreaking and comprehensive 25-page "framework agreement" titled "Educator Quality for the Twenty-First Century: A Collaborative Effort of the American Association of School Administrators and the American Federation of Teachers." In light of the comprehensiveness of the framework agreement, the FMCS anticipates that labor-management collaboration will become the model in many school districts throughout the country and the FMCS stands ready to help facilitate discussions between the parties in their respective districts.

Federal Agency Relationship Development

The FMCS also plays a role in helping to achieve constructive labor-management relations throughout the federal government. In December 2009, the President issued an executive order to "promote satisfactory labor relations and improve the productivity and effectiveness of the Federal Government." To implement this policy, Executive Order 13522 (EO 13522) requires all federal agencies to establish "labor-management forums [that] allow managers and employees to collaborate in continuing to deliver the highest quality services to the American people." Thus, EO 13522 provided the FMCS with another opportunity for demonstrating the value of its relationship building model.

To assist the parties with those forums, the FMCS conducted a series of training programs in which, upon request of the agency and its labor organization, FMCS mediators provided participants with information and interactive skill building on

effective labor-management forum design, consensual decision-making, facilitation, and other necessary skills. In FY 2011, the FMCS delivered more than 250 training sessions reaching more than 6,100 participants.

More recently, the National Council on Federal Labor-Management Relations, the entity created to oversee the implementation of EO 13522, tasked the FMCS to develop an innovative "train-the-trainer" program. The intent of this program is to greatly expand the opportunities for training and forum development throughout thousands of Federal Government bargaining units.

The foregoing examples are illustrative of just some of the industries and sectors in which the FMCS's proactive outreach and relationship building model is being utilized to help labor and management improve competitiveness and productivity and provide stable employment levels during difficult economic times. In all aspects of its work, the FMCS seeks to minimize the potential for and impact of work stoppages and to promote improved labor management relationships and organizational effectiveness.

B. Operational Excellence

In recent years, the FMCS consistently has been recognized as one of the best places to work in the federal government. Despite these accolades, the FMCS continues to mine the results of employee surveys, such as OPM's employee viewpoint survey, to identify areas of improvement. Analysis of ongoing survey results has both prompted and informed recent initiatives related to encouraging employee wellness, maintaining a proper work/life balance, and appropriate utilization of telework.

Equally important is the FMCS's commitment to using allocated resources as efficiently as possible in order to ensure customers and taxpayers the highest value for the services it provides. Starting in FY 2010, the FMCS implemented a number of initiatives to improve the efficiency of support staff and support functions, efforts which will continue into 2013. These include creating new and updated procedures and directives in all significant administrative areas and expanding the availability and use of information technology systems.

For FY 2013, the FMCS will continue to integrate and update its information technology services to comply with administration initiatives relating to telecommuting, cloud computing, continuity of operations, and cyber security. In FY 2011, the FMCS established a cloud-capable infrastructure and, in FY 2012 and 2013, will move many legacy applications to the central platform. Integral with this system will be continuing scheduled upgrades to technology hardware and software assets, the agency-wide distribution of Personal Identity Verification (PIV) cards, and the full equipping of the FMCS devolution site.

In addition to these initiatives, the FMCS continues to employ a well-developed system for evaluating the distribution and effectiveness of its field office staff. This evaluation occurs on an annual basis and as retirements and attrition present opportunities for non-disruptive realignment of its personnel. With the majority of its employees

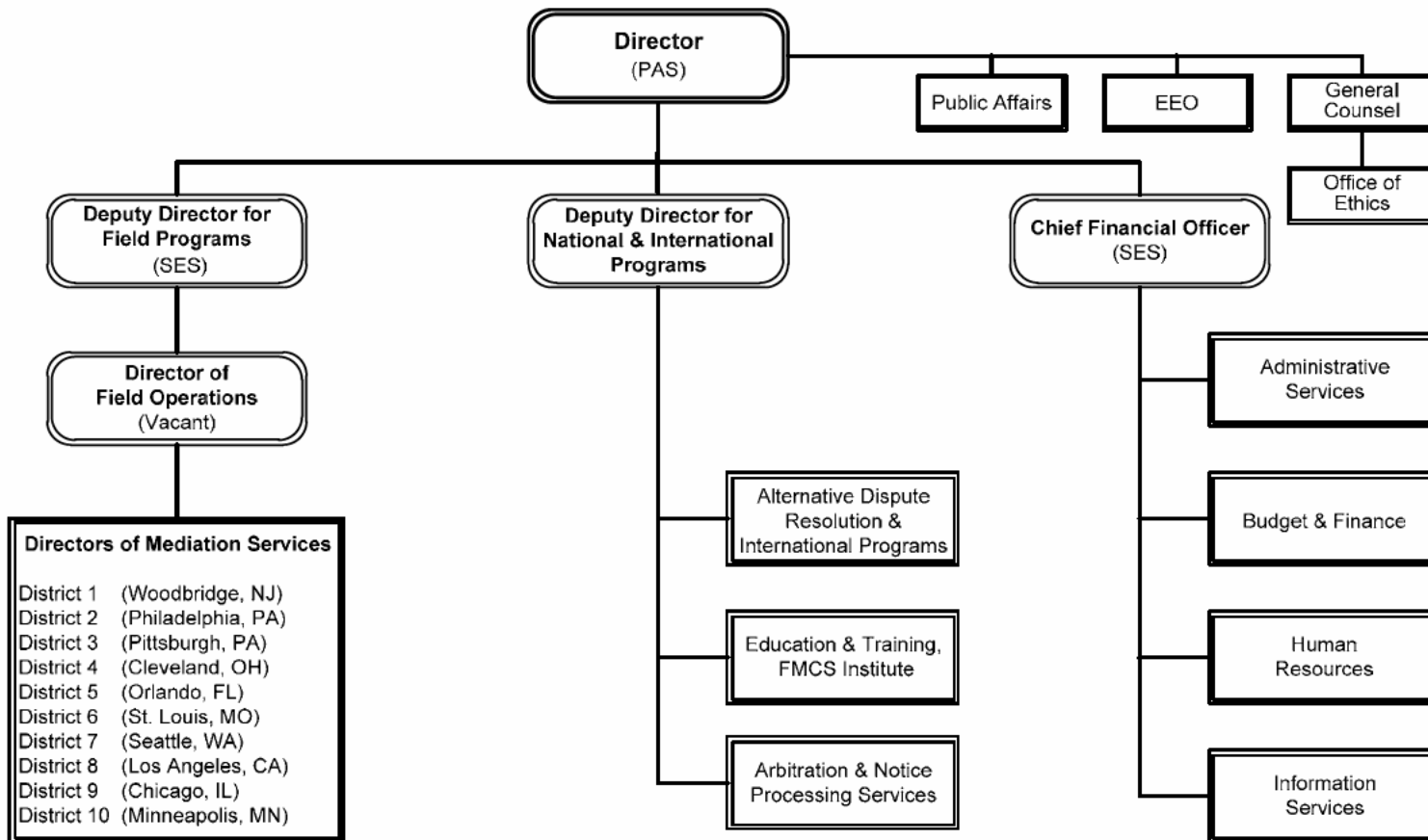
involved in direct program delivery—186 employees (77 percent of its workforce) distributed across 67 field stations—the FMCS makes sure to place employees in areas where they can provide the greatest benefit. In FY 2011, for the seventh consecutive year, the FMCS used a workload evaluation model to measure the caseloads of its field offices. This model compares the work of each of its field stations against FMCS national caseload averages. Caseloads are evaluated over a rolling period of four fiscal years to determine trends in specific field stations. The results help ensure that decisions to fill vacant mediator positions reflect the current and potential demand for the FMCS's services.

C. Conclusion

The FMCS mission statement reflects the statutory foundation of the Agency: "to promote the development of sound and stable labor-management relationships and to prevent or minimize work stoppages by assisting labor and management in settling their disputes through mediation." As the scope and complexity of collective bargaining issues facing labor and management grow, the FMCS will continue to play a critical role in averting labor strife that can damage the competitiveness and productivity of U.S. companies, the welfare of their employees, and the nation's economic well-being.

Given the anticipated size and number of collective bargaining mediations in FY 2013, the complexity of the issues the parties face, and the increased demand and expectations of the labor-management community for FMCS services that make collective bargaining more effective, we urge you to favorably consider this respectful request for \$47,045,000.

II. FMCS Organizational Chart



As of Feb. 1, 2012

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, [\$46,250,000]: \$47,045,000, including \$400,000 to remain available through September 30, 2014, for activities authorized by the Labor-Management Cooperation Act of 1978: *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction. (*Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2012.*)

IV. Statutory and Other Legal Authority

FEDERAL MEDIATION AND CONCILIATION SERVICE

The Federal Mediation and Conciliation Service was established by Title II of the Labor-Management Relations Act (Taft-Hartley) in 1947 as an independent agency of the federal government whose primary mission is to prevent and minimize labor-management disputes affecting interstate commerce by providing mediation, conciliation, and voluntary arbitration services. All mediation and conciliation functions of the Secretary of Labor and the United States Conciliation Service were transferred to FMCS at that time. This mission includes both the private and public sectors, except for the railroad and airline industries, which are covered by the Railway Labor Act administered by the National Mediation Board.

The Civil Service Reform Act of 1978 authorized FMCS to assist with dispute resolution in federal sector labor disputes. The Labor-Management Cooperation Act amended the Taft-Hartley Act in 1978 and directed FMCS to encourage labor-management cooperative activities. It also authorized the issuance of grants to support joint labor-management activities conducted by plant, area, public sector and industry-wide committees.

In 1990, the FMCS was authorized by the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act to assist other federal agencies in resolving disputes arising out of grants, contracts, licenses, or other agency administrative actions, and to assist in the process of negotiated rulemaking. The Administrative Dispute Resolution Act of 1996 amended and permanently reenacted these 1990 Acts.

Over the years, Congress and the Executive Branch have authorized FMCS to perform a variety of dispute resolution functions as well as to assist in the improvement of labor-management relationships. Specific statutory and other authorizations of FMCS programs are described below.

- I. The Labor-Management Relations Act of 1947 (Public Law 80-101, as amended, 29 U.S.C. 158(d), 173 et seq.) directs the FMCS to prevent or minimize interruptions to the free flow of commerce growing out of labor disputes by helping the parties settle such disputes through mediation. Parties are required to notify the FMCS 30 days prior to a contract termination or modification date so that mediation services may be proffered.

The Act establishes a special procedure for threatened or actual strikes which, in the opinion of the President, imperil the national health or safety. In such situations, the President may appoint a board of inquiry to ascertain the facts with respect to the dispute. After receipt of a report, the President may seek to enjoin the strike, and a court may do so if it finds that the threatened or actual strike or lockout affects a substantial part or all of an industry and would imperil the national health or safety. 29 U.S.C. 176-178.

- II. The Health Care Amendments of 1974 (Public Law 93-360, 29 U.S.C. 158(d) (4), (4)(A), (4)(B)) (amending the National Labor Relations Act) include special provisions intended to prevent or minimize work stoppages in the health care industry. In the case of this industry, FMCS must be notified 60 days before the contract termination date. A 30-day notice is required in initial bargaining situations. If, in the opinion of the Director, a strike is threatened which would interrupt the delivery of health care in a locality, the Director may appoint a board of inquiry. 29 U.S.C. 183. The board has 15 days within which to investigate and file its report and recommendations; parties must maintain the status quo for 15 days thereafter while further negotiations and mediation take place. The parties are required to cooperate in any mediation efforts by FMCS.
- III. The Civil Service Reform Act of 1978 (Public Law 95-454, 5 U.S.C. 7119(a)) directs the FMCS to provide mediation assistance in disputes arising from negotiations between federal agencies and the representatives of their employees.
- IV. The Postal Accountability and Enhancement Act of 2006 (Public Law 109-435, as amended, 39 U.S.C. 1207) requires the FMCS to provide mediation services and assist in establishing arbitration boards in collective bargaining disputes between the Postal Service and the exclusive representatives of its employees.
- V. An Act to Establish Dispute Resolution Procedures to Settle Disputes Between Supervisors and the United States Postal Service, 1980 (Public Law 96-326, as amended, 39 U.S.C. 1004) directs FMCS, upon the request of either the Postal Service or an organization representing its supervisors, to convene fact finding panels to recommend supervisory pay and fringe benefit policies and to create panels to review the effectiveness of these procedures and other employment policies.

- VI. Presidential Statement, March 24, 1953. The Atomic Energy Labor-Management Relations Panel was established within the FMCS in March 1953, by President Eisenhower, in order to ensure the uninterrupted functioning of the atomic energy program without strikes or lockouts due to labor-management disputes. This Panel was moved to the Atomic Energy Commission in March 1956 but was returned to the FMCS under an inter-agency agreement with the Department of Energy in April 1980 and renamed the Energy Labor Management Relations Panel (ELMRP).
- VII. Executive Order 11374, October 11, 1967, transferred the responsibilities of the Missile Sites Labor Commission (created by Executive Order 10946) to provide priority resolution of labor disputes at missile sites to the FMCS.
- VIII. The Federal Insecticide, Fungicide and Rodenticide Act of 1978, (Public Law 95-396, as amended, 7 U.S.C. 136a(c)(1)(F)(iii)) requires the FMCS to provide for the appointment of arbitrators to decide disputes concerning compensation for the use or development of pesticide registration data.
- IX. The Labor Management Cooperation Act of 1978 (Public Law 101-552, as amended by Public Law 95-524, 29 U.S.C. 175a, 186(c)(9)) added Sections 205A and 302(c)(9) to the Labor-Management Relations Act and authorizes and directs the FMCS to encourage and support joint labor-management activities conducted by plant, area, and industry-wide committees designed to improve labor-management relationships, employment security and organizational effectiveness. The Act authorizes the Service to provide grant funds to assist in the establishment and operation of these labor-management committees.
- X. The Administrative Dispute Resolution Act of 1996 (Public Law 104-320, 5 U.S.C., 571, et seq., 29 U.S.C.173(f)) 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 1996 Act amended and permanently reenacted the Administrative Dispute Resolution Act of 1990 as well as the Negotiated Rulemaking Act of 1990. The repeal of the sunset dates and the reporting requirements of the Acts suggest that the ADR and regulatory-negotiation “experiments” have become well-accepted processes of federal agencies.

Under the 1996 Act, coverage has been expanded to include additional dispute resolution techniques, such as “ombudsmen,” and the use of ADR in some workplace conflicts, including Hatch Act violations, retirement, insurance, certain suspensions, removals, examinations, and appointments. The 1996 Act encourages the development of guidelines to expedite the selection of neutrals and to facilitate the use of alternative dispute resolution in the federal government.

Lastly, this legislation amends the Labor-Management Relations Act of 1947 (Taft-Hartley) by permanently adding Section 173(f) of Title 29 of the United States Code so that the FMCS may provide all forms of ADR assistance to federal agencies. Under this legislation, the FMCS continues to assist agencies in negotiated rulemaking processes as well as other ADR procedures by providing training, facilitation, mediation, and other neutral skills.

- XI. The U.S. Code of Federal Regulations at 45 CFR 90.43(c)(3), issued by the Department of Health and Human Services, implementing its authority under the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., authorizes the FMCS to provide mediation assistance for the resolution of age-discrimination charges.
- XII. The Federal Aviation Reauthorization Act of 1996 (Public Law 104-264, as amended, by Public Law 106-181, 49 U.S.C. 40122(a)) directs the FMCS to mediate disputes between the Administrator of the Federal Aviation Administration and its employee representatives concerning changes to the FAA's personnel management system.
- XIII. The Veterans Health Care Capital Asset and Business Improvement Act of 2003 (Public Law 108-170, 38 U.S.C. 7403 (h)(4)(C)) gives the Secretary of Veterans Affairs or the exclusive representative of the affected employees the option of using the services of the Federal Mediation and Conciliation Service to assist the parties in reaching an agreement regarding disputes with respect to any system of promotion and advancement proposed by the Secretary.
- XIV. Executive Order 13522 (Creating Labor-Management Forums To Improve Delivery of Government Services), December 9, 2009, permits the FMCS to furnish assistance to the National Council on Federal Labor-Management Relations, including training for executive departments and agencies in establishing labor-management forums and pilot projects to identify problems and negotiate solutions without regard to whether the matters are subject to bargaining (permissive subjects) under the Federal Service Labor-Relations Statute.
- XV. The Transportation Security Administration Determination, "Transportation Security Officers and Collective Bargaining," February 4, 2011, requires the facilitation of collective bargaining negotiations by the Federal Mediation and Conciliation Service, or other agreed upon entity, and requires TSA and the unions subject to bargaining to attend training in interest-based negotiations which will be conducted by the FMCS.

V. Budget Tables and Detailed Financial Requirements

FEDERAL MEDIATION AND CONCILIATION SERVICE

BUDGET AND STAFFING BY ACTIVITY

(in thousands of dollars)

	FY 2011		FY 2012		FY 2013		Total Program Increase or (Decrease) 2012 to 2013	
	Actual	Budget Authority	Estimated	Budget Authority	Request	Budget Authority	Full-Time Equivalent Employment	Budget Authority
1. Collective Bargaining and Grievance Mediations (Dispute), Relationship Development Training (Preventive), and Outreach (Public Information) Workloads.....	180	\$36,234	186	\$36,568	186	\$36,986	0	\$418
2. Arbitration Services.....	8	700	8	700	8	720	0	20
3. National Office Support and Administrative Services.....	47	8,875	47	8,895	47	8,939	0	44
4. Labor-Management Grants.....	0	750	0	0	0	400	0	400
Sub-Total Appropriated	235	\$46,559	241	\$46,163	241	\$47,045	0	\$882

BUDGET AND STAFFING BY ACTIVITY
(in thousands of dollars)

	FY 2011 Actual		FY 2012 Estimated		FY 2013 Request		Total Program Increase or (Decrease) 2012 to 2013	
	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	Budget Authority
5. Reimbursable programs: Employment Mediation, International Training and Institute Courses	8	\$1,298	8	\$1,715	8	\$1,715	0	\$0
6. FMCS Internal Training and Education	0	706	0	750	0	750	0	0
Sub-Total Reimbursable	8	\$2,004	8	\$2,465	8	\$2,465	0	\$0
TOTAL RESOURCES	243	\$48,563	249	\$48,628	249	\$49,510	0	\$882

FEDERAL MEDIATION AND CONCILIATION SERVICE

**BUDGET ESTIMATES FISCAL YEAR 2013
FINANCIAL REQUIREMENTS**

(in thousands of dollars)

	FY 2010 Actual	FY 2011 Actual	FY 2012 Estimated	FY 2013 Request
<u>Personnel Compensation</u>	<u>\$27,396</u>	<u>\$26,824</u>	<u>\$27,225</u>	<u>\$27,772</u>
Full-time permanent	26,910	26,396	26,959	27,503
Full-time permanent positions	26,910	26,396	26,959	27,503
Other than full-time permanent	71	91	65	68
Other than full-time permanent positions	71	91	65	68
Other Personnel Compensation	415	337	201	201
Overtime & holiday pay	16	26	26	26
Cash incentive awards	399	311	175	175
<u>Personnel Benefits</u>	<u>\$7,548</u>	<u>\$7,893</u>	<u>\$7,921</u>	<u>\$8,084</u>
Civilian Personnel Benefits	7,548	7,893	7,921	8,084
CSRS Retirement Contribution	281	222	210	200
FERS Retirement Contribution	2,372	2,687	2,755	2,780
Federal Retirement Thrift Savings Plan Contribution	1,043	1,100	1,100	1,183
Group life insurance	48	49	49	49
Health Insurance Contribution	1,524	1,614	1,662	1,712
OASDI – FERS	1,351	1,293	1,300	1,350
Employee compensation	424	399	401	337
Relocation expenses (PCS)	34	0	0	0

BUDGET ESTIMATES FISCAL YEAR 2013
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2010 Actual	FY 2011 Actual	FY 2012 Estimated	FY 2013 Request
<u>Personnel Benefits (continued)</u>				
<u>Civilian Personnel Benefits (continued)</u>				
Cost-of-living allowance	46	40	19	19
Subsidy for commuting costs	52	116	52	52
Medicare contribution	373	373	373	402
<u>Benefits of Former Personnel</u>				
Unemployment compensation	\$0	\$5	\$0	\$0
Voluntary separation incentive	0	0	0	0
<u>Travel and Transportation of Persons</u>				
National office travel	\$1,706	\$1,782	\$1,781	\$1,795
Official car	99	121	120	130
Field office travel	9	11	11	15
	1,598	1,650	1,650	1,650
<u>Transportation of Things</u>				
Transportation of household goods (PCS)	\$4	\$0	\$0	\$0
	4	0	0	0
<u>Rents, Communications, and Utilities</u>				
Rental Payments to GSA	6,103	6,409	6,530	6,634
Rental payments to GSA	5,182	5,400	5,562	5,666
	5,182	5,400	5,562	5,666

BUDGET ESTIMATES FISCAL YEAR 2013
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2010 Actual	FY 2011 Actual	FY 2012 Estimated	FY 2013 Request
<u>Rents, Communications, and Utilities (continued)</u>				
Rental Payments to Others	4	4	4	4
Conference room rental	4	4	4	4
Communications, Utilities and Miscellaneous Charges	917	1,005	964	964
Reproduction equipment rental	0	0	0	0
Miscellaneous charges	5	7	5	5
Audio-visual equipment rental	3	3	3	3
GSA Phones	216	232	230	230
FTS Phones	16	20	19	19
Commercial Phones	280	282	280	280
Data communication services	285	315	315	315
Postal services and rentals	112	146	112	112
<u>Printing and Reproduction</u>	<u>\$20</u>	<u>\$30</u>	<u>\$28</u>	<u>\$28</u>
FMCS forms and other printing	20	30	28	28
<u>Other Contractual Services</u>	<u>\$1,895</u>	<u>\$2,015</u>	<u>\$1,892</u>	<u>\$1,565</u>
Advisory and Assistance Service	16	31	31	31
Computer assisted legal research	0	5	5	5
OPM background investigations	6	16	16	16
Office equipment and machinery relocation	10	10	10	10

BUDGET ESTIMATES FISCAL YEAR 2013
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2010 Actual	FY 2011 Actual	FY 2012 Estimated	FY 2013 Request
<u>Other Contractual Services (continued)</u>				
Other Services	232	305	298	298
Management and professional services	227	300	293	293
Official representation fund	5	5	5	5
Other purchases of goods and services from Government Accounts	159	190	314	379
Guard security and Federal Protective Services	159	190	314	379
Operation and Maintenance of Facilities	26	27	26	26
Office repairs and alterations	26	27	26	26
Medical Care	21	21	21	21
Medical care	21	21	21	21
Operation and Maintenance of Equipment	1,441	1,441	1,202	810
Maintenance of office equipment	111	71	55	61
Maintenance of information technology equipment	157	620	519	260
Information Technology Support Services	1,139	700	578	439
Support of payroll/personnel operations	34	50	50	50
Household goods storage (PCS)	0	0	0	0

BUDGET ESTIMATES FISCAL YEAR 2013
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2010 Actual	FY 2011 Actual	FY 2012 Estimated	FY 2013 Request
<u>Supplies and Materials</u>	<u>\$312</u>	<u>\$258</u>	<u>\$257</u>	<u>\$257</u>
Office supplies and materials	193	188	187	187
Information technology supplies and materials	119	70	70	70
<u>Equipment</u>	<u>\$918</u>	<u>\$593</u>	<u>\$529</u>	<u>\$510</u>
Furniture and fixtures	75	80	80	80
Information technology hardware/software	825	358	295	390
Audio-visual equipment	18	155	154	40
<u>Grants, Subsidies and Contributions</u>	<u>\$750</u>	<u>\$750</u>	<u>\$0</u>	<u>\$400</u>
Sub-total appropriated	\$46,652	\$46,559	\$46,163	\$47,045

BUDGET ESTIMATES FISCAL YEAR 2013
FINANCIAL REQUIREMENTS
(in thousands of dollars)

	FY 2010 Actual	FY 2011 Actual	FY 2012 Estimated	FY 2013 Request
<u>Reimbursable Programs (non-appropriated)</u>	<u>\$1,464</u>	<u>\$1,298</u>	<u>\$1,715</u>	<u>\$1,715</u>
Compensation	834	717	860	860
Benefits	223	188	242	242
Travel	225	278	250	250
Communications	4	5	3	3
Other contractual services	156	102	350	350
Supplies and materials	22	8	10	10
Sub-total of Reimbursable Programs	\$1,464	\$1,298	\$1,715	\$1,715
<u>FMCS Internal Training and Education (non-appropriated)</u>	<u>\$497</u>	<u>\$706</u>	<u>\$750</u>	<u>\$750</u>
Seminars, Workshops, Conferences and Training	214	323	325	325
New mediator costs	88	107	95	95
Tuition	77	121	92	92
Other contractual services	22	41	135	135
Supplies & materials	15	12	20	20
Subscriptions	81	102	83	83
Sub-total of FMCS Training and Education	\$497	\$706	\$750	\$750
Sub-total of non-appropriated (reimbursable obligations)	\$1,961	\$2,004	\$2,465	\$2,465
TOTAL RESOURCES	\$48,613	\$48,563	\$48,628	\$49,510

FEDERAL MEDIATION AND CONCILIATION SERVICE

Detail of Total Employment – End of Year

	2011 Actual	2012 Estimated	2013 Requested
Executive Level III.....	1	1	1
ES.....	3	4	4
Subtotal.....	4	5	5
GS-15.....	20	22	22
GS-14.....	150	154	157
GS-13.....	27	20	19
GS-12.....	5	8	6
GS-11.....	3	1	1
GS-10.....	2	2	2
GS-9.....	4	4	4
GS-8.....	16	14	14
GS-7.....	7	8	11
GS-6.....	4	10	7
GS-5.....	3	1	1
GS-4.....	0	0	0
GS-3.....	0	0	0
GS-2.....	0	0	0
Subtotal.....	241	244	244
Total employment, end of year.....	245 *	249 *	249 *
Full-time equivalent (FTE) usage.....	243 *	249 *	249 *
Average ES Salary.....	\$162,895	\$163,000	\$163,000
Average GS Level.....	12.93	12.95	12.97
Average GS Salary.....	\$109,060	\$109,140	\$110,240

* 8 FTE funded by reimbursable revenue.

VI. Mission and Program Structure

Congress established the Federal Mediation and Conciliation Service (FMCS) in 1947 through the Labor Management Relations Act (Taft-Hartley) amendments to the National Labor Relations Act (NLRA) as an independent agency whose mission is “to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation.”ⁱ Subsequent acts of Congress and presidential orders have expanded the FMCS role to provide mediation services to the federal sector and alternative dispute resolution (ADR) programs to federal government agencies, as well as promote and establish labor-management partnerships.

The FMCS commits to:

- Promoting the development of sound and stable labor-management relationships;
- Preventing or minimizing work stoppages by assisting labor and management to settle their disputes through mediation;
- Advocating collective bargaining, mediation, and voluntary arbitration as the preferred process for settling disputes between employer and representatives of employees;
- Developing the art, science, and practice of conflict resolution; and,
- Fostering the establishment and maintenance of constructive joint processes to improve labor-management relationships, employment security, and organizational effectiveness.

For more than 60 years, the FMCS has provided services that embrace this mission and demonstrate its commitment to preventing or minimizing interruptions of the free flow of commerce growing out of labor disputes. As labor-management relationships have evolved over time, so, too, has the nature of the FMCS work within collective bargaining relationships. The FMCS today provides a range of services to labor and management, such as relationship-development training and training in interest-based bargaining, to help the parties deal effectively with disputes that may arise between them without resorting to work stoppages. The following section describes the FMCS comprehensive package of core programs and services.

A. Collective Bargaining Mediation

Through collective bargaining mediation, the FMCS helps avert or minimize the cost of work stoppages to the U.S. economy. The FMCS's core work is to mediate collective bargaining negotiations for initial contracts—which take place between an employer and a newly certified or recognized union representing its employees—and for negotiations for successor collective bargaining agreements. The FMCS provides mediation services to the private sector and also to the public sector, including federal agencies and state and local governments.

In FY 2011, FMCS mediators actively monitored nearly 14,000 collective bargaining negotiations and were directly involved “at the table” in nearly 4,700. The negotiations in which FMCS mediators were directly involved impacted every major industry throughout the United States.

B. Grievance Mediation

Grievance mediation involves the use of a neutral party to mediate disputes that may arise over the terms and conditions of a collective bargaining agreement. FMCS mediators provide this service to the private and public sectors with the salutary goal of preventing unresolved contract interpretation issues from spilling over and bogging down future contract negotiations. The volatile economic climate, highly competitive business environment, and the rapidity with which employers and unions must respond to changing conditions all increase the importance of resolving contentious issues arising mid-contract. Additionally these unresolved matters, if left to fester, invariably create a climate of conflict in the collective bargaining relationship and increase the potential for work stoppages during bargaining over contract renewal.

In FY 2011, the FMCS mediated 1,968 grievance mediation cases and helped the parties reach agreement in 1,428 of these (75 percent). Apart from that direct benefit to the parties, experience has shown that once parties utilize this type of mediation assistance, they are more likely to call upon FMCS mediation services during their negotiations at contract renewal time.

C. Relationship-Development and Training

Preventing conflict that may arise during the term of a collective bargaining agreement is another important goal of the FMCS. The FMCS's relationship-building training programs are designed to serve a preventive purpose and to improve labor-management relationships by helping labor and management develop collaborative, problem-solving approaches. Effective use of these programs better enables the parties to jointly respond to rapidly changing business and economic conditions. These training programs not only improve the quality of the parties' relationships, but are designed to provide processes and structures conducive to joint discussion and resolution of issues. Adoption of these processes helps ensure successful and highly productive workplaces. In FY 2011, FMCS mediators conducted 2,300 training programs to the parties of collective bargaining.

FMCS relationship-development and training programs include:

- **Alternative Bargaining Training:** Teaches the benefits and techniques of a non-adversarial, joint problem-solving approach to negotiation.
- **Relationship by Objective:** Improves the parties' relationship with one another, particularly where the relationship has worsened after a contentious representation election, initial contract negotiation, or strike.
- **Committee Effectiveness Training:** Assists the parties in developing joint labor-management committees designed to bring the parties into regular communication.
- **Partners in Change:** Explores the organization's current culture, identifies perceptions within the organization, creates a vision for the future, and designs systems that effectuate change.
- **Labor-Management Work-Site Committee Training:** Helps labor-management committees extend to the work-site level, forming work-site committees, group interactions, and learning techniques to manage change.
- **Contract Administration/Steward-Supervisor Training:** Trains front-line supervisors and shop stewards on their roles and responsibilities in contract administration, grievance processing, the arbitration procedure, and interpersonal communications for building cooperative relationships.
- **Cultural Awareness Skills for Labor and Management:** Trains the parties to function in a multicultural work setting including the resolution of cross-cultural conflicts in a workplace.
- **Collective Bargaining and Mediation Training:** Trains the parties on effective negotiation and communication skills.

D. Arbitration Services

National labor policy favors arbitration for settling contractual disputes. FMCS's Office of Arbitration Services maintains a roster of approximately 1,400 independent arbitrators who are qualified to hear and decide disputes over the interpretation or application of collective bargaining agreements. Upon request from the parties, the FMCS furnishes a list of names from which they may choose an arbitrator to hear their case and render a decision.

During FY 2011, the Office of Arbitration Services processed nearly 13,500 requests for arbitration panels nationwide. Arbitrators on the FMCS roster heard and decided more than 2,300 labor arbitration cases.

E. Employment and Regulatory Mediation

Outside the collective bargaining arena, the FMCS provides employment mediation services to the federal sector and to state and local governments on a cost-reimbursable basis. The Administrative Dispute Resolution Act of 1990, the Negotiated Rulemaking Act of 1990, and the Administrative Dispute Resolution Act of 1996 expanded FMCS's role as a provider of these services. The legislative intent behind

these acts was to expand the use of alternative dispute resolution throughout the federal government, reduce litigation costs, and promote better government decision-making. A recent development has been the increased emphasis on the utilization of regulatory negotiations to enhance the effectiveness and efficiency of promulgating new agency rules. This requires experienced mediators and facilitators, who are specially trained and skilled at managing complex multi-party negotiations involving multiple stakeholders. The FMCS's workforce is uniquely positioned to meet the specific demands of the regulatory negotiations environment, and indeed, requests for such services have increased.

The FMCS also provides employment mediation to the private sector to resolve workplace disputes falling outside of the traditional collective bargaining context, i.e., equal employment opportunity disputes. In FY 2011, FMCS mediated 1,254 employment cases.

F. FMCS Institute

The FMCS Institute for Conflict Management provides training and education to labor and management practitioners from multiple organizations in an off-site classroom format. The Institute offers training in practical conflict resolution skills, collective bargaining, arbitrator and arbitration skills-building, facilitation process skills, multi-party facilitation, cultural diversity, and equal employment opportunity mediation skills. The Institute runs as a reimbursable program and is funded by fees received from training participants.

G. Labor-Management Committee Grants

The 1978 Labor-Management Cooperation Act authorizes and directs the FMCS to encourage and support joint labor-management committees "established for the purpose of improving labor-management relationships, job security and organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern." Congress funds this initiative in the FMCS's annual appropriations, and grants are distributed to encourage labor-management committees to develop innovative joint approaches to workplace problems.

In FY 2011, the FMCS awarded 12 new competitive grants at a cost of \$750,000. These grants supported labor-management committees tackling a wide variety of important issues related to health care, patient safety, labor-management relationship training, and the flexibility needed to pursue new business opportunities.

H. International Training and Exchange

Beyond the nation's borders, the FMCS plays an important role in promoting collective bargaining and conflict resolution around the world. FMCS's international work is a small, but integral, part of its services. Emerging market economies often struggle to compete effectively in a globally integrated marketplace. Part of their struggle includes the implementation of effective labor relations systems. Other nations

and foreign organizations have sought assistance in designing systems that resolve and prevent industrial conflict where a formal system has not been developed to manage it. International training 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 labor-management disputes with international implications.

FMCS's international efforts also help to level the economic playing field for U.S. companies and workers by strengthening the rule of law and workers' rights in developing countries. The program helps create the stable and productive work forces that are needed to attract foreign investment and improve living conditions as well as supporting U.S. companies and workers in the global market by advocating core labor standards for all nations. Equally important, the FMCS helps establish the labor relations institutions that are essential to the smooth functioning of free market economies. In addition to industrial relations, FMCS mediators assist with rule of law initiatives, thereby helping to foster economic growth and investment. These initiatives include mediation training and working with NGOs and other civil society organizations to develop mediation and other FMCS ADR programs. FMCS's International Program operations are non-appropriated services. They are funded in part by a number of foreign and U.S. agencies, including the U.S. Department of Labor, the U.S. Department of State, the U.S. Agency for International Development, and the International Labor Organization.

VII. Workload Projections – FY 2012 and FY 2013

The FMCS's workload over prior fiscal years, caseload estimates, accomplishments for FY 2011, and estimated workload in FY 2012 and 2013 are included in the following pages. These estimates should be read in conjunction with the FMCS's strategic program objectives detailed in Section VIII.

WORKLOAD OUTPUTS AND PROJECTIONS

FISCAL YEARS 2008 - 2013

PROGRAM SERVICES	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Estimated	FY 2011 Actual	FY 2012 Estimated	FY 2013 Estimated
1. COLLECTIVE BARGAINING							
MEDIATION							
Assigned Cases ⁱⁱ	14,308	13,887	14,127	14,000	13,712	14,000	14,000
-Private Sector	12,914	12,425	12,888	12,630	12,460	12,843	12,843
-Public Sector (state and municipal)	1,083	1,138	906	1,041	943	852	852
-Federal Sector	311	324	333	329	309	305	305
Mediated Cases ⁱⁱⁱ	4,836	4,767	4,919	4,798	4,665	4,811	4,811
-Private Sector	3,437	3,320	3,632	3,444	3,271	3,470	3,470
-Public Sector (state and municipal)	1,145	1,155	991	1,096	1,091	1,078	1,078
-Federal Sector	254	292	296	257	303	263	263
Closed Cases	13,480	13,308	12,992	13,276	13,776	13,209	13,209
Closed Mediated Cases	3,914	3,958	4,005	3,982	3,815	3,917	3,917
Activity Rate ^{iv}	29%	30%	31%	30%	28%	30%	30%
Settled and Closed Mediated Cases	3,396	3,395	3,428	3,375	3,234	3,379	3,379
Percentage of mediated cases settled w/FMCS ^v	87%	86%	86%	85%	85%	86%	86%
Activity rate in significant cases ^{vi}	38%	37%	46%	43%	33%	40%	40%
2. GRIEVANCE MEDIATION.....							
Assigned Cases	1,749	2,027	2,124	2,300	1,968	1,900	1,900
Mediated Cases	1,728	2,004	2,084	2,261	1,905	1,867	1,867
-Private Sector	1,296	1,570	1,708	1,736	1,513	1,455	1,455
-Public Sector (state and municipal)	314	313	239	389	261	304	304
-Federal Sector	118	121	137	174	131	141	141
Settled GM Cases	1,299	1,479	1,532	1,703	1,428	1,405	1,405
Percentage of cases settled through FMCS ^{vii}	75%	74%	74%	75%	75%	75%	75%

PROGRAM SERVICES	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Estimated	FY 2011 Actual	FY 2012 Estimated	FY 2013 Estimated
3. RELATIONSHIP-DEVELOPMENT AND TRAINING.....							
Number of training programs provided	2,356	2,327	2,200	2,300	2,301	2,400	2,400
-Private Sector	1,390	1,400	1,471	1,377	1,267	1,372	1,372
-Public Sector (state and municipal)	712	682	433	654	493	447	447
-Federal Sector	254	245	296	269	541	581	581
4. EMPLOYMENT MEDIATION.....							
Mediated Cases	1,220	1,362	1,392	1,350	1,330	1,320	1,320
-Federal Sector	1,205	1,336	1,387	1,304	1,323	1,295	1,295
-Public Sector (state and municipal)	11	9	2	17	3	8	8
-Private	4	17	3	29	4	17	17
Settled EM Cases	576	638	675	657	641	642	642
Percent of EM cases settled through FMCS ^{viii}	47%	47%	48%	49%	48%	49%	49%
5. OUTREACH.....							
Outreach cases ^{ix}	3,347	3,622	3,240	3,400	3,190	3,300	3,300
6. ARBITRATION SERVICES							
Number of panels issued	15,717	16,692	16,486	16,000	13,500	14,500	14,500
Number of arbitrators appointed	6,568	6,496	6,870	6,505	5,575	5,895	5,895
Average number of days for arbitrator appointment	3.24	2.72	2	2	2	2	2
7. INSTITUTE.....							
Number of courses provided	5	7	12	11	5	10	10
Number of participants	150	187	207	290	93	220	220

VIII. Program Objectives – FY 2012 and FY 2013

Program objectives for each service area are guided by the FMCS's five-year strategic plan. For each strategic goal, the FMCS has identified a number of objectives, key implementation strategies and actions, and measures for tracking its performance toward achieving each goal. The following section details each goal and presents a matrix identifying the programs impacted by them, performance objectives and accomplishments for FY 2011, and performance goals for FY 2012 and FY 2013.

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:

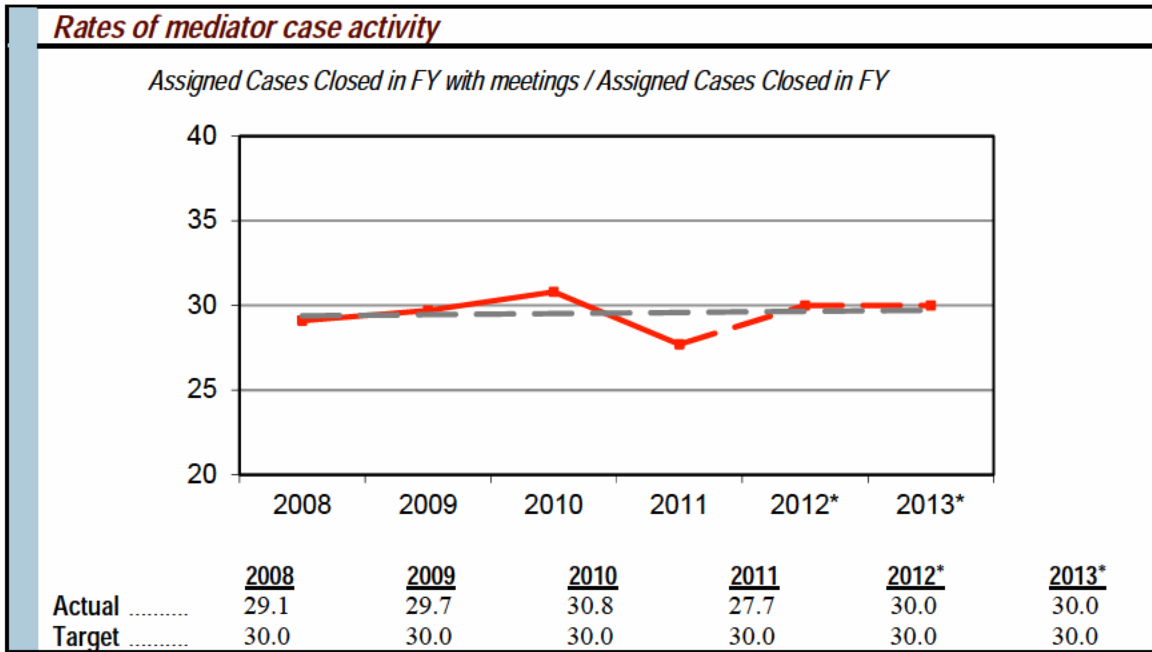
Collective bargaining mediation represents the core of the FMCS's mission and its most publicly visible work. In 2005, an independent study conducted for the FMCS found that mediation prior to a contract's expiration date significantly reduces the duration of any work stoppage that occurs. Previously, three separate studies of matched bargaining pairs found that FMCS mediation was also an important factor in preventing work stoppages from occurring in the first place.

As a result of these studies, the FMCS believes that early and ongoing contact with the parties to a labor contract negotiation is imperative in reducing the number and duration of work stoppages. This is particularly true in collective bargaining cases that involve: an initial contract; national security; the health care industry; large bargaining units; or those cases that have the potential for permanent shutdowns or disruptions to the community, work force, or interstate commerce.

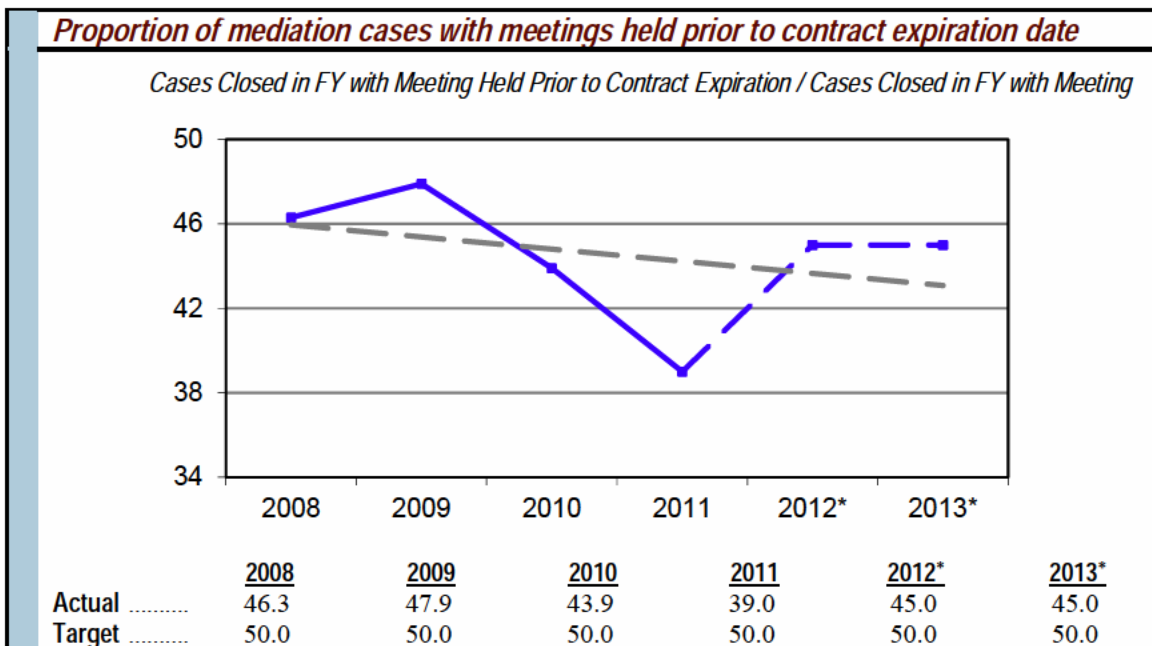
The FMCS evaluates its success in these areas by looking at how many negotiations use mediation services, whether or not a work stoppage occurred, the duration of any stoppage, and the timing of mediators' involvement. On an aggregate basis, the FMCS also estimates the financial cost of work stoppages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

Mediation Outputs and Performance Measures

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



* Estimated



* Estimated

Strategic Goal #2: Building Problem-Solving Relationships

Improve labor-management relationships.

Objective:

- Use collaborative dispute resolution processes to manage workplace conflict.

Actions:

- Provide techniques and information that help parties improve their collective bargaining relationship with particular emphasis on implementation of the Affordable Care Act.
- Deliver internally sustainable dispute resolution systems.
- Educate labor and management leaders at home and abroad in the art of building and maintaining labor-management partnerships.

Strategy:

- Promote the use of FMCS programs and outreach emphasizing joint initiatives on significant issues likely to impact collective bargaining.

Expected Output:

- Increased customer satisfaction with FMCS educational products and services.
-

Discussion:

Relationship development and training, grants, and a number of related activities are designed to help the parties to a collective bargaining agreement better understand the issues and external forces affecting their collective bargaining relationship and to develop internal task forces or groups to help them improve their relationship. In an increasingly global economy, outreach to sister agencies in other countries is a small, but important aspect of the FMCS's work in this area.

American employer and employee continued success in a globally competitive arena requires a degree of cooperation between labor and management that traditional confrontational bargaining relationships cannot easily accommodate. This is particularly true with respect to new circumstances confronting both parties in the collective bargaining relationship, such as the challenges associated with the implementation of the Affordable Care Act. These competitive issues can be both complex and subtle and require creative solutions that address unique challenges.

The FMCS is committed to delivering to its customers the best possible information, analysis, practices, and solutions. Through its individual program evaluations, the FMCS is constantly seeking to improve its core curriculum.

Strategic Goal #3: Resolving Mid-Term Disputes

Resolve contract-based disputes (grievances) that arise during the term of collective bargaining agreements.

Objectives:

- Assist parties to voluntarily resolve contract-based disputes.
- Provide high-value arbitrator referral service for situations when parties cannot voluntarily resolve a contract-based dispute.

Actions:

- Increased utilization of FMCS services to resolve contract-based disputes.
- Maintain roster of experienced arbitrators.
- Improve all aspects of the arbitration referral service.

Strategies:

- Advocate mediation and arbitration as the preferred methods for settling disputes between parties in a collective bargaining relationship.
- Facilitate joint, collaborative problem-solving events on an ongoing basis.

Expected Outputs:

- Increase the proportion of settled grievance mediation cases.
- Increase customer satisfaction with quality of arbitration service.

Discussion:

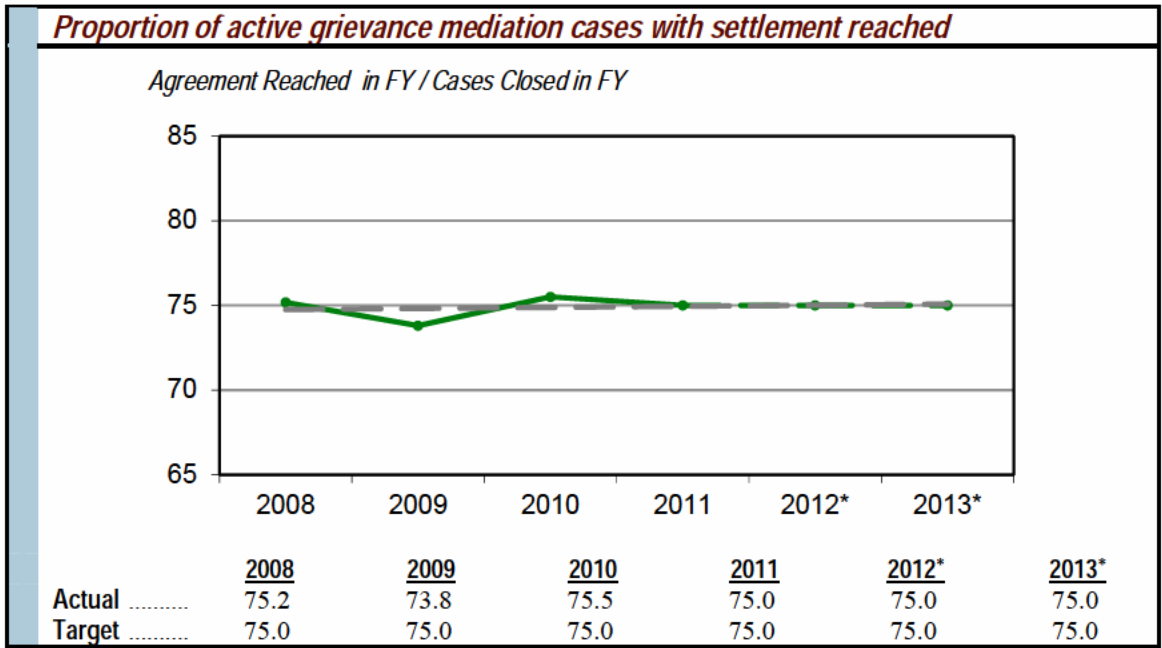
Grievance mediation, joint problem-solving facilitation, and arbitration are three approaches for resolving disputes that may arise from differing interpretations of a labor contract's terms and conditions. Grievance mediation and joint problem solving facilitation are voluntary processes that rely upon consensus building. Arbitration is a structured process that provides a final and binding determination. All three approaches are designed to reduce the need for expensive and time-consuming court litigation, and resolve disputes before they negatively affect the collective bargaining relationship.

Increasing the FMCS's presence among groups that have not traditionally used its services is one way to build healthier collective bargaining relationships. FMCS's involvement in these interventions encourages the parties to engage in other collective bargaining activities with less disruption and animosity.

Improved settlement rates in contract-based disputes and joint problem-solving cases provide a good indication of how well FMCS mediators are able to facilitate agreements. Likewise, favorable customer evaluations of the arbitrator referral service help the FMCS improve the quality of the service.

Resolving Mid-Term Disputes Outputs and Performance Measures

Resolve contract-based disputes (grievances) that arise during the term of collective bargaining agreements.



* Estimated

Strategic Goal #4: Promoting ADR

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

Objectives:

- Use employment mediation as an alternative to litigation.
- Use problem-solving processes to resolve regulatory/ policy based disputes.

Action:

- Increase number of employment mediations conducted and reimbursable agreements signed.
- Increase the number of facilitated regulatory negotiations and public policy disputes conducted.

Strategy:

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

Expected Output:

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

Discussion:

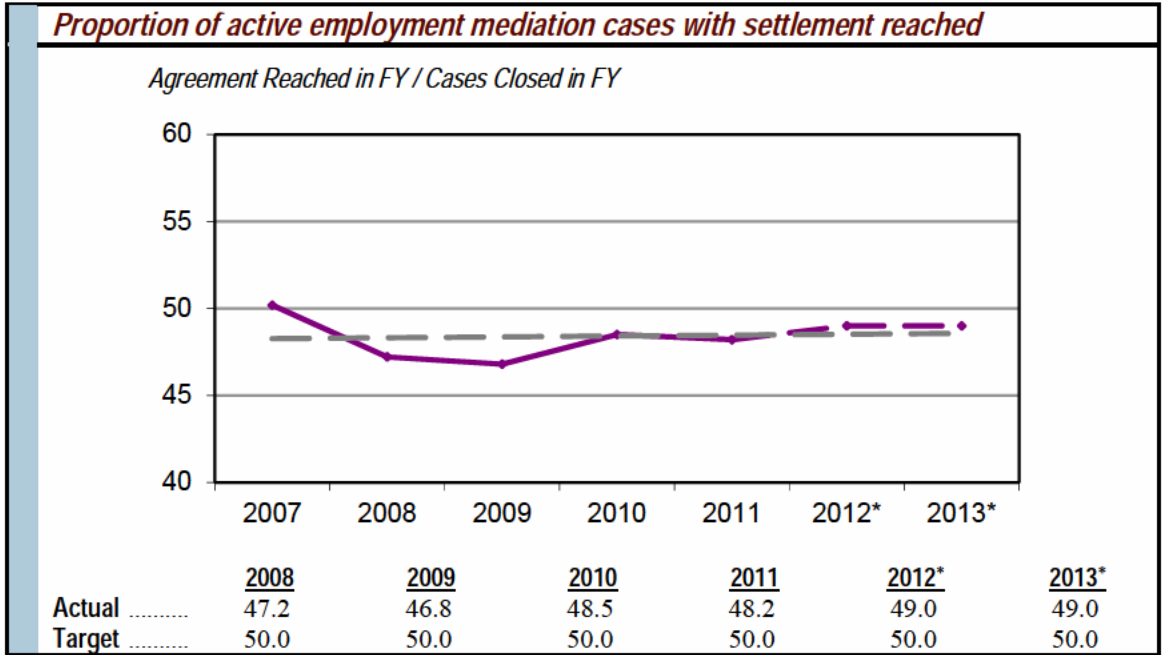
The FMCS's alternative dispute resolution (ADR) work is defined by the Administrative Dispute Resolution Act of 1996 and is designed to help resolve disputes that do not result from a collective bargaining relationship. Under the Act, the FMCS is generally limited to work in the federal sector, but may include state or local entities if the dispute is related to a federal rule or regulation.

Using traditional dispute resolution vehicles, such as the courts or other statutory processes, may take several years and cost hundreds of thousands of dollars in legal fees and court costs, and require significant resource expenditures from the affected parties. In addition, imposed outcomes from utilization of these processes are unpredictable and the conditions present when the dispute arose may have changed dramatically. In regulatory matters, voluntary resolution of a single issue by multiple parties through a facilitated consensus based process will normally offset any costs incurred. Broader resolution of more issues increases the benefits on an exponential basis.

By increasing the number of individual employment cases and regulatory/enforcement cases that the FMCS takes and achieving an increased number of resolved cases, FMCS seeks to provide a cost-effective alternative to litigation and promote better government decision-making.

Promoting ADR Outputs and Performance Measures

Resolve statute- or regulation-based workplace disputes.



* Estimated

Endnotes

- ⁱ 29 USC § 173. By statute, FMCS’s jurisdiction excludes the rail and airline industries, which are covered by the National Mediation Board under the Railway Labor Act.
- ⁱⁱ Section 8(d) of the National Labor Relations Act, as amended, 29 U.S.C. §158(d) requires that any employer or labor organization provide notice to the FMCS 30 days prior to contract expiration. Not all cases providing notices are assigned. Actual FY 2011 FMCS case intake exceeded 22,000.
- ⁱⁱⁱ Mediated cases (formerly called “active” cases) represent the number of cases in the FY where mediators have become active in the negotiations.
- ^{iv} Defined as the number of closed cases where there was at least one meeting divided by the number of total closed assignments.
- ^v Defined as the number of mediated cases settled divided by the total number of active cases.
- ^{vi} Significant cases are generally defined as situations where the bargaining unit exceeds 1,000.
- ^{vii} Defined as the number of grievance mediation cases settled and closed within the fiscal year divided by the number of closed GM assignments.
- ^{viii} Defined as the number of mediated employment cases settled divided by the number of mediated cases closed
- ^{ix} 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.