

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

**FISCAL YEAR 2014**

**Congressional Budget Submission**

**&**

**Annual Performance Plan**

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## Fiscal Year 2014 Budget Estimates

### I. Executive Summary

More than sixty-five years ago, the United States Congress recognized that labor-management disputes can cause significant economic damage to the U.S. economy and that third party, neutral intervention can minimize and even avoid that damage. 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."<sup>1</sup> 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.

The nation's uneven progress towards a sustainable economic recovery will challenge collective bargaining relationships for the foreseeable future as companies and unions that were able to more easily resolve conflicts during periods of economic growth often find themselves unable to bridge the enormous divide created when economic growth slows or stagnates. Complex and major changes to the structure of employer-provided health care and pension benefits upset decades of consensus and add to relationship instability. State and local governments that historically were able to maintain or provide modest increases to wages and benefits for their workers have

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<sup>1</sup> 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.

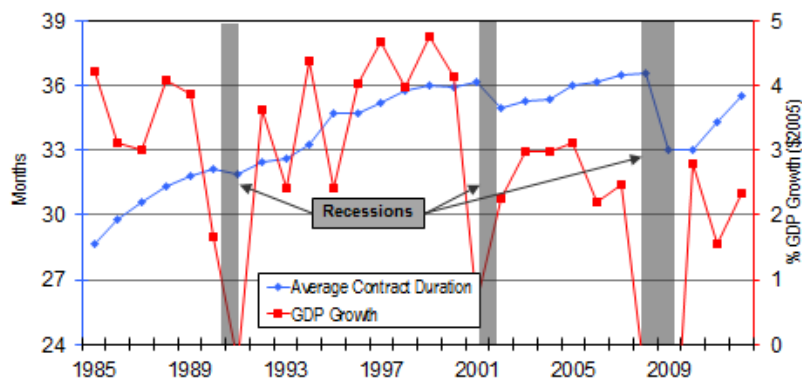
insisted on deep concessions as their existing tax bases and revenue streams have decreased.

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 increases and sustainable levels of 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.

For FY 2014, the FMCS expects to receive approximately 22,000 notices of expiring collective bargaining agreements and is already aware of more than 8,200 expiring contracts covering at least 24 percent of the private sector unionized workforce, or 1.75 million workers. Many of these expiring agreements are in key private sector industries, such as manufacturing, construction, health care, and retail trade.

## Effect of Business Cycle

Contract Durations and GDP Growth, FY 1985 –2012



Sources: FMCS; Department of Commerce; National Bureau of Economic Research

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 rebound to 35.5 in FY 2012. 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 gradually recovers from the recession. 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, therefore increasing the need for FMCS services and workload in FY 2014 and beyond.

## A. Mediation Services

With its history of more than 65 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.<sup>2</sup>

Using this conservative model, the FMCS estimates that its mediation services in FY 2011 and FY 2012 saved the economy \$1.9 billion in wages and profits that otherwise would have been lost to work stoppages. The calculations include direct wages saved among the bargaining unit members, retained company profits, and wages and profits among ancillary companies. This model also allows the FMCS to estimate the economic cost of work stoppages that occur each year. In FY 2012, these stoppages directly affected almost 101,500 workers and indirectly affected another 97,900 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 fragile national economy.

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 14 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 accurate cost estimates for companies and employees that rely upon the flow of goods or services halted by a work stoppage.

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 mission of collaborative labor-management conflict resolution. Of particular note is the FMCS's emphasis on

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<sup>2</sup> 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.

relationship building for the most complex and divisive issues and the most troubled sectors and industries in the U.S. economy.

### **Effectively Managing Health Care Bargaining Challenges**

The costs of employer-provided health care are perennially among the most contentious issues in private and public sector negotiations. In 2014, several major provisions of the Affordable Care Act of 2010 (ACA) will increase the likelihood of contract disputes over cost sharing, cost containment, and compliance with changes to lifetime benefit limits, essential benefits, and guaranteed coverage. Recognizing this, the FMCS has continued emphasizing to labor and management that negotiations over health care-related issues are simply too complicated and contentious to wait until the usual 30-60 days prior to contract expiration when parties typically begin to address contract modifications. This early engagement initiative, which the FMCS started in 2010 and has been endorsed by employers and unions, highlights the need for an ongoing joint problem solving approach to manage the complex problems confronting employer provided health care. It is based upon the concept that the extraordinarily difficult issues relating to health care benefits 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 that commences well in advance of contract expiration.

After 10 months of bargaining, including 22 consecutive days of FMCS-led negotiations in the final phase, three national grocery chains operating in Southern California (Super Valu, operating as Albertsons; Safeway, operating as Vons; and Kroger, operating as Ralphs supermarkets) and 15 local unions from the United Food & Commercial Workers (UFCW) ratified a new contract without resorting to a strike or lockout. This September 2011 agreement directly affected 62,000 supermarket workers and perfectly illustrates the need for early intervention. Less than a decade ago these same employers and local unions, facing similar challenges, engaged in one of the longest strikes in recent U.S. history. Health care benefit funding, heavily impacted by health care plan design, was once again a critical issue in what one mediator involved called an “extra-ordinary mediation in terms of both duration and intensity.” The issues were complex, the divide large and the urge to engage in a work stoppage powerfully present. Equally important, the comprehensive and jointly negotiated solutions reached in this agreement paved the way for a subsequent agreement between independent Southern California groceries and an additional 28,000 members of the UFCW.

The health care industry itself is not immune to the pressures of rising health care costs. In May 2012, the Coalition of Kaiser Permanente Unions, which included the Service Employees International Union-United Healthcare Workers West, reached tentative agreement with Kaiser Permanente, one of the largest health care providers in the United State. The new agreement with Kaiser Permanente covered some 45,000 employees at 32 facilities in California and included an innovative wellness program that will reward employees for meeting specific health care goals and cost savings. Underpinning the agreement with Kaiser Permanente is a labor-management partnership—a structure established with FMCS assistance in 1997—which collectively works to reduce health risks, including occupational injury and illness. This is a single

significant example of how the FMCS model of utilizing labor-management partnerships as an effective joint problem-solving mechanism can build organizational effectiveness.

### **Pressure on Public and Federal Sector Unions**

The FMCS also plays a role in helping to achieve constructive labor-management relations throughout the public sector and in federal government. While many public and all federal unionized workers cannot be locked out or go on strike, the damage from unresolved labor disputes can still be substantial. In this instance, updating job descriptions, work rules, and work processes will increase effective and more cost efficient delivery of services to the public. Federal agencies and employee representatives are engaging in multiple joint approaches to achieve measurable performance improvement using labor-management forums established with FMCS guidance. In an effort to maximize utilization of its resources and build sustainable problem-solving capacity among the parties, FMCS implemented a “Train the Trainer” program in FY 2012. This program enables the joint teams of management and employee representatives to model the skills necessary and provide training in joint problem-solving techniques within their respective organizations. Additionally, based upon a joint request of the parties, FMCS pilots online training in joint labor-management initiatives and carefully examines measurable outcomes to determine future applications. While the FMCS continues to pursue innovative joint cooperative initiatives, utilization of traditional FMCS mediation assistance remains a useful tool available to the parties. In 2012, the FMCS assisted the Transportation Security Administration (TSA) and the American Federation of Government Employees (AFGE) to achieve its first ever labor contract covering more than 45,000 employees. The Social Security Administration and its employees were also able to successfully negotiate a new collective bargaining agreement with FMCS mediation assistance.

The foregoing examples are a small representation 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 sustainable 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 and information has prompted recent initiatives related to improving employee performance evaluation systems and encouraging 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 receive 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 2014. These include creating new and updated procedures and directives in all significant administrative areas and expanding the availability and use of information technology systems to reduce paperwork burdens on the public and FMCS employees.

Following a number of administration initiatives relating to the Freedom of Information Act (FOIA), the FMCS is also committed to improving transparency and voluntary disclosure of agency information. In FY 2012, the FMCS was recognized by the Department of Justice as one of nine Federal agencies to receive top marks in how it carried out its responsibilities under FOIA. The FMCS will continue these efforts into FY 2014 and expand upon its voluntary disclosures of information in machine readable formats.

For FY 2014, the FMCS will continue to collapse and virtualize its information technology infrastructure and expand remote assist capabilities and services to carry on the progress towards meeting administration goals and initiatives relating to telecommuting, cloud computing, continuity of operations, and cyber security. In FY 2012, the FMCS leveraged its cloud-capable infrastructure by moving development platforms and many production applications to the central virtual platform. In FY 2013 and 2014, the FMCS will continue this process as well as expanding its mobile device management systems to stay abreast of technology and cyber-best practices as they evolve. Integral with this system will be maintaining scheduled upgrades to technology hardware and software assets, and the planned completion of the agency-wide distribution of Personal Identity Verification (PIV) cards, as well as the ongoing process of keeping the FMCS disaster recovery and devolution sites up to date.

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 and offices. 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 2012, for the eighth 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**

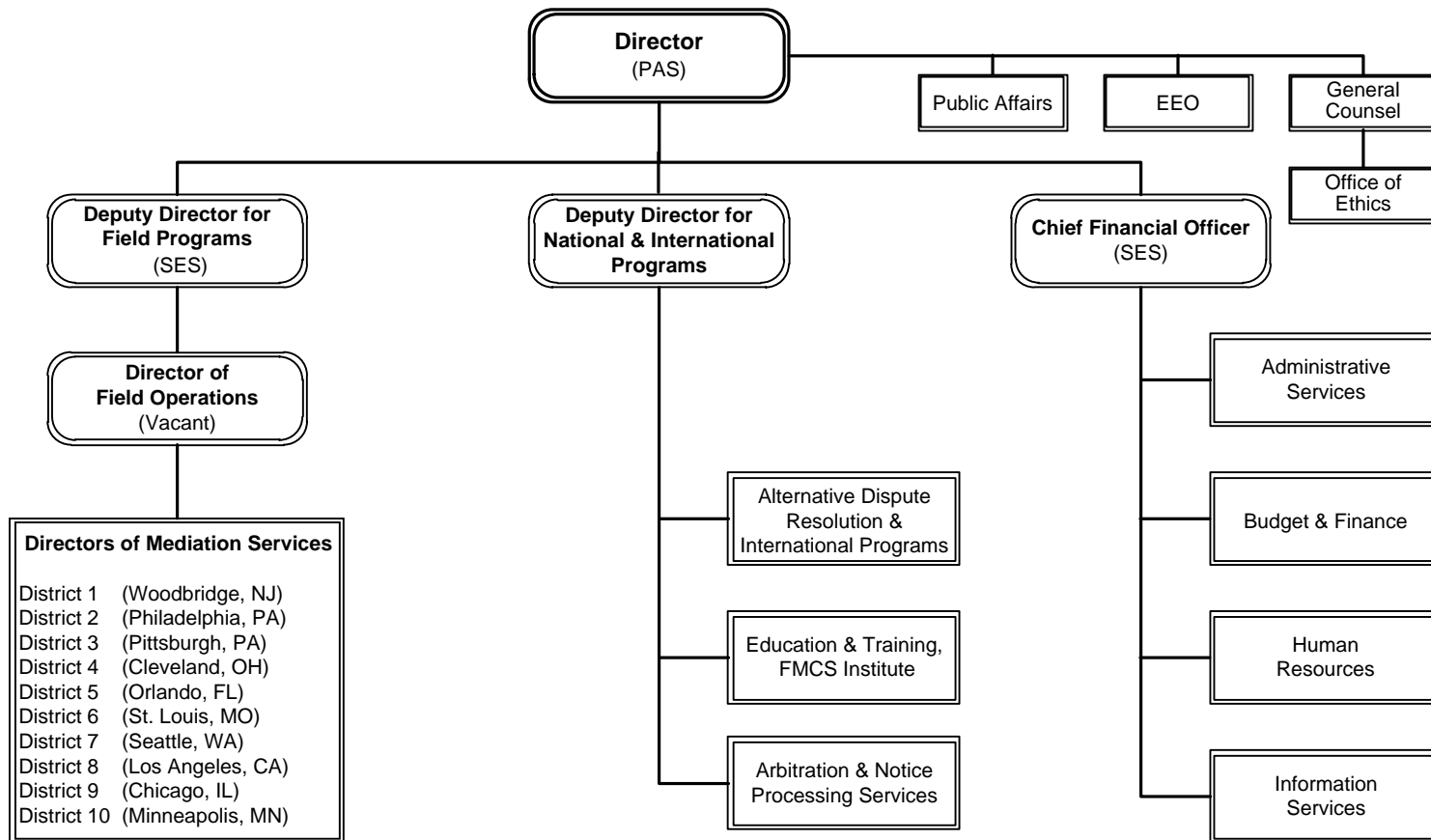
The FMCS mission statement reflects the agency's statutory foundation: "to promote the development of sound and stable labor-management relationships and to prevent or minimize work stoppages by assisting labor and management in settling their disputes through mediation." As the scope and complexity 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 2014, 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 \$47,620,000.

## II. FMCS Organizational Chart



As of Mar. 1, 2013

### III. Appropriation Language

#### **FEDERAL MEDIATION AND CONCILIATION SERVICE**

##### *SALARIES AND EXPENSES*

*For expenses necessary for the Federal Mediation and Conciliation Service ('Service') to carry out the functions vested in it by the Labor Management Relations Act, 1947, including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978; and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, \$47,620,000, including \$400,000 to remain available through September 30, 2015, 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.*

Note—A full-year 2013 appropriation for this account was not enacted at the time the budget was prepared; therefore, this account is operating under a continuing resolution (P.L. 112—175). The amounts included for 2013 reflect the annualized level provided by the continuing resolution.

## 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) (ADRA) authorizes and encourages agencies to use various alternative means of dispute resolution in the federal administrative process in order to avoid the time and expense of litigation. The ADRA amended, permanently enacted, and incorporated into the Administrative Procedure Act, the Administrative Dispute Resolution Act provisions (5 U.S.C. 571 *et. seq.*) and the Negotiated Rulemaking Act provisions (5 U.S.C. 561, *et. seq.*) of 1990 legislation. These provisions and their predecessors suggest that the ADR and regulatory-negotiation “experiments” have become well-accepted processes of federal agencies.

Under the ADRA, 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 ADRA encourages the development of guidelines to expedite the selection of neutrals and to facilitate the use of alternative dispute resolution in the federal government.

This legislation also amends the Labor-Management Relations Act of 1947 (Taft-Hartley) by permanently adding Section 173(f) of Title 29 of the United States Code (29 U.S.C. 173(f)) so that 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, continued by Executive Order 13591, November 23, 2011, 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 2012		FY 2013		FY 2014		Total Program	
	Actual		CR*		Request		Increase or (Decrease)	
	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	Budget Authority	Full-Time Equivalent Employment	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	\$36,568	180	\$36,851	184	\$37,483	4	\$915
2. Arbitration Services .....	8	700	8	700	8	709	0	9
3. National Office Support and Administrative Services.....	43	8,895	43	8,895	46	9,028	3	133
4. Labor-Management Grants .....	0	0	0	0	0	400	0	400
<b>Sub-Total Appropriated</b>	<b>231</b>	<b>\$46,163</b>	<b>231</b>	<b>\$46,446</b>	<b>238</b>	<b>\$47,620</b>	<b>7</b>	<b>\$1,457</b>

\* Annualized CR (P.L. 112-175)



**BUDGET AND STAFFING BY ACTIVITY**  
(in thousands of dollars)

	FY 2012		FY 2013		FY 2014		Total Program Increase or (Decrease) 2012 to 2014	
	Actual		CR*		Request		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	\$1,235	8	\$1,715	8	\$1,715	0	\$480
6. FMCS Internal Training and Education.....	0	596	0	750	0	750	0	154
<b>Sub-Total Reimbursable</b>	8	\$1,831	8	\$2,465	8	\$2,465	0	\$634
<b>TOTAL RESOURCES</b>	<b>239</b>	<b>\$47,994</b>	<b>239</b>	<b>\$48,911</b>	<b>246</b>	<b>\$50,085</b>	<b>7</b>	<b>\$2,091</b>

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

**BUDGET ESTIMATES FISCAL YEAR 2014  
FINANCIAL REQUIREMENTS**

(in thousands of dollars)

	FY 2011 Actual	FY 2012 Actual	FY 2013 CR*	FY 2014 Request
<b><u>Personnel Compensation</u></b>	<u>\$26,824</u>	<u>\$26,383</u>	<u>\$27,598</u>	<u>28,165</u>
<b>Full-time permanent</b>	<b>26,396</b>	<b>26,008</b>	<b>27,222</b>	<b>27,787</b>
- Full-time permanent positions	26,396	26,008	27,222	27,787
<b>Other than full-time permanent</b>	<b>91</b>	<b>65</b>	<b>66</b>	<b>68</b>
- Other than full-time permanent positions	91	65	66	68
<b>Other Personnel Compensation</b>	<b>337</b>	<b>310</b>	<b>310</b>	<b>310</b>
- Overtime & holiday pay	26	45	45	45
- Cash incentive awards	311	265	265	265
<b><u>Personnel Benefits</u></b>	<u>\$7,893</u>	<u>\$7,876</u>	<u>\$8,032</u>	<u>\$8,139</u>
<b>Civilian Personnel Benefits</b>	<b>7,893</b>	<b>7,876</b>	<b>8,032</b>	<b>8,139</b>
- CSRS Retirement Contribution	222	185	180	170
- FERS Retirement Contribution	2,687	2,755	2,800	2,830
- Federal Retirement Thrift Savings Plan Contribution	1,100	1,100	1,183	1,199
- Group life insurance	49	49	49	49
- Health Insurance Contribution	1,614	1,662	1,712	1,785
- OASDI – FERS	1,293	1,300	1,350	1,388
- Employee compensation	399	401	337	302
- Relocation expenses (PCS)	0	0	0	0

\* Annualized CR (P.L. 112-175)

**BUDGET ESTIMATES FISCAL YEAR 2014**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2011 Actual	FY 2012 Actual	FY 2013 CR*	FY 2014 Request
<b><u>Personnel Benefits (continued)</u></b>				
<b><u>Civilian Personnel Benefits (continued)</u></b>				
- Cost-of-living allowance	40	19	19	19
- Subsidy for commuting costs	116	52	52	52
- Medicare contribution	373	353	350	345
	<u>\$5</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b><u>Benefits of Former Personnel</u></b>				
- Unemployment compensation	5	0	0	0
- Voluntary separation incentive	0	0	0	0
	<u>\$1,782</u>	<u>\$1,801</u>	<u>\$1,791</u>	<u>\$1,791</u>
<b><u>Travel and Transportation of Persons</u></b>				
- National office travel	121	140	130	130
- Official car	11	11	11	11
- Field office travel	1,650	1,650	1,650	1,650
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b><u>Transportation of Things</u></b>				
- Transportation of household goods (PCS)	0	0	0	0
	<u>6,409</u>	<u>6,208</u>	<u>6,524</u>	<u>6,624</u>
<b><u>Rents, Communications, and Utilities</u></b>				
<b>Rental Payments to GSA</b>	<b>5,400</b>	<b>5,250</b>	<b>5,566</b>	<b>5,666</b>
- Rental payments to GSA	5,400	5,250	5,566	5,666

**BUDGET ESTIMATES FISCAL YEAR 2014**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2011 Actual	FY 2012 Actual	FY 2013 CR*	FY 2014 Request
<b><u>Rents, Communications, and Utilities (continued)</u></b>				
<b>Rental Payments to Others</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>
- Conference room rental	4	4	4	4
<b>Communications, Utilities and Miscellaneous Charges</b>	<b>1,005</b>	<b>954</b>	<b>954</b>	<b>954</b>
- Reproduction equipment rental	0	0	0	0
- Miscellaneous charges	7	5	5	5
- Audio-visual equipment rental	3	3	3	3
- GSA Phones	232	233	233	233
- FTS Phones	20	37	37	37
- Commercial Phones	282	254	254	254
- Data communication services	315	315	315	315
- Postal services and rentals	146	107	107	107
<b><u>Printing and Reproduction</u></b>	<b><u>\$30</u></b>	<b><u>\$35</u></b>	<b><u>\$30</u></b>	<b><u>\$30</u></b>
- FMCS forms and other printing	30	35	30	30
<b><u>Other Contractual Services</u></b>	<b><u>\$2,015</u></b>	<b><u>\$2,738</u></b>	<b><u>\$1,704</u></b>	<b><u>\$1,704</u></b>
<b>Advisory and Assistance Service</b>	<b>31</b>	<b>51</b>	<b>41</b>	<b>41</b>
- Computer assisted legal research	5	15	15	15
- OPM background investigations	16	16	16	16
- Office equipment and machinery relocation	10	20	10	10

**BUDGET ESTIMATES FISCAL YEAR 2014**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2011 Actual	FY 2012 Actual	FY 2013 CR*	FY 2014 Request
<b><u>Other Contractual Services (continued)</u></b>				
<b>Other Services</b>	<b>305</b>	<b>605</b>	<b>327</b>	<b>327</b>
- Management and professional services	300	600	322	322
- Official representation fund	5	5	5	5
<b>Other purchases of goods and services from Government Accounts</b>	<b>190</b>	<b>314</b>	<b>379</b>	<b>379</b>
- Guard security and Federal Protective Services	190	314	379	379
<b>Operation and Maintenance of Facilities</b>	<b>27</b>	<b>87</b>	<b>26</b>	<b>26</b>
- Office repairs and alterations	27	87	26	26
<b>Medical Care</b>	<b>21</b>	<b>21</b>	<b>21</b>	<b>21</b>
- Medical care	21	21	21	21
<b>Operation and Maintenance of Equipment</b>	<b>1,441</b>	<b>1,660</b>	<b>910</b>	<b>910</b>
- Maintenance of office equipment	71	75	61	61
- Maintenance of information technology equipment	620	679	360	360
- Information technology support services	700	856	439	439
- Support of payroll/personnel operations	50	50	50	50
- Household goods storage (PCS)	0	0	0	0

**BUDGET ESTIMATES FISCAL YEAR 2014**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2011 Actual	FY 2012 Actual	FY 2013 CR*	FY 2014 Request
<b><u>Supplies and Materials</u></b>	<u>\$258</u>	<u>\$257</u>	<u>\$257</u>	<u>\$257</u>
- Office supplies and materials	188	187	187	187
- Information technology supplies and materials	70	70	70	70
<b><u>Equipment</u></b>	<u>\$593</u>	<u>\$865</u>	<u>\$510</u>	<u>\$510</u>
- Furniture and fixtures	80	116	80	80
- Information technology hardware/software	358	595	390	390
- Audio-visual equipment	155	154	40	40
<b><u>Grants, Subsidies and Contributions</u></b>	<u>\$750</u>	<u>\$0</u>	<u>\$0</u>	<u>\$400</u>
<b>Sub-total appropriated</b>	<b>\$46,559</b>	<b>\$46,163</b>	<b>\$46,446</b>	<b>\$47,620</b>

**BUDGET ESTIMATES FISCAL YEAR 2014**  
**FINANCIAL REQUIREMENTS**  
(in thousands of dollars)

	FY 2011 Actual	FY 2012 Actual	FY 2013 CR*	FY 2014 Request
<b><u>Reimbursable Programs (non-appropriated)</u></b>	<b><u>\$1,298</u></b>	<b><u>\$1,235</u></b>	<b><u>\$1,715</u></b>	<b><u>\$1,715</u></b>
- Compensation	717	703	860	860
- Benefits	188	180	242	242
- Travel	278	255	250	250
- Communications	5	1	3	3
- Other contractual services	102	86	350	350
- Supplies and materials	8	10	10	10
<b>Sub-total of Reimbursable Programs</b>	<b>\$1,298</b>	<b>\$1,235</b>	<b>\$1,715</b>	<b>\$1,715</b>
<b><u>FMCS Internal Training and Education (non-appropriated)</u></b>	<b><u>\$706</u></b>	<b><u>\$596</u></b>	<b><u>\$750</u></b>	<b><u>\$750</u></b>
- Seminars, workshops, conferences and training	323	255	325	325
- New mediator costs	107	124	145	145
- Tuition	121	127	127	127
- Other contractual services	41	12	50	50
- Supplies & materials	12	8	20	20
- Subscriptions	102	70	83	83
<b>Sub-total of FMCS Training and Education</b>	<b>\$706</b>	<b>\$596</b>	<b>\$750</b>	<b>\$750</b>
<b>Sub-total of non-appropriated (reimbursable obligations)</b>	<b>\$2,004</b>	<b>\$1,831</b>	<b>\$2,465</b>	<b>\$2,465</b>
<b>TOTAL RESOURCES</b>	<b>\$48,563</b>	<b>\$47,994</b>	<b>\$48,911</b>	<b>\$50,085</b>

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

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

	2012 Actual	2013 Estimated	2014 Requested
Executive Level III.....	1	1	1
ES.....	2	2	4
<b>Subtotal.....</b>	<b>3</b>	<b>3</b>	<b>5</b>
GS-15.....	21	21	21
GS-14.....	146	154	155
GS-13.....	27	21	25
GS-12.....	8	5	5
GS-11.....	1	2	2
GS-10.....	1	1	2
GS-9.....	6	4	4
GS-8.....	14	14	13
GS-7.....	7	6	6
GS-6.....	7	7	7
GS-5.....	1	1	1
GS-4.....	0	0	0
GS-3.....	1	0	0
GS-2.....	0	0	0
<b>Subtotal.....</b>	<b>240</b>	<b>236</b>	<b>241</b>
<b>Total employment, end of year.....</b>	<b>243 *</b>	<b>239 *</b>	<b>246 *</b>
<b>Full-time equivalent (FTE) usage.....</b>	<b>239 *</b>	<b>239 *</b>	<b>246 *</b>
Average ES Salary.....	\$163,900	\$163,700	\$167,500
Average GS Level.....	12.90	12.92	12.85
Average GS Salary.....	\$110,450	\$111,300	\$113,000

\* 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.” 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 65 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 2012, FMCS mediators actively monitored over 13,100 collective bargaining negotiations and were directly involved “at the table” in more than 4,500. 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 productive 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 2012, the FMCS mediated nearly 1,800 grievance mediation cases and helped the parties reach agreement in 1,367 of these (77 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 2012, FMCS mediators conducted more than 2,100 training programs with 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 2012, the Office of Arbitration Services processed almost 13,600 requests for arbitration panels nationwide. Arbitrators on the FMCS roster heard and decided nearly 2,000 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 increase the use of alternative dispute resolution throughout the federal government, reduce litigation costs, and promote better government decision-making. A recent development has been greater 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 2012, FMCS mediated more than 1,100 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. There were no funds appropriated for grants in FY 2012 or FY 2013.

#### **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, essential 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 levels 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 fostering 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 2013 and FY 2014**

The FMCS's workload over prior fiscal years, caseload estimates, accomplishments for FY 2012, and estimated workload in FY 2013 and 2014 are included in the following pages. These estimates should be read in conjunction with the FMCS's Annual Performance Plan detailed in Section VIII.

## WORKLOAD OUTPUTS AND PROJECTIONS

### FISCAL YEARS 2008 - 2014

<b>PROGRAM SERVICES</b>	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2012	FY 2013	FY 2014
	Actual	Actual	Actual	Actual	Estimated	Actual	Estimated	Estimated
<b>1. COLLECTIVE BARGAINING</b>								
<b>MEDIATION.....</b>								
Assigned Cases <sup>i</sup>	14,308	13,887	14,127	13,712	14,000	13,114	13,700	13,700
- Private Sector	12,914	12,425	12,888	12,460	12,843	11,814	12,392	12,392
- Public Sector (state and municipal)	1,083	1,138	906	943	852	943	1,007	1,007
- Federal Sector	311	324	333	309	305	357	300	300
Mediated Cases <sup>ii</sup>	4,836	4,767	4,919	4,665	4,811	4,528	4,801	4,801
- Private Sector	3,437	3,320	3,632	3,271	3,470	3,079	3,437	3,437
- Public Sector (state and municipal)	1,145	1,155	991	1,091	1,078	1,111	1,088	1,088
- Federal Sector	254	292	296	303	263	338	276	276
Closed Cases	13,480	13,308	12,992	13,776	13,209	13,652	13,046	13,046
Closed Mediated Cases	3,914	3,958	4,005	3,815	3,917	3,764	3,912	3,912
Activity Rate <sup>iii</sup>	29%	30%	31%	28%	30%	28%	30%	30%
Settled and Closed Mediated Cases	3,396	3,395	3,428	3,234	3,379	3,159	3,458	3,458
Percentage of mediated cases settled w/FMCS <sup>iv</sup>	87%	86%	86%	85%	86%	84%	88%	88%
Activity rate in significant cases <sup>v</sup>	38%	37%	46%	33%	40%	46%	45%	45%
<b>2. GRIEVANCE MEDIATION .....</b>								
Assigned Cases	1,749	2,027	2,124	1,968	1,900	1,837	1,900	1,900
Mediated Cases	1,728	2,004	2,084	1,905	1,867	1,784	1,863	1,863
- Private Sector	1,296	1,570	1,708	1,513	1,455	1,372	1,463	1,463
- Public Sector (state and municipal)	314	313	239	261	304	264	298	298
- Federal Sector	118	121	137	131	141	148	139	139
Settled GM Cases	1,299	1,479	1,532	1,428	1,405	1,367	1,408	1,408
Percentage of cases settled w/ FMCS <sup>vi</sup>	75%	74%	74%	75%	75%	77%	76%	76%

<b>PROGRAM SERVICES</b>	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Estimated	FY 2012 Actual	FY 2013 Estimated	FY 2014 Estimated
<b>3. RELATIONSHIP-DEVELOPMENT AND TRAINING .....</b>								
Number of training programs provided	2,356	2,327	2,200	2,301	2,400	2,128	2,300	2,300
- Private Sector	1,390	1,400	1,471	1,267	1,372	1,262	1,406	1,406
- Public Sector (state and municipal)	712	682	433	493	447	463	634	634
- Federal Sector	254	245	296	541	581	403	259	259
<b>4. EMPLOYMENT MEDIATION .....</b>								
Mediated Cases	1,220	1,362	1,392	1,330	1,320	1,110	1,300	1,300
- Federal Sector	1,205	1,336	1,387	1,323	1,295	1,090	1,263	1,263
- Public Sector (state and municipal)	11	9	2	3	8	5	13	13
- Private	4	17	3	4	17	15	24	24
Settled EM Cases	576	638	675	641	642	537	632	632
Percent of EM cases settled w/ FMCS <sup>vii</sup>	47%	47%	48%	48%	49%	48%	49%	49%
<b>5. OUTREACH .....</b>								
Outreach cases <sup>viii</sup>	3,347	3,622	3,240	3,190	3,300	3,019	3,200	3,200
<b>6. ARBITRATION SERVICES .....</b>								
Number of panels issued	15,865	16,692	16,486	13,500	14,500	13,538	14,000	14,000
Number of arbitrators appointed	6,568	6,496	6,870	5,575	5,895	6,129	5,782	5,782
Average number of days for arbitrator appointment	3	3	2	2	2	2	2	2
<b>7. INSTITUTE.....</b>								
Number of courses provided	5	7	12	5	10	8	13	13
Number of participants	150	187	207	93	220	179	225	225



## VIII. Annual Performance Plan

Performance expectations for each service area are guided by the FMCS's current 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 2012, and performance goals for FY 2013 and FY 2014.

## Strategic Goal #1: Mediation

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

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### Objective:

- Use of FMCS collective bargaining mediation by labor and management leaders.

### Action:

- Early intervention activities, particularly in initial contracts, the health care industry, and large and high-impact bargaining units.

### Strategies:

- Encourage labor and management leaders to employ mediation in their contract negotiations.
- Pursue FMCS joint problem-solving initiatives during the term of the agreement.

### Expected Outputs:

- Increased mediator case activity rates.
  - Increased proportion of cases with meetings held prior to contract expiration date.
- 

### Discussion:

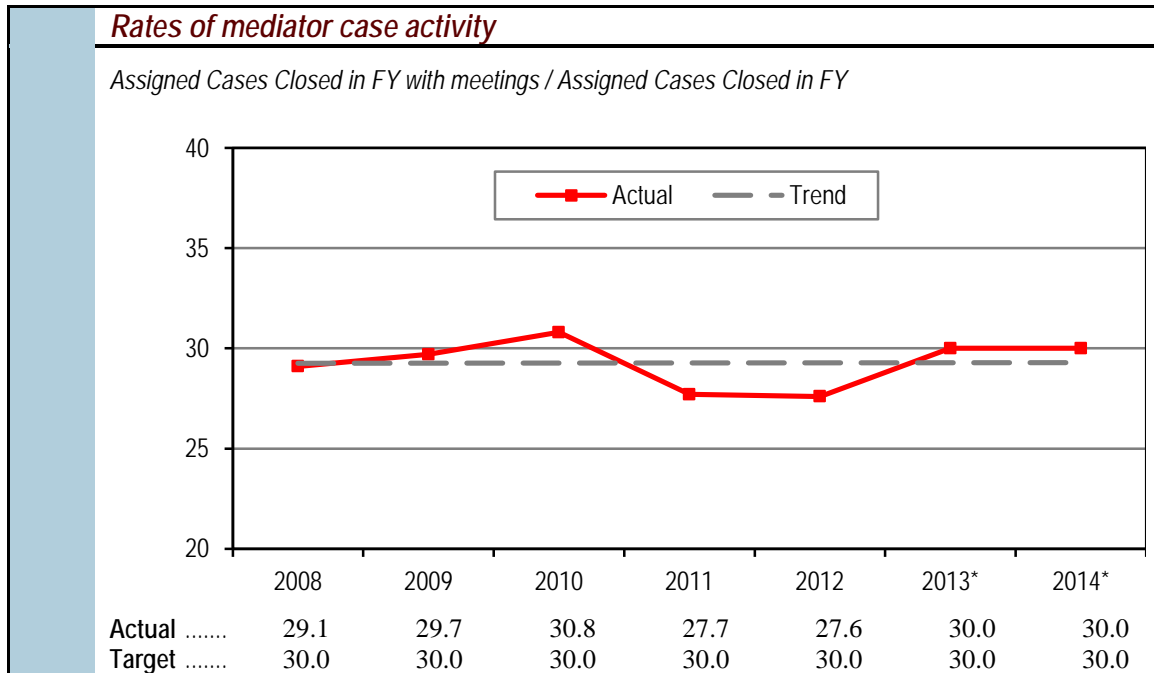
Collective bargaining mediation represents the core of the FMCS's mission and its most publicly visible work. In 2005, an independent study conducted for the FMCS found that mediation prior to a contract's expiration date significantly reduces the duration of any work stoppage that occurs. Previously, 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.

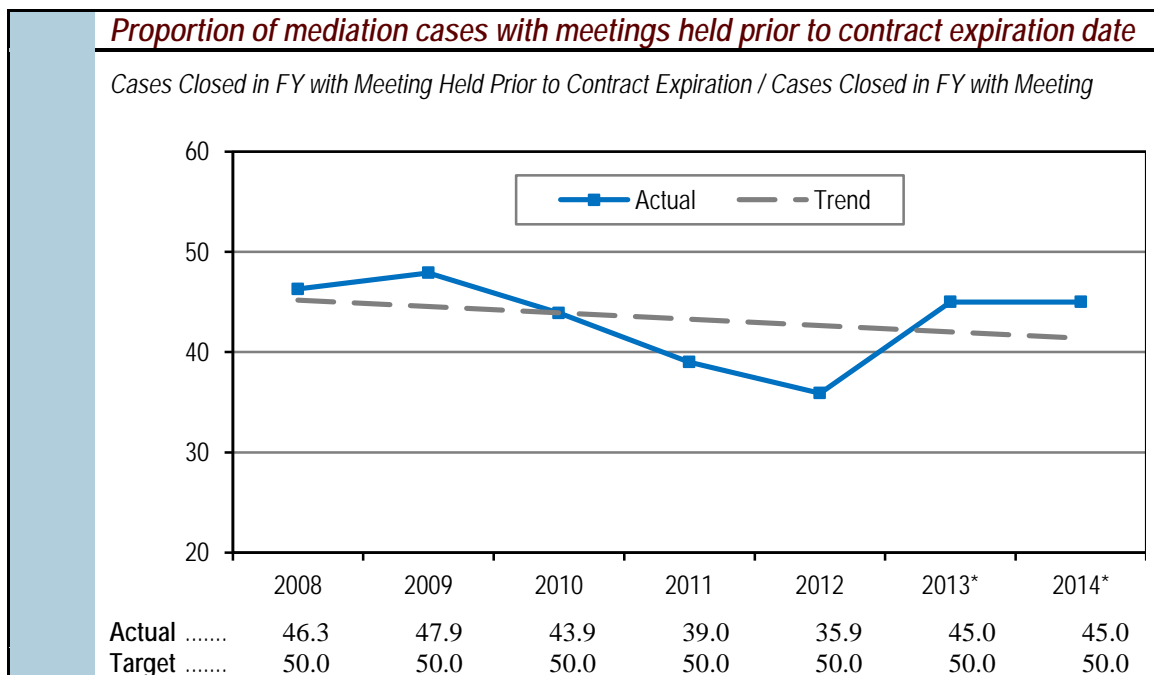
The FMCS evaluates its success in these areas by looking at how many negotiations use mediation services, whether or not a work stoppage occurred, the duration of any stoppage, and the timing of mediators' involvement. On an aggregate basis, the FMCS also estimates the financial cost of work stoppages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

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### Objective:

- Use collaborative dispute resolution processes to manage workplace conflict.

### Actions:

- Provide techniques and information that help parties improve their collective bargaining relationship, with particular emphasis on implementing changes to health care benefits.
- Deliver internally sustainable dispute resolution systems.
- Educate labor and management leaders at home and abroad in the art of building and maintaining labor-management partnerships.

### Strategy:

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

### Expected Output:

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

### 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.

The continued success of American employers and employees 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.

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#### **Objectives:**

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

#### **Actions:**

- Increased utilization of FMCS services to resolve contract-based disputes.
- Maintain roster of experienced arbitrators.
- 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.

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#### **Discussion:**

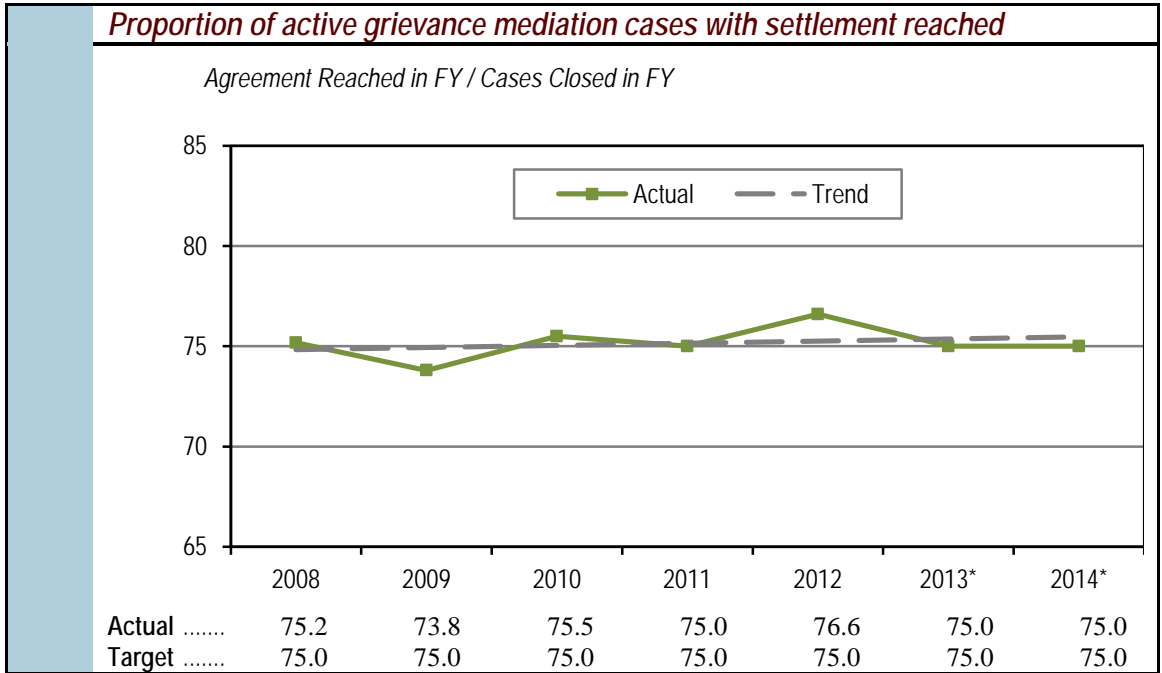
Grievance mediation, joint problem-solving facilitation, and arbitration are three approaches for resolving disputes that may arise from differing interpretations of a labor contract's terms and conditions. Grievance mediation and joint problem solving facilitation are voluntary processes that rely upon 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.

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### Objectives:

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

### Action:

- Increase number 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.
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### Discussion:

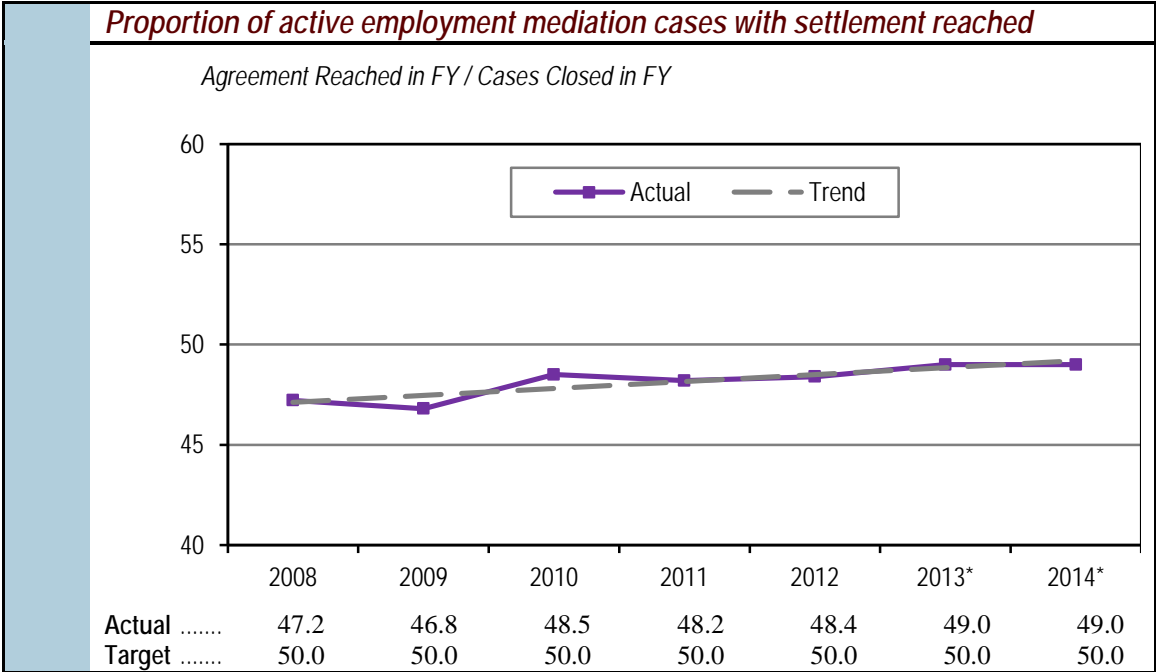
The FMCS's alternative dispute resolution (ADR) work is defined by the Administrative Dispute Resolution Act of 1996 and is designed to help resolve disputes that do not result from a collective bargaining relationship. Under the Act, the FMCS is generally limited to work in the federal sector, but may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

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- <sup>i</sup> Section 8(d) of the National Labor Relations Act, as amended, 29 U.S.C. §158(d) requires that any employer or labor organization provide notice to the FMCS 30 days prior to contract expiration. Not all cases providing notices are assigned. Actual FY 2012 FMCS case intake exceeded 22,000.
- <sup>ii</sup> Mediated cases represent the number of cases in the FY where mediators have become active in the negotiations.
- <sup>iii</sup> Defined as the number of closed cases where there was at least one meeting divided by the number of total closed assignments.
- <sup>iv</sup> Defined as the number of mediated cases settled divided by the total number of mediated cases.
- <sup>v</sup> Significant cases are generally defined as situations where the bargaining unit exceeds 1,000.
- <sup>vi</sup> Defined as the number of grievance mediation cases settled and closed within the fiscal year divided by the number of closed GM assignments.
- <sup>vii</sup> Defined as the number of mediated employment cases settled divided by the number of mediated cases closed.
- <sup>viii</sup> FMCS requires all mediators to engage in outreach efforts. These kinds of activities include non-bargaining meetings with labor and management representatives, attendance at conferences, meetings with local and state officials to offer FMCS services, and presentations designed to increase public knowledge.