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This report details the activities of this agency in fiscal year 2004.

Today, technology is advancing at an accelerated rate, re-defining the business world, creating new industries and rendering others obsolete. The duration of labor contracts is lengthening, unions and corporations are merging and consolidating, and health care costs continue to rise. As tens of thousands of jobs move overseas because of economic globalization, free trade has engendered a new set of international competitors for U.S. companies.

Collective bargaining in fiscal year 2004 was plagued by rising health care costs. I personally mediated the Southern California supermarket strike, the longest in the history of the industry, lasting more than 4 months. It was only one of many cases federal mediators handled where health care had become a source of strife for the parties. Approximately 55% of our cases this year involved health care as a major issue during bargaining.

Our field mediators were involved in 4748 collective bargaining disputes nationwide. In 79% of those cases, FMCS assisted the parties in achieving collective bargaining settlements. In addition, our mediators continue to train the labor-management community on methods designed to improve labor-management relations. FMCS provided relationship development and training programs 2281 times during this fiscal year. Our employment mediation services to federal, state and local governments continue in wide demand as more agencies have turned to FMCS for alternatives to courtroom litigation.

The American workplace is changing and the Federal Mediation and Conciliation Service will change with it so that we can continue to provide state-of-the-art assistance to employers and employees as they confront the challenges of modern labor-management relations.

Peter Hurtgen, Director

I. INTRODUCTION

A. Agency Mission

For fifty-seven years, the Federal Mediation and Conciliation Service (FMCS) has carried out its mission of preserving and promoting labor-management peace. The FMCS was created by Congress as an independent agency by the Labor-Management Relations Act of 1947. Highly trained mediators provide conflict resolution services to our nation's employers and their unionized employees with the goal of preventing or minimizing interruptions to the free flow of commerce growing out of labor disputes and improving labor-management relations. The core activity of the Service is collective bargaining mediation. It is a voluntary process in which mediators serve as third-party neutrals to facilitate the settlement of issues in the negotiation of collective bargaining agreements.

B. FMCS Services

In carrying out its mission, the FMCS provides the following services to the public:

1. Collective Bargaining Mediation – Initial and Successor Contracts
2. Relationship Development and Training Programs
3. Arbitration Services
4. Grants Promoting Labor-Management Cooperation
5. Training for Labor and Management by the FMCS Institute for Conflict Management
6. Employment Mediation
7. Training and Exchange Programs for International Organizations and Government

1. Collective Bargaining Mediation: Initial and Successor Contract Negotiations

The Agency provides collective bargaining mediation for initial contract negotiations, which take place between an employer and a newly certified or recognized union representing its employees, and for negotiations for successor collective bargaining agreements. Mediation services are provided not only to the private sector, but also to the public sector, including federal agencies, and state and local governments. Mediators have no authority to impose settlements; their only tool is the power of persuasion. Through collective bargaining mediation, FMCS helps avert or minimize the impact of work stoppages on the U.S. economy.

In FY 2004, FMCS mediators were actively involved in 4748 collective bargaining contract negotiations in every major industry and service throughout the United States. Although this represents a decrease from years past, the decrease is primarily because the agency determined that collective bargaining mediation cases should be counted separately from grievance mediation cases. Counting grievance mediation cases separately from collective bargaining resulted in a reduction in our case load numbers for collective bargaining mediation.

For data regarding collective bargaining mediation in successor contracts and initial contract negotiations, see Sections II and III.

2. Grievance Mediation

Grievance mediation involves the use of a neutral party to mediate grievances arising during the life of a contract. This service is provided to the private and public sectors. Of all contracts reached in FY 2004, 17% were of more than 3 years duration. Longer contract terms raise the specter of increased grievances. Left unresolved, the grievances become sources of contention between the parties. We have seen an increase in grievance mediation over the last three years. In FY 2004 there was another increase in grievance mediation activity from 1407 in FY 2003 to 1544 in FY 2004.

3. Relationship Development and Training Programs

Although our primary focus continues to be resolution of conflict as it arises, prevention of conflict at the outset is also an important goal. Since its inception, FMCS has offered relationship-building training programs designed to improve the labor-management relationship and to develop approaches toward collective bargaining that prevent friction or disputes from arising. These kinds of training programs improve the quality of the parties' relationship and make mediation more effective. When such training is requested, a mediator determines the parties' needs and designs a program that is specifically tailored for those parties. FMCS offers a wide array of services to address workplace problems and in fiscal year 2004, this work represented 18 percent of agency activity.

Seventeen percent of contracts reached in FY 2004 exceed 3 years in duration. The lengthening of contracts has created a demand for training programs that emphasize the importance of collaborative working relationships during the term of the contract.

In addition to our training programs, field mediators continuously participate in outreach activities by lecturing at universities, seminars and conferences. They also meet with local leaders in the collective bargaining community. Through this outreach activity, the labor-management community and the general public gain an understanding of mediation, arbitration, collective bargaining, and the agency's services.

For data regarding relationship development and training, see Section IV.

4. Arbitration Services

National labor policy allows for the settlement of contractual disputes by arbitration. When conflicts arise over the interpretation or implementation of a contract provision, FMCS assists through voluntary arbitration. A professional arbitrator, acting in a quasi-judicial capacity, hears arguments, weighs evidence and renders a decision to settle the dispute, usually binding on both parties. On request, FMCS Arbitration Services provides the disputing parties with a "panel" of qualified, private labor arbitrators from which they select the arbitrator to hear their case. The panels are drawn from an FMCS computerized nationwide roster of 1400 labor arbitrators. To join the

FMCS roster, arbitrators must be approved by an Arbitration Review Board, which meets quarterly to consider new applicants. There is also an “arbitration user focus group” that reviews and makes recommendations to the FMCS Director on changes in arbitration service, policies and procedures. The FMCS holds annual Arbitrator Symposia where arbitrators have an opportunity to discuss and share the latest information about their profession.

For FY 2004 data regarding arbitration services, see Section V.

5. Grants Program

The 1978 Labor-Management Cooperation Act authorizes and directs the Service 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.”¹ Congress funds this initiative in the Agency’s annual appropriations, and grants are distributed to encourage labor-management committees to develop innovative joint approaches to workplace problems. In the past, committees have focused their efforts on improving labor-management relationships, job security, organizational effectiveness, economic development, health care cost containment solutions, competitiveness of a region’s hotel industry, economic development, and public sector management. All committees must present measurable results of their efforts for grant funding. The rules, regulations and instructions for preparing grant applications are published annually in the *Federal Register*.

For FY 2004 data regarding the grants program, see Section VI.

6. FMCS Institute

The FMCS Institute for Conflict Management provides training and education to labor and management practitioners in a classroom format. Institute classroom training, provided away from the workplace, maximizes communication among all the participants. The Institute offers training in practical conflict resolution skills, collective bargaining, arbitrator and arbitration skills-building, facilitation process skills, multi-party facilitation, cultural diversity, equal employment opportunity mediation skills, and workplace violence prevention. The Institute runs as a reimbursable program and is funded by fees received for delivery of training.

For data regarding the FMCS Institute course offerings for this fiscal year, see Section VII.

¹ 29 U.S.C, Section 205A(a)(1), 1947.

7. Employment Mediation

Outside the collective bargaining arena, FMCS provides employment mediation services to the federal sector and to state and local governments. These mediation services include resolution of employment-related disputes. 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 design was to expand the use of alternative dispute resolution throughout the federal government, reduce litigation costs, and promote better government decision-making. FMCS provides consultation, training, dispute resolution systems design and facilitation services to many federal, state and local agencies. Employment mediation is also provided to the private sector to resolve workplace disputes falling outside of the traditional collective bargaining context, i.e., equal employment opportunity disputes.

For data regarding employment mediation services in FY 2004, see Section VIII.

8. International Training and Exchange

Beyond the nation's borders, FMCS plays an important role in promoting collective bargaining and conflict resolution in other countries. Our international work is a small, but integral part of our services. Emerging democracies often struggle to compete effectively in a globally integrated marketplace. Part of their struggle includes the implementation of an effective labor relations system. Other nations and foreign organizations have sought our 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 are "cross-trained" as they gain familiarity with complex issues affecting the global economy. As a result, the FMCS is more effective in assisting labor and management in resolving disputes with international implications.

For data regarding employment mediation and international programs this fiscal year, see Section IX.

C. Nature of Collective Bargaining in FY 2004

Bargaining in fiscal year 2004 was plagued by the continued increase in health insurance costs. In FY 2004, 55 percent of contract negotiations involved health care as an issue during bargaining. In 2004, major contracts expired in the telecommunications, aerospace, retail food industries and manufacturing. While the strikes in Southern California groceries, SBC Communications, and the hotel industry remained in the public eye, during the fiscal year mediators were actively involved in 4748 collective bargaining contract negotiations in every major industry and service throughout the United States. With our assistance, 3768 contracts were reached. As a result, 79% of FMCS's collective bargaining cases resulted in negotiated settlements. There were 273 work stoppages in FY 2004.

1. The Grocery Industry

Health care was the most significant issue during the grocery industry contract negotiations. The FMCS was instrumental in resolving the longest work stoppage in history of the grocery industry, which occurred in Southern California. Roughly 60,000 employees of Vons, Safeway, Ralphs, Kroger and Albertsons, struck or were locked out on October 11, 2003. The work stoppage went on for 20 weeks and affected 859 stores. Industry experts reported that the strike and lockout cost the affected grocery stores 2 billion dollars in lost sales. The tense situation garnered significant local and national press coverage, and the FMCS received thousands of calls from strikers, asking for Agency help. The Governor of California remained in touch with the Agency on the progress of negotiations. The parties were deadlocked over the cost and scope of health benefits and a proposal for a two tier wage system for future employees. The employers were particularly concerned about their ability to compete with large discount chains such as Wal-Mart. The Director personally mediated negotiations during the last 16 days of the strike and lockout, and a settlement was achieved, finally ending the dispute after 141 days.

The Southern California grocery strike was just one of many tense contract negotiations that plagued the grocery industry during this fiscal year. Before the high profile Southern California supermarket strike began, 3300 employees at 44 Kroger stores in West Virginia, Ohio and Kentucky went on strike. FMCS commenced mediation prior to the strike and continued its presence during the 59 day strike. Regular updates on the status of bargaining were requested by the Governors of each state. Once again, health care was at the core of the strike. FMCS field leadership brought the strike to a close. The economic and social impact on the parties and the public was significant: Kroger did not operate their stores during the strike and consumers in some areas had to travel 30 miles to purchase food.

While negotiations were ongoing in Southern California, other supermarkets commenced contract talks with their unions. Forty-thousand employees of Stop and Shop on the East Coast (Rhode Island, Connecticut and Massachusetts) threatened to strike. The strike was narrowly averted just hours before the unions planned to vote on a walkout. The strike would have been seen as an extension of the contentious dispute in Southern California, and many believed it came close to becoming a nationwide strike affecting all grocery retailers.

Kroger contracts in Texas, covering 10,800 members were reached with the assistance of an FMCS mediator who encouraged the parties to extend their contract daily as the talks progressed.

FMCS assisted the parties in contract negotiations between Albertsons, King Scoopers, and Safeway and UFCW in the Denver area. Approximately 17,000 employees at stores in Colorado and Wyoming were affected. FMCS field managers encouraged the exchange of information on health care proposals and the parties agreed to observe a “cooling off” period while documents were reviewed. Despite urging by the

Governor of Colorado to reach an agreement, the employees voted to strike. The employer hired replacement workers. As of this writing, negotiations continue in Denver, mediated by FMCS.

2. Communications

Health care for current employees and retirees became a primary issue during SBC Communications' contract negotiations with the Communication Workers of America (CWA) and the International Brotherhood of Electrical Workers (IBEW). Early intervention in contract negotiations by the FMCS assisted the parties in narrowing the issues. The Director mediated the main table negotiations, and the union agreed to provide a 30-day advance notice prior to a strike. Talks proceeded for three months. Although the union struck for a four day period, our early intervention likely prevented a lengthier strike by 100,000 employees in 13 states.

Lucent Communications employs 3200 employees represented by IBEW and CWA. For the first time, both parties consented in September 2004 to mediator assistance for talks that began the following month, and the Director commenced main table negotiations in Washington, D.C., where the primary issue is health care costs for retirees. The parties reached agreement, with the help of FMCS, on November 9, 2004.

3. Hotel Industry

Hotel workers in San Francisco, Los Angeles, Atlantic City (N.J.) and Washington D.C. had contracts expiring in FY 2004. UNITE HERE represents 7000 employees in San Francisco, 3000 in Los Angeles, 5000 in Washington D.C, and 17,000 in Atlantic City. The Director mediated the San Francisco and Los Angeles talks, while other mediators handled the Atlantic City negotiations. Strike authorization votes were taken in San Francisco, Los Angeles, Atlantic City and Washington D.C. Prominent union officials joined the talks in D.C., and the Los Angeles and San Francisco situations were heightened when protesters were arrested after blocking an intersection and engaging in a wildcat strike, nearly causing a lock out.

The primary issue, for all bargaining units, was contract duration. The union sought a two-year pact that would expire in 2006 along with contracts in several other large cities, giving the union national negotiating clout. A secondary, but equally important issue, included health care costs. In every city involved, the employers filed unfair labor practice charges against the unions asserting bad faith bargaining over the insistence of a 2 year contract.

In late September 2004, four hotels struck in San Francisco and the remaining 10 hotels responded with a defensive lockout. Eventually, all 14 hotels in San Francisco extended the lockout. During the strike, the Mayor of San Francisco met with the mediator and the Lieutenant Governor of California met with strikers on the picket line. The San Francisco Board of Supervisors scheduled a hearing to consider the impact of the work stoppage on the city. In the meantime, 10,000 Atlantic City NJ hotels and

casinos struck, and the union staged “sit-ins” on major roadways requiring the police to remove them. The Atlantic City NJ hotels resolved their contract dispute in late October 2004. As of this writing, the lockout at of the San Francisco hotel workers ended, and the parties are working directly with FMCS leadership in crafting a mediated solution.

4. Other Significant Cases

In Chicago, Illinois, a strike by 3300 garbage collectors employed by 16 private waste hauling firms affected city high-rises and business districts and 36 suburbs. Over a half million people did not have garbage collected for 9 days. The strike shut down transfer stations and dumping sites, leaving no place to haul the garbage, even if there were truck drivers available to remove it. According to press reports, the lack of garbage collection posed such a serious health threat that Cook County considered seeking a court injunction forcing the employees back to work. With FMCS intervention, the strike was settled.

Cook County Hospital in Illinois faced a looming strike with its 1800 nurses. The hospital has 20 different facilities, and a strike among nurses could severely cripple the county’s health care system. Negotiations had been ongoing for 17 months, the union authorized a strike, but with the intervention of the agency’s local regional director, the parties reached agreement.

About 1500 Maytag employees, represented by the United Automobile Workers, struck for three weeks. Maytag is the third largest appliance manufacturer in the country. FMCS field managers assisted the parties in reaching agreement, where the primary issue was health-care and pension benefits. The strike had a significant impact on the local economy of Newton, Iowa, where 10% of the population of 15,579 are employed by Maytag and were on strike.

D. GPRA Achievements

The Government Performance and Results Act (GPRA) requires all federal agencies to identify performance goals. For every service provided, we identified specific goals for fiscal year 2004 and the chart below identifies our performance during this fiscal year:

Service	Goals/Objectives	Actual Performance
Collective Bargaining Mediation	1. Active in 35% assigned cases ² 2. 75% settlement rate	1. Active in 26% of all assigned cases. 2. 79% settlement rate
Arbitration Services	1. Provide 19,021 panels	2. 18,033

² The Agency does not assign every active case to a mediator. An active case is defined as one where an F-7 has been filed and a mediator in negotiations. We assign cases where the bargaining unit is in excess of 15 or the case involves an initial contract.

Service	Goals/Objectives	Actual Performance
	2. Average number of days between receipt of request and panel provided should not exceed 5 workdays	2. 7.31 average days between receipt of request and panel provided.
Employment Mediation (conflict resolution services to state, local and federal government sectors and private sector)	Mediated 950 cases	Mediated 1596
Regulatory Negotiations	Facilitate 5 regulatory negotiations	Facilitated 1 regulatory negotiation
International Efforts	Assist 80 foreign governments	Assisted 25 foreign governments
FMCS Institute	Provide 12 courses	Provided 17 courses
Grants Program	Provide 13 grants to labor-management committees and 6 non competitive grants	Provided 11 grants to labor management committees and 3 non competitive grants.
Regional Labor-Management Conferences	Conduct 80 Agency-sponsored conferences at regional level	Conducted 80 Agency-sponsored conferences at regional level

In addition to the above chart, it should be noted that the Agency continues its success rate in collective bargaining mediation cases. In this fiscal year, FMCS settled 79% of collective bargaining mediation cases. Regarding our activity rate (the percentage of cases in which the parties consented to mediation), over the next few years, we will work to improve it through outreach to labor and management about the benefits and advantages of the mediation process.

E. New Initiatives

1. Strategic Plan

The Agency's five-year strategic plan includes the following strategic goals:

1. Minimizing the number and severity of work stoppages influencing interstate commerce, national security, and/or the U.S. health care industry;
2. Increasing the number of collective bargaining partners with an ongoing commitment to improving their relationship;
3. Facilitating a commitment to, and development of, systems for handling workplace disputes arising outside of the collective bargaining context, by labor and management at a significant number of organizations;

4. Assisting labor and management to effectively deal with major issues that drive conflict in the evolving workplace, including health care, technology, effects of globalization, and diversity;
5. Effectively managing and sharing knowledge gained from the Agency's experience in workplace conflict resolution with schools, courts, and international/overseas organizations; and
6. Expanding Agency participation in federal sector employment dispute resolution.

To view the Agency's strategic plan in full, visit the Web site at www.FMCS.gov.

2. Customer Survey

Every three years, the Agency conducts a survey of the public it serves to gauge the trends in labor-management relations and collective bargaining, and the public's satisfaction with the Agency's work. The survey, conducted by the Massachusetts Institute of Technology, gathered 1718 responses from cases closed in fiscal years 2001 through FY 2003. Some of the findings include:

- Labor-management relationships have become more adversarial than in 1997, when the first survey was conducted.
- The difference in views between management and labor respondents has increased on several issues, such as the quality of their relationship, whether and how quickly that relationship is changing, and their support for interest-based bargaining.
- The pace of introduction of workplace innovations through collective bargaining has slowed.
- The number of parties that report engagement in joint labor-management partnerships has declined.
- There continues to be a positive relationship between problem-solving approaches to bargaining and innovative contract language.
- Less contentious relations were found among the public-sector relationships examined.
- In half of the cases (51 percent) involving mediation, the parties indicated that a strike or lockout would have been likely in the absence of mediation. This suggests that the national strike rate could be as high as 6 percent rather than the current 4 percent in the absence of FMCS mediation services.
- Knowledge of mediation and related FMCS services is nearly universal.
- While both parties rate their satisfaction with FMCS services very highly, management representatives tend to be less satisfied than labor representatives.
- The parties' ratings of FMCS mediators' knowledge, skills, and trustworthiness are very high, and their ratings of the mediators' knowledge of industry-specific issues has risen.
- Union respondents say FMCS is more important than do their management counterparts, though both agree that FMCS should have a higher public profile.
- Other FMCS services, such as training and arbitration panels, were all rated highly by those who had used them. Most respondents urged the agency to increase public awareness of these and other services.

To view the full Executive Summary of the survey, visit our Web site. Go to http://fmcs.gov/assets/files/Public%20Affairs/FMCS_Third_NPRS_Report_Executive_Summary.PDF.

For the charts accompanying the survey, go to http://fmcs.gov/assets/files/Public%20Affairs/fmcs_nlm_conferencev4.ppt

3. Access to Neutrals Program

Due to budget constraints, the Agency terminated the Access to Neutrals program. For more information, contact the Director of Public Affairs, John Arnold, at JArnold@fmcs.gov.

4. Dynamic Adaptive Dispute Systems

Workplace conflicts falling outside of the collective bargaining agreement are proliferating, and new approaches are needed to address them. FMCS, by virtue of its neutral role and experience in the organized workplace, is well positioned to assist labor and management in developing dispute resolution systems responsive to new trends in the workplace.

In traditional labor-management relationships, the grievance process is utilized to resolve conflicts over contract interpretation. However, there are numerous workplace complaints, ranging from statutory claims of discrimination to personality conflicts, not typically resolved in the collective bargaining arena. Those matters can turn into protracted disputes, costly and time-consuming lawsuits, and poisoned relationships, with a devastating impact on employee morale. New, alternative processes are called for to resolve individual employment disputes that threaten competitiveness, efficiency, productivity and morale.

The FMCS developed an initiative called “DyADS.” DyADS is an acronym for **D**ynamic **A**daptive **D**ispute **S**ystems. It is a dispute resolution system designed by the parties themselves, with FMCS facilitation and support, to handle all kinds of conflicts other than matters that fall within the scope of the collective bargaining agreement.

The word “dyad” signifies two components working together as a team. In this case, a DyADS project includes representatives of management and labor, working collaboratively to design and maintain their own system for resolution of conflicts arising in their workplace. These conflicts can range from complex equal employment opportunity claims, to morale and workplace relationship problems that are damaging to the working environment. DyADS is not an end run around the grievance-arbitration provisions of a collective bargaining agreement. It is an inclusive process that has the parties develop their own system with multiple options available for resolution of various types of employment disputes. Any such system must be dynamic, constantly evolving

with labor and management input, and must refrain from interfering with collective bargaining rights, or the rights of individuals to seek redress in any statutory scheme.

The DyADS program was piloted in FY 2004 in a large hospital in Akron, Ohio, and additional pilot projects will be under development in the next fiscal year. For more information about our DyADS program, e-mail General Counsel Arthur Pearlstein at APearlstein@FMCS.gov.

5. Health Care Training Initiative

In FY 2004, 55% of contract negotiations focused on the rising cost health care benefits. More than any other single issue in recent memory, the rising cost of health care benefits has the potential to produce strikes and lockouts and paralyze strategic industries vital for the nation's economy.

To assist both labor and management in addressing this critical issue in upcoming collective bargaining and to lessen the threat of disruptive work stoppages, the FMCS developed a new training initiative to provide FMCS mediators with critical information about the U.S. health care system and benefits options. The training focuses on the health care system, service and delivery issues, quality of care concerns and the drivers of higher benefits costs. It also provides FMCS mediators with cost-cutting options that can be explored by labor and management negotiators. A distinguished panel of trainers including representatives of Tenet HealthCare, the American Federation of Teachers, Blue Cross Blue Shield Association, and the American Academy of Family Physicians assisted the Agency in the training. This in-depth training also examined best practices in health care bargaining. The primary objective of the training is to provide mediators the knowledge they need in this complex area to assist the parties during the collective bargaining process and beyond.

This project spawned considerable interest in the labor-management community. High level AFL-CIO officials attended one of the training sessions. During the next calendar year, the FMCS will use this material to train representatives of labor and management around the country on negotiating health care issues more effectively. The Agency is also planning "Blue Ribbon" roundtable discussion on health care bargaining for senior officials from the labor movement and top management representatives from major national corporations.

For more information about the FMCS Health Care Training Initiative, contact Director of Public Affairs, John Arnold, at JArnold@FMCS.gov.

6. National Labor Management Conference

FMCS hosted the biennial National Labor Management Conference in Chicago in June 2004. More than 1400 representatives of labor and management attended. The Director opened the conference by challenging the audience to improve labor management relations through increased dialogue and cooperative efforts that improve

the system of collective bargaining. Workshops were held on a variety of topics, including specific sessions on health care, aerospace, construction, and arbitration.

II. COLLECTIVE BARGAINING MEDIATION

A. Collective Bargaining Mediation Data

NOTE TO READERS: The statistics in this table aggregate collective bargaining cases with grievance mediation cases. The agency's OMB and Congressional submissions break down many of the statistics below into two categories; collective bargaining mediation and grievance mediation. For more information, please contact Ariella Bernstein, abernstein@fmcs.gov. In future years, the annual reports will break down case data by separately reporting grievance mediation and collective bargaining mediation statistics.

Intake					
Fiscal Years 2000 Through 2004	2000	2001	2002	2003	2004
Union and Employer Notices ³	34,038	33,344	40,677	33,046	21,546
NLRB and FLRA Certifications ⁴	1,492	1,446	1,389	1,485	1,226
Public Sector Board Requests ⁵	191	152	173	173	142
Union and Employer Requests ⁶	2,521	2,704	3,100	3,140	3,369
Total	38,242	37,646	45,339	37,844	26,283
Case Numbers Issued					
Fiscal Years 2000 Through 2004 ⁷	2000	2001	2002	2003	2004
	26,323	25,071	25,282	26,774	26,282
Case Numbers Assigned					
Fiscal Years 2000 Through 2004 ⁸	2000	2001	2002	2003	2004
	19,574	19,116	19,303	19,516	20,249

Cases Closed Fiscal Years 2000 Through 2004 ¹³	2000	2001	2002	2003	2004
By consolidation after assignment ¹⁴	1,125	619	727	728	1,394
By Final Report with meetings ¹⁵	6,321	6,424	6,757	6,640	6,758

³ Notifications to the Service by one or both parties desiring to modify a contract that is expiring, or for a specific reopening of an existing contract.

⁴ Notifications from these two agencies regarding certification or recertification of bargaining units. Bargaining for an initial contract usually follows such certifications.

⁵ Requests for mediation assistance from public sector parties where a state has a Public Sector Board with jurisdiction over labor contracts, but no state mediation service is available.

⁶ Requests from the parties for mediation assistance where no notification to the Service has been filed.

⁷ Case numbers assigned to notifications, certifications, and requests received by the Service. Some notifications are subsequently consolidated into a single case with a specific case number; therefore, the lower total of case numbers issued when compared to the intake.

⁸ Cases assigned to a mediator. The decision to assign a case involves many factors and not all cases are assigned.

¹³ Closed by Final Report filed by the mediator assigned to the case or by consolidation of a case with other cases after assignment.

¹⁴ Some cases are subsequently consolidated after assignment where it is determined that multiple parties will be involved in the same negotiations.

¹⁵ Cases closed where the mediator met with both parties on one or more occasions.

By Final Report with no meetings ¹⁶	13,291	12,107	10,861	11,938	12,983
Total	20,737	19,150	18,345	19,306	21,135
Collective Bargaining Meeting Conferences					
Fiscal Years 2000 Through 2004 ¹⁷	2000	2001	2002	2003	2004
	17,837	17,933	17,920	17,702	18,410

Work Stoppage Information					
Fiscal Years 2000 Through 2004 ¹⁸	2000	2001	2002	2003	2004
Work stoppages beginning in the fiscal year	400	432	308	277	269
Work stoppages in closed cases in the fiscal year	392	445	327	289	273
Average duration of work stoppages in closed cases (number of days)	390	40.7	53.7	60.5	76.7

Contract Mediation Analysis By Sector Fiscal Years 2000 Through 2004	2000	2001	2002	2003	2004
INTAKE	38,242	37,646	45,339	37,844	39,760
CASE NUMBERS ISSUED					
Private Sector	24,386	23,135	23,170	24,775	24,290
Public Sector	1,216	1,185	1,362	1,366	1,413
Federal Sector	720	750	749	632	579
ASSIGNED					
Private Sector	17,681	17,241	17,266	17,568	18,355
Public Sector	1,168	1,139	1,296	1,329	1,315
Federal Sector	725	739	741	623	579
CLOSED CASES ¹⁹					

¹⁶ Cases closed where mediation assistance did not require any meetings with the parties, but where the mediator was in contact with the parties during the negotiations

¹⁷ The number of meetings in closed dispute mediation cases where a mediator was present in a meeting between the parties.

¹⁸ The Bureau of Labor Statistics reports work stoppages over 1,000 employees. FMCS reports all work stoppages.

Private Sector	18,786	17,219	16,331	17,302	19,227
Public Sector	1,209	1,150	1,297	1,341	1,329
Federal Sector	742	781	717	663	579

III. INITIAL CONTRACT NEGOTIATIONS

A. Initial Contract Negotiations and Processes

Initial contract negotiations are critical because they are the foundation for the parties' future labor-management relationship. Initial contract negotiations are often more difficult than established successor contract negotiations, since they frequently follow contentious representation election campaigns.

For the last several years, FMCS has placed special emphasis on mediation of initial contract negotiations between employers and newly certified or recognized bargaining units. It is our policy that all initial contract cases are promptly assigned for mediation, and that mediators make every effort to become actively involved in assisting the parties in achieving agreements. To expedite initial contract cases, and ensure our prompt receipt of certifications after their issuance, FMCS' National Office receives, via e-mail from the NLRB's headquarters, all certifications issued within the month. This system is more efficient, ensures that the Agency receives the certifications no more than one month after issuance, and allows for intervention as soon as possible. All initial contract cases remain open for two fiscal years.

B. Initial Contract Bargaining Data

Initial Contract Bargaining	2000	2001	2002	2003	2004
Private Sector initial contract cases received:	1,715	1,745	1,486	1,578	1,350
Assigned to mediators:	1,677	1,702	1,458	1,506	1,311
Assigned from NLRB certifications:	1,296	1,282	1,185	1,266	1,053
Assigned from other sources: (e.g. voluntary recognition)	381	420	273	240	258
Cases closed by FMCS: (Mediated and non-mediated)	867	1,892	1,361	1,473	1,586
Mediated cases closed with agreement reached:	231	360	243	190	181
Percentage of mediated cases	52.9	55.1	50.3	47.7	45.4

¹⁹ Excludes cases closed by consolidation after assignment.

Mediated cases closed without agreement reached:	206	293	240	208	217
Percentage of mediated cases ²⁰	47.1	44.9	49.7	52.3	54.5
Non-mediated cases closed with agreement reached:	255	676	538	642	695
Percentage of non-mediated cases:	59.3	54.6	61.3	59.7	58.5
Non-mediated cases closed without agreement reached:	175	561	339	433	493
Percentage of non-mediated cases ²¹	40.7	45.3	38.7	40.3	41.4
Percentage of mediated and non-mediated cases closed with agreement reached:	56.0	54.8	57.4	56.5	55.2
Closed cases involving ULP ²² filed by either party:	128	263	221	193	174
Closed cases involving work stoppages:	24	43	29	20	19
Closed cases involving work stoppages with agreement reached:	14	21	20	10	10
Average number of days between statutory notice receipt and closure: ²³	176	85	75	72	88
Average number of days for cases carried over and closed in next fiscal year:	363	432	396	318	348
Assigned cases carried over to next year:	813	792	784	881	649

IV. RELATIONSHIP DEVELOPMENT AND TRAINING PROGRAM

The role of federal mediators has evolved beyond traditional crisis intervention during the last few days of collective bargaining negotiations. More frequently, mediators are involved during the life of a contract to train both sides in effective bargaining, communications, joint problem solving and innovative conflict resolution methods.

²⁰ Cases closed with agreement reached occur with final agreement on an initial contract

²¹ Cases closed without agreement occur after two years if agreement has not been reached on initial contract

²² Unfair Labor Practices

²³ For cases closed in the same fiscal year they are received

C. Relationship Development and Training Data

Relationship Development and Training Cases					
Fiscal Years 2000 through 2004 ²⁴	2000	2001	2002	2003	2004
Assigned ²⁵	2,782	2,629	2,610	2,574	2,281
Closed by Final Report ²⁶	2,792	2,655	2,618	2,594	2,281
Private Sector	NA	NA	NA	NA	1,674
Federal Sector	NA	NA	NA	NA	126
Public Sector	NA	NA	NA	NA	635
Outreach Cases					
Fiscal Years 2000 Through 2004 ²⁷	2000	2001	2002	2003	2004
Assigned	5,504	5,436	5,800	5,392	4,796
Closed by Final Report	5,621	5,645	5,881	5,484	4,741

V. ARBITRATION SERVICES

A. Arbitration Services

In collective bargaining, voluntary arbitration is the preferred method of settling disputes over contract interpretation or application. Since its creation, FMCS provided access to voluntary arbitration services. Rather than using full-time government employees, we maintain a roster of the nation's most experienced private professional arbitrators who meet rigid FMCS qualifications. Upon request, FMCS furnishes a panel of qualified arbitrators from which the parties select a mutually satisfactory individual to hear and render a final and binding decision on the issue or issues in dispute. A roster of over 1400 private arbitrators, knowledgeable practitioners with backgrounds in collective bargaining and labor-management relations is maintained by the FMCS. FMCS charges a nominal fee for the provision of arbitrator lists and panels.

The FMCS computerized retrieval system produces a random panel of potential arbitrators from which the parties may select. Panels also can be compiled on the basis of geographic location, professional affiliation, occupation, experience with particular industries or issues, or other criteria when specified by the parties. FMCS also furnishes current biographical sketches of arbitrators for parties to establish their own permanent panels.

To join the FMCS Roster, arbitrators must be approved by an Arbitration Review Board, which meets quarterly to consider new applicants for appointment to the roster by the FMCS Director. There is also an "arbitration user focus group," which

²⁴ Relationship development and training involves the assistance of a mediator where a party or parties desires such help in improving the relationship during the term of the contract. Such assistance may include training, arranging labor-management committees, and special programs.

²⁵ Cases assigned to a mediator.

²⁶ Closed by a Final Report filed by the mediator.

²⁷ Outreach involves mediator meeting with various members of the public to discuss and/or explain the processes of mediation.

reviews and makes recommendations to the FMCS Director on changes in Arbitration Service policies and procedures.

C. Arbitration Services Program Data

Activity	2000	2001	2002	2003	2004
Panel Requests	16,976	16,594	17,282	17,332	16,382
Panels Issued ²⁸	19,485	18,275	18,891	19,039	18,033
Arbitrators Appointed	9,561	8,706	8,335	8,595	7,875

Activity Charged For	2000	2001	2002	2003	2004
Travel Days	.51	.43	.45	.48	.45
Hearing Days	1.18	1.15	1.09	1.15	1.09
Study Days	2.58	2.40	2.44	2.35	2.37
Total	4.27	3.98	3.98	3.98	3.91

Charges	2000	2001	2002	2003	2004
Per Diem Rate	672.12	693.12	720.75	763.87	801.59
Amount of Fee	2863.49	2761.04	2884.46	3047.54	3197.37
Amount of Expenses	321.67	341.92	318.03	364.32	344.25
Total Charged	3185.16	3102.96	3202.49	3411.86	3541.62

	2000	2001	2002	2003	2004
Total Number of Issues	2,723	1,902	1,989	2,314	2,581
Specific Issues					
General Issues	585	434	463	506	417
Overtime Other Than Pay*					
Distribution of Overtime	48	34	26	35	41
Compulsory Overtime	12	8	12	9	3
Other Overtime	18	10	10	12	1
Seniority					
Promotion & Upgrading	86	54	52	63	42
Layoff Bumping & Recall	65	46	48	71	69
Transfer	16	17	21	14	9
Other Seniority	38	25	25	35	15
Union Officers**	12	9	14	13	21
Strike & Lockout	4	3	2	1	2
Working Conditions***	35	35	29	19	20
Discrimination	27	19	24	17	18
Management Rights	75	51	63	71	61

²⁸ Frequently, the labor-management parties request more than one panel for arbitration cases, resulting in an increase in the number of panels issued over the number of requests received.

* Overtime pay issues included under this category are Economic: Wage Rates and Pay Issues.

** Included in this classification are issues concerning super seniority and union business.

*** This classification also includes issues concerning safety.

Scheduling of Work	50	43	67	47	61
Work Assignments	99	80	70	99	54
Economic Wage Rates & Pay Issues	298	227	229	233	209
Wage Issues	32	29	36	42	95
Rate of Pay	75	53	60	60	33
Severance Pay	5	6	8	5	1
Reporting, Call- in & Call-back Pay	12	13	7	10	6
Holidays & Holiday Pay	33	31	26	21	14
Vacations & Vacation Pay	54	29	39	27	26
Incentive Rates & Standards	25	13	7	15	9
Overtime Pay	62	53	46	53	25
Fringe Benefits Issues	100	69	99	112	104
Health & Welfare	58	29	58	61	46
Pensions	14	11	8	11	8
Other Fringe Issues	28	29	33	40	50
Discharge & Disciplinary Issues	1203	849	947	1091	996
Technical Issues	139	81	86	97	69
Job Posting & Bidding	52	32	38	43	39
Job Evaluation	28	18	11	21	14
Job Classification	59	31	37	33	16
Scope of Agreement	74	45	65	53	58
Subcontracting	48	29	41	36	44
Jurisdictional Disputes	16	8	14	5	7
Foreman, Supervision, etc.	5	5	8	9	7
Mergers, Consolidations, Accretion, Other Plants	5	3	2	3	0

Arbitrability of Grievances	193	109	100	139	96
Procedural	120	76	60	102	62
Substantive	42	14	23	25	18
Procedural & Substantive	24	19	17	12	16
Other Arbitrability Questions	7	0	0	0	0
Not Elsewhere Classified	131	88	115	83	97

Total Number of Cases State & Region	2000	2001	2002	2003	2004
Mountain	85	123	115	136	118
Arizona	15	10	15	20	16
Colorado	28	40	30	47	30
Idaho	3	7	5	7	3
Montana	11	16	7	11	16
Nevada	12	13	31	23	31
New Mexico	11	26	19	20	19
Utah	4	5	5	6	2
Wyoming	1	6	3	2	1

Pacific	128	140	151	129	132
Alaska	6	13	7	2	7
California	59	66	73	67	58
Hawaii	2	0	1	3	0
Oregon	32	28	31	12	25
Washington	29	33	39	45	42
Miscellaneous	16	9	13	15	14
Philippines	0	0	0	0	0
Puerto Rico	4	1	2	7	0
Virgin Islands	4	4	10	6	14
Guam	0	0	0	0	0
Others	8	4	1	2	0
New England	29	45	17	37	28
Connecticut	10	13	0	4	6
Maine	2	2	2	4	1
Massachusetts	11	12	9	8	11
New Hampshire	0	2	1	0	1
Rhode Island	0	6	3	8	3
Vermont	6	10	2	13	6
Middle Atlantic	289	307	246	284	252
New Jersey	22	30	26	35	23
New York	111	121	71	97	80
Pennsylvania	156	156	149	152	149
South Atlantic	349	385	375	457	449
Delaware	6	12	3	2	7
District of Columbia	31	36	35	50	56
Florida	92	112	125	124	146
Georgia	51	58	41	77	55
Maryland	35	29	49	48	55
North Carolina	21	29	29	37	31
South Carolina	15	14	14	21	19
Virginia	56	30	43	53	42
West Virginia	42	65	36	45	38
East North Central	866	715	950	796	841
Illinois	191	145	216	199	198
Indiana	67	63	84	55	83
Michigan	190	194	158	171	172
Ohio	338	224	413	274	330
Wisconsin	80	89	79	97	58
West North Central	316	314	273	347	250
Iowa	61	68	51	67	36
Kansas	32	38	28	39	23
Minnesota	90	84	82	71	70
Missouri	101	94	89	121	103
Nebraska	17	19	12	17	5
North Dakota	5	8	4	23	11
South Dakota	10	3	7	9	2

East South Central	236	239	221	224	229
Alabama	53	57	51	49	66
Kentucky	70	81	66	71	57
Mississippi	17	32	20	24	18
Tennessee	96	69	84	80	88
West South Central	227	237	308	321	266
Arkansas	35	40	53	53	44
Louisiana	28	23	43	40	38
Oklahoma	68	70	104	79	50
Texas	96	104	108	149	134
Totals	2,507	2,514	2,669	2,746	2,581

VI. GRANTS PROGRAM

A. Grants

FMCS is authorized by the Labor-Management Cooperation Act of 1978 to award grants to support and encourage joint labor-management cooperative activities that “improve the labor-management relationship, job security and organizational effectiveness.” Congress funds FMCS Grants Program each year in the agency’s appropriation

In fiscal year 2004, FMCS received 65 grant applications. We awarded 11 new competitive grants at a cost of \$1.044 million, and 3 non-competitive grants. An independent FMCS Grants Review Board, chaired by the Director of Labor-Management Grants, does preliminary scoring of each application. Final selection is made by the Director.

B. Fiscal Year 2003 Grant Funding Summary

AREA

Alabama State Partnership (Montgomery, AL)

04-AL/A-005

\$124,375 Explore the needs of existing industries within the state

Montgomery County Labor Management Committee (Plymouth Meeting, PA)

04-PA/A-007

\$123,738 Improve economic conditions and opportunities for residents, employers and employees in Montgomery County, Pennsylvania

PLANT

Santa Rosa Memorial Hospital (Santa Rosa, CA)

04-CA/P-009

\$65,000 Address and engage communication, conflict, and stress-related issues not susceptible to resolution within the collective bargaining process

Trinity Services (Joliet, IL)

04-IL/P-004

\$65,000 Reduce turnover at Trinity Services through creation of promotional opportunities

Milwaukee Cylinder (Cudahy, WI)

04-WI/P-013

\$39,600 Improve the work processes, grow the business and save and create jobs

PUBLIC SECTOR

Ohio Public Sector Labor Management Health Care Benefits Committee(Columbus, OH)

04-OH/PS-006

\$75,000 Develop, implement and evaluate an instructional model for establishing and maintaining effective local labor-management health care benefits committees in public sector

Charlotte County Public Schools (Charlotte County, FL)

04-FL/PS-003

\$94,200 Improve student performance through Labor Management Partnership

Center for Collaborative Solutions (Sacramento, CA)

04-CA/PS-008

\$107,211 Develop an overall strategy and create specific plans to reduce health costs in public schools

INDUSTRY

Metropolitan Detroit Plumbing and Mechanical Contractors Association(Detroit, MI)

04-MI/I-010

\$125,000 Recognition of interdependence through formation of a Labor Management Committee

CAUSE (Lanham, MD)

04-MD/I-011

\$125,000 Address recruitment problems in the mechanical industry

IBEW Great Lakes Training Trust (Waukesha, WI)

04-WI/I-012

\$100,026 Develop and implement computer simulated training to decrease equipment operator skills shortage and improve safety in the utility construction industry.

VII. FMCS INSTITUTE

A. Purpose and Course Offerings

Education and training in labor relations and conflict resolution are an integral part of the Agency's mission for more than half a century. The Institute's primary mission is to offer training and education to labor and management practitioners in a classroom format that is structured, accessible, and convenient to individuals and small groups than the site-based relationship development and training programs.

In fiscal year 2004, the Institute offered 17 classes, covering the following topics:

- Mediation Skills for the Workplace
- Labor-Management Negotiations Skills
- Mediation Skills
- Workplace Violence Prevention and Response
- Becoming a Labor Arbitrator
- Arbitration for Advocates

Fees received for delivery of training services fund the Institute. All fees collected will be utilized to recover expenses and administrative costs of the Institute. Training fees charged to customers are set at a level that allows the Institute to provide a professionally delivered product from one year to the next.

VIII. EMPLOYMENT MEDIATION

A. Services Provided

Although the agency provides employment mediation services to the private sector, efforts are concentrated on Federal sector employment mediation.⁹ Section 173(f) of the statute provides:

The Service may make its services available to Federal agencies to aid in the resolution of disputes under the provisions of subchapter IV of chapter V title 5. Functions performed...**may include assisting parties to disputes related to administrative programs, training persons in skills and procedures employed in alternative means of dispute resolution, and furnishing officers and employees of the Service to act as neutrals.** Only officers and employees who are qualified in accordance with Section 573 of title 5 may be assigned to act as neutrals.

The chart below represents FMCS' most significant employment mediation cases in the Federal sector.

⁹ Employment mediation in the private and public sectors are reimbursable activities. We are compensated for travel, delivery and preparation time for each case handled.

Federal Agency	Purpose of FMCS Involvement	Number of Cases Handled
Internal Revenue Service	Workplace and EEO complaints	158
Department of Homeland Security, Immigration and Customs Enforcement	EEO complaints	57
United States Postal Service	Non bargaining unit disciplinary cases and adverse action appeals and MSPB claims and REDRESS combined	848
Equal Employment Opportunity Commission	Internal and external EEOC cases	114
Health and Human Services, Office of Civil Rights	Age discrimination cases under ADA of 1975	185
Federal Bureau of Investigation	EEO complaints	36

IX. INTERNATIONAL TRAINING AND EXCHANGE

The International Training and Exchange department provides technical assistance and training to friendly foreign governments seeking to improve their labor relations systems.

In 2004, State Department representatives asked the FMCS to join them in a mission to South Africa, Swaziland, Botswana and Mozambique. The Director met with government, business and union leaders in each country and promoted core labor standards in training sessions for foreign staffers at U.S. embassies. This fiscal year, the Director also advised acceding European Union countries on strengthening governmental labor mediation services and the importance of governmental mediation services to a nation's economic health. These international missions play an important role in promoting collective bargaining and conflict resolution in other countries where formal systems for conflict prevention have not yet been developed.

In addition, in FY 2004, FMCS conducted the following programs, with sponsorships from the organizations identified below:

Country	Purpose of the Program	Sponsoring Agency
Colombia	<ol style="list-style-type: none"> 1. Labor Management Training Program in Cali and Medellin 2. Labor-Management Training in Bogotá 3. Advanced Training for Senior Level LMG 	International Labor Organization (ILO)

	Officials	
Korea	Relationship development and training for the Korean Labor Education Institute	Korean Labor Education Institute
Nigeria	Petroleum Delta Capacity Building Program (basic collective bargaining and negotiations skills training, and labor-management training)	Chevron-Texaco; ILO (tentative)
Vietnam	Training for labor, management and government representatives in Interest-Based Problem-Solving and skills/ techniques/paradigms for cooperative labor relations. (August 2004)	ILO
Bulgaria	Techniques of labor-conflict resolution and prevention for both new mediators and advanced mediators in the newly formed Bulgarian mediation agency	ABA-CEELI
Ireland	Training on interest based bargaining processes	OD Consultants
Peru	Ongoing consulting and delivery of training program for Ministry of Justice	Department of Labor
Serbia and Montenegro	Training on formation and operation of dispute resolution mechanisms at the enterprise and industry level (e.g. grievance procedures, labor-management committees) as well as the development of a governmental mediation/conciliation institution	USAID
Philippines	Training facilitators and advocates to promote workplace cooperation and the quality of work life in the Philippines and other countries in the Asia-Pacific region.	Philippine Association of Labor-Management Councils
Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia	Advised acceding EU countries on National Development Plans for the provision or strengthening of governmental labor mediation services. Workshops and conferences held in Prague (January 2004) and Ljubljana, Slovenia (March-April 2004).	European Foundation for the Improvement of Living and Working Conditions, European Union
China, P.R.C., Macao and Hong Kong	Developed and taught a 4-week course in international negotiations and dispute resolution to Chinese and American law students at Sun Yat-sen University as part of Whittier Law School's first China abroad program.	Whittier Law School, Costa Mesa, CA

X. SUMMARY:

FMCS looks forward to a productive year ahead and we will focus on increasing our presence in collective bargaining negotiations. We are working to better educate the labor and management communities about the value of mediation, the impact it can have on their relationship with one another, and the influence it can bear on the collective bargaining process as a whole.

For additional information about FMCS that has not been detailed in this report, please contact Ariella Bernstein at abernstein@FMCS.gov, or submit a Freedom of Information Act request. Instructions on filing a FOIA request can be found on the FMCS Web site at:

<http://www.fmcs.gov/internet/itemDetail.asp?categoryID=100&itemID=15987>.