



FMCS

FEDERAL MEDIATION &
CONCILIATION SERVICE

Equity Plan

Executive Summary

The Federal Mediation and Conciliation Service was created by Congress in 1947 to assist in the prevention and resolution of labor disputes that impede interstate commerce. Over the ensuing years, FMCS's role has expanded, and now FMCS is a complete conflict management services agency. These services include: mediation (including collective bargaining, employment, public policy, and grievance); training (including relationship development training); and facilitation (including negotiated rulemaking). Most of our services are voluntary, and must be agreed to by the parties. Because of the nature of our services, FMCS does not collect demographic information from the parties or the workers they represent.

FMCS conducts operations at its Washington, D.C., headquarters, 19 field offices, and via a nationally distributed workforce of mediators and other field staff in 63 locations throughout the United States. At the close of 2021, FMCS had 207 employees, 144 of whom were dedicated to delivering core FMCS services. FMCS receives most of its funding through direct appropriations. See more at www.fmcs.gov.

Summary of Action Plan: To deliver excellent and equitable conflict management services.

- **Action 1 – Promoting Virtual Services (in Perpetuity)**
FMCS is not able to send its mediators to every requested service. Additionally, some services are provided in agency headquarters. FMCS will proffer virtual services when requested, and will encourage agencies to provide virtual options in public policy matters. Underserved stakeholders will be able to receive more services and engage in more public policy matters.
- **Action 2 – Outreach to all Potential Private Sector Labor Disputes**
FMCS currently does not reach out to all private sector labor parties. FMCS will reach out to all F-7 filers and parties and track underserved communities. FMCS will provide more services overall and particularly to those in underserved communities.
- **Action 3 – Increasing Procurement Partnerships with Disadvantaged Businesses**
FMCS has been unable to partner with many socially and economically disadvantaged businesses, and has not been able to award certain contracts because of a lack of partnerships. FMCS will: establish a partnership agreement with the Small Business Administration; increase set-asides to socially and economically disadvantaged businesses using government-wide acquisition contracts; and develop an outreach program. FMCS will make more awards to socially and economically disadvantaged businesses.
- **Bonus Action – Preventive Dispute Resolution Training Programs in Title I Schools**
Students are often not provided access to skills that would allow them to de-escalate conflict. If funded, the program would provide training in alternative dispute resolution to students in Title I schools. This should result in an increased ability of students to de-escalate conflicts.

Summary of Early Accomplishments

- Completed mediation of a highly complex, high-stakes public policy negotiation over the Puget Sound Chinook Salmon Resource Management Plan. The parties and participants included 17 Tribal Nations, multiple Tribal organizations, multiple Washington state agencies, and multiple Federal agencies. FMCS will continue outreach efforts to ensure federal agencies and Tribal Nations are aware that FMCS is available to facilitate or mediate their negotiation processes and meetings. Providing this service virtually allowed for many more stakeholders to participate.
- Successful delivery of services to underserved communities, even during the pandemic. A few examples include:
 - A 2020 training program conducted for a Workforce Development Program covering communication and listening, teamwork and conflict resolution, bias and inclusion, gender at work, and harassment and discrimination. The WDP is a unique joint labor-management project that is part of a \$1.5 billion expansion project designed to open doors for women, minorities, and nontraditional applicants to enter meaningful union careers in the building trades. The highly customized and targeted training involved 240 students.
 - A collective bargaining mediation for a non-profit with a 750-person bargaining unit in 2020. The non-profit works in communities in the United States and abroad to serve those who are homeless, living in poverty, or seeking safety.
 - Completion of a 36-session initial collective bargaining mediation for a 300+ person bargaining unit in 2021. The organization provides essential services to low-income, uninsured, and vulnerable populations.
- FMCS is receiving a growing number of requests from the public and federal agencies to assist with the improvement of workplaces to allow for greater diversity of perspectives, ideas, and outcomes involving all employees. Therefore, as part of the agency's Inclusion Project, FMCS has reviewed, refreshed, and redesigned eight programs. Sessions on how to provide this training are being rolled out throughout the agency from February through June of 2022. The session topics are: diversity and inclusion; cultural awareness; understanding bias; micro-aggressions; bullying; allies; creating safe spaces; EEO training basics; and conducting facilitated dialogues.
- Completed the first-ever fully virtual negotiated rulemaking as facilitators for the Department of Education regarding borrower defense rules for student loan repayment. This service promoted equity in several ways: many of the stakeholders are from underserved communities, negotiated rulemaking allows stakeholders from underserved communities to have more impact in rulemaking, and providing the service virtually allowed many more stakeholders to attend.
- Included equity considerations in the FMCS draft strategic plan, which was posted on the Federal Register for stakeholder comment.

Equity Action Plan

Action 1 – Promoting Virtual Services (in Perpetuity)

A. Barrier to Equitable Outcome(s)

FMCS services the entire country with 144 mediators spread nationwide, and travel is generally funded by FMCS's limited appropriations.

- In the past, FMCS would not be able to provide services to all who requested it, particularly in areas in which it is difficult and expensive to travel to and where we do not have an FMCS presence, such as Hawai'i and Alaska.
- Mediator travel time and expenditures limit the number of mediations that can be conducted in person.
- Although FMCS mediators generally travel to the parties, for public policy services, such as negotiated rulemaking, the meeting occurs often at an agency site, often in Washington, D.C. Therefore, members of the public that want to attend must travel to Washington, D.C.

B. Action and Intended Impact on Barrier

FMCS pivoted early in the pandemic, and has successfully performed all services virtually, from facilitation to large collective bargaining mediations. While there is value in meeting in person, FMCS can and does provide valuable services virtually.

- FMCS is committed to providing services virtually when FMCS employees or the parties are not able to travel to provide/receive services in person.
 - During the pandemic, we have observed a substantial increase in services provided. For example, FMCS saw a greater than 25% increase in meetings (including mediations, facilitations, and trainings) between FY 2019 and FY 2021. This occurred even with a 10% decrease in mediators.
- FMCS is also committed to encouraging parties to allow members of the public to participate virtually in public policy facilitations.
 - We believe this action will be crucial for public policy and negotiated rulemaking. Many of our public policy and negotiated rulemaking services impact underserved communities. For example, FMCS has been involved in such services with over a dozen Tribal Nations as well as facilitating rulemaking regarding student debt. These sessions prior to the pandemic were mostly held in person without virtual capacity. During the pandemic, we have anecdotal evidence that public participation increased. For example, during just one session of the Department of Education student debt rules, FMCS was informed that several hundred members of the public had logged on to observe.

C. Tracking Progress

- FMCS collects the zip codes of the bargaining table, which can provide information on rural communities as well as areas of high poverty. FMCS has started to track the numbers of both virtual and non-virtual services provided to the parties. FMCS also will be tracking services provided to parties who self-identify that most workers represented are a member of a racial minority.

Therefore, FMCS will be able to start tracking not only the number of services provided to the public, but also the number of virtual services provided in the private sector to several underserved communities, including racial minorities, rural community members, and workers who live in poverty.

- We believe this action plan will be most successful in the long-term, after all parties and stakeholders have access to reliable internet service.

D. Accountability

- Managers are already offering virtual services when such services are requested.
- Senior leadership will ensure managers are aware that this provision of virtual services is to be offered even after FMCS has fully returned to the office.
- FMCS will update the performance work plan of all public relations employees to include providing outreach regarding the Equity Plan.
- Mediator and mediator supervisor position descriptions have been updated to require the following skill: must be able to conduct efficient and effective mediations; relationship development trainings; alternative dispute resolution services; and education, advocacy, and outreach activities both in-person and virtually.
- FMCS's next strategic plan will include the following: developing and implementing a FMCS diversity, equity, inclusion, and accessibility strategic plan with a goal of yielding tangible changes that positively impact the lives of people both internally at FMCS and externally to those it serves.
- Public Outreach
 - FMCS will provide information on virtual services on the Federal Register.
 - FMCS will provide information on virtual services through the FMCS website.
 - FMCS will provide information on virtual services through the FMCS listserv and social media platforms.
 - FMCS will survey stakeholders for information on how FMCS could improve equity in its services.
 - FMCS will include a diversity, equity, inclusion, and accessibility presentation at conference and include information on FMCS's progress under the Equity Plan.

Action 2 – Outreach to all Potential Private Sector Labor Disputes

A. Background: Pursuant to statute, certain private sector parties must notify FMCS if there is a collective bargaining agreement that has not been settled. The notification form is called an F-7.

B. Barrier to Equitable Outcome(s)

- Not all bargaining units that file F-7s are contacted by FMCS. FMCS receives over 14,000 F-7s annually (14,286 in FY 2019) and assigns approximately 60% of these forms for contact by a mediator (63% in FY 2019). Strained resources have limited the outreach in this area.

- FMCS does not collect demographic information on F-7 filers or any other parties or clients.
- Without outreach from FMCS, parties may not be aware of the FMCS services (including training and mediation) available to them to prevent or resolve labor disputes.

C. Action and Intended Impact on Barrier

- FMCS will develop and implement a new online filing system to receive the F-7 notices.
- FMCS will reach out to all parties filing F-7s, as well as to the other party to the collective bargaining agreement, to see if they are interested in receiving services from FMCS.
- FMCS will ask filing parties whether the bargaining unit includes a majority of workers who are a member of a racial minority. This will be an optional question.
- FMCS will provide all services to requesting parties within legal and budgetary constraints.
- This action was prioritized because F-7s remain the best way to reach eligible private sector organizations not currently receiving services.

D. Tracking Progress

- FMCS will track the number of emails sent to parties regarding the F-7 and FMCS services.
- FMCS will track the zip codes of the location of bargaining as well as the optional request regarding number of units in which most workers are from racial minorities.

E. Accountability

- FMCS will set up an automatic email to all parties filing an F-7, as well as all parties listed on the F-7.
- FMCS will include information on FMCS services in this email.
- FMCS will add the successful completion of these actions to the performance work plan of all FMCS Notice Processing Unit supervisors.
- FMCS's next strategic plan will include the following: developing and implementing a FMCS diversity, equity, inclusion, and accessibility strategic plan with a goal of yielding tangible changes that positively impact the lives of people both internally at FMCS and externally to those it serves.
- Public Outreach
 - FMCS will provide information on the new F-7 process on the Federal Register.
 - FMCS will provide information on the new F-7 process through the FMCS website.
 - FMCS will provide information on the new F-7 process through the FMCS listserv and social media platforms.
 - FMCS will survey stakeholders for information on how FMCS could improve equity in its services.

- FMCS will include a diversity, equity, inclusion, and accessibility presentation at every future conference and include progress updates on FMCS's Equity Plan.
- FMCS will reach out to unions dedicated to serving racial minorities and other underserved communities to better understand how to its improve services.

Action 3 – Increasing Procurement Partnerships with Disadvantaged Businesses

A. Barrier to Equitable Outcome(s)

- FMCS has been unable to find many socially and economically disadvantaged businesses with which to partner. This has caused a very low number of awards to be made to these types of businesses.
- In the past, FMCS had been unable to start a partnership with the Small Business Administration (SBA). This has prohibited the Agency from being able to award 8(a) Business Development Program contracts.

B. Action and Intended Impact on Barrier

- Increase set-asides to socially and economically disadvantaged businesses using government-wide acquisition contracts (GWACs). The opportunity to improve set-asides is achievable thru GWACs which have categories of socially and economically disadvantaged businesses that are inclusive of the Small Business Administration (SBA) contracting assistance programs. These categories include the 8(a) Program, Historically Underutilized Business Zones (HUBZone), Small Disadvantaged Business (SDB), Service-Disabled Veteran Owned Small Business (SDVOB), and Women-Owned Small Business (WOSB). FMCS will also improve set-asides to socially and economically disadvantaged businesses through solicitations posted on the System for Awards Management (SAM).
- Establish a Partnership Agreement (PA) with the Small Business Administration (SBA) in accordance with their 8(a) Business Development Program and FAR Subpart 19.8. The opportunity to sole source contracts to socially and economically disadvantaged businesses is achievable through this specific SBA contracting assistance program. The 8(a) program supports socially and economically disadvantaged businesses in ways that aid in strengthening their ability to compete successfully in the economy. The program also assists program participants in gaining access to contracting opportunities in the federal marketplace through partnerships between SBA and other federal agencies. Overall, FMCS's partnership agreement with SBA will permit us to award contracts directly to 8(a) firms and show preference in federal contracting to firms who have suffered from racial, ethnic, gender, geographical, or disability bias.
- FMCS will develop an outreach program, improving accessibility to procurement information and opportunities to our prospective business partners in underserved communities. Engaging the public on how to do business with FMCS will provide the tools necessary to navigate our agency and overall, the federal marketplace. For example, FMCS will enhance the agency's procurement website to target the needs of our prospective business partners in underserved communities by

creating a user-friendly forecast of procurement opportunities which provides information about expected contracts. FMCS will also perform other outreach activities such as aiding vendors with registration in DUNS and SAM, delivering procurement related one-on-one sessions with vendors, and increasing our presence at highly attended small business procurement conferences and fairs.

C. Tracking Progress

- To determine whether these actions have substantially reduced the barriers to equitable access identified above, FMCS will run quarterly reports from both FPDS-NG and its internal procurement system to determine the number and value of awards made to socially and economically disadvantaged businesses. Award memorandums for each award will also be adjusted to reflect efforts made to award to these underserved communities. FMCS's near-term goal is to increase awards to socially and economically disadvantaged businesses to 25%. FMCS's long-term goal is to increase awards to 50%.
- In addition to the number of official awards made to underserved communities, FMCS expects that socially and economically disadvantaged businesses, in general, will gain a better understanding of how the procurement process works at FMCS and what opportunities are available for them. Similarly, FMCS expects to see a positive relationship created between FMCS acquisition staff and members of these underserved communities. Finally, FMCS expects its business relationships with both SBA and the Office of Small Disadvantaged Business Utilization (OSDBU) to grow as it continues to work with these agencies.

D. Accountability

- FMCS will hold itself accountable by ensuring that these actions are implemented by the Head of Contracting Activity (HCA) with approval and concurrence from the agency head and the Chief Operating Officer (COO). Internal procurement policies and directives will be revised to reflect these actions. The implementation of the proposed outreach activities will require support at the executive and stakeholder level which includes a providing an annual budget, collaboration with FMCS's Information Technology (IT) office, and possibly temporary contractor support to assist in the formation of the program. Overall, the acquisition staff will adhere to all laws and rules to ensure that maximum practicable procurement opportunities are made available to underserved communities.
- FMCS will also hold itself accountable to external stakeholders, including SBA and its customers. Specifically, FMCS will assist SBA's procurement center representatives (PCRs) by giving them all reasonably obtainable contract information and following through with recommendations for specific acquisitions which should be set-aside for specific small business concerns. In addition, FMCS will publish a quarterly spreadsheet of all awards made, to include business size, business status, and award amount, on its website so that there is full transparency to customers showing all efforts being made to make awards to socially and economically disadvantaged businesses.

- FMCS will include a diversity, equity, inclusion, and accessibility presentation at every future conference and include information on FMCS’s progress under the Equity Plan.
- FMCS’s next strategic plan will include the following: developing and implementing a FMCS diversity, equity, inclusion, and accessibility strategic plan with a goal of yielding tangible changes that positively impact the lives of people both internally at FMCS and externally to those it serves.

Bonus Action – Preventive Dispute Resolution Programs in Title I Schools

A. Background: Across the country, conflict arises in schools from the onset. Without skills to identify and address conflict, an issue can escalate quickly from a disagreement to aggression. Teaching children at a young age to successfully manage conflict and navigate highly stressful situations with others can have a lasting and positive impact on their lives and others. In the past, FMCS created and implemented a successful preventive dispute resolution program in schools called “Cool School,” which was discontinued due to budgetary constraints. FMCS will attempt to secure funding to implement an updated version of this successful program.

B. Barrier to Equitable Outcome(s)

- Primary school students often are not exposed to programs that help them learn the dynamics of conflict prevention, management, and resolution.
- Discipline and other conflicts in school disproportionately impact children from underserved communities.

C. Action and Intended Impact on Barrier

The following are suggested actions only; actions will be determined in conjunction with partners once funding is secured.

- Update training program and materials.
- Train staff and students in FMCS’s program, including mediation techniques, anti-bullying practices, and peer mediation.
- Make direct contact with district officials to provide information about the program, how it works, and what FMCS can do to bring this program to them.
- With district officials, identify appropriate Title I schools for this program. Reach out to schools to promote and offer FMCS’s program.
- Deliver program to designated students, creating ongoing outreach and follow-up.
- This training will allow students to de-escalate their conflicts, leading to lower disciplinary cases and providing tools to students to allow them to de-escalate their conflicts even when they are no longer students.

D. Tracking Progress

The following are suggested actions only; actions will be determined in conjunction with partners once funding is secured.

- Monthly outreach to the schools, students, and staff who receive training.
- Successful conflict interventions will be discussed and captured for celebratory purposes. Obstacles and challenges in addressing conflict will also be captured to

work with the group on areas of need such as additional skill building, practice through small group work and simulated conflict scenarios.

- Develop and deliver mini workshops to address these additional issues and concerns.

E. Accountability

- To obtain funding necessary to implement this program, FMCS will:
 - Reach out to relevant government agencies and/or community organizations regarding a partnership.
 - Request funding in FMCS's next budget proposal.
- FMCS's next strategic plan will include the following: developing and implementing a FMCS diversity, equity, inclusion, and accessibility strategic plan with a goal of yielding tangible changes that positively impact the lives of people both internally at FMCS and externally to those it serves.
- If provided sufficient funding, FMCS would do the following:
 - Public Outreach
 - FMCS would provide information on the program on the Federal Register.
 - FMCS would provide information on the program through the FMCS website.
 - FMCS would provide information on the program through the FMCS listserv and social media platforms.
 - FMCS would survey stakeholders for information on how FMCS could improve equity in its services.
 - FMCS would include this project as part of its equity updates at every conference.

Conclusion

FMCS is committed to increasing and maintaining equity in its services. In its Equity Plan, FMCS has identified approximately 40 actions it will undertake to implement the primary goals of: 1) promoting virtual services to increase services and public engagement in public policy matters; 2) providing outreach to all F-7 parties to ensure knowledge of FMCS services; 3) creating more opportunities for disadvantaged businesses; and 4) securing funding to update a program to teach primary students tools to de-escalate their conflicts. In addition to the Equity Plan, FMCS has taken – and will continue to take – actions to yield tangible changes that positively impact the lives of people both internally at FMCS and externally to those it serves. For more information on this Plan, please contact the Office of General Counsel at ogc@fmcs.gov.