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# 2006 Annual Report

U.S. Federal Mediation and Conciliation Service

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# 2006 Annual Report

## **Abstract**

[Excerpt] This past August, FMCS' 13th National Labor-Management Conference brought more than 1,500 people representing labor and management interests together in Chicago. In addition to providing 60-plus workshops over three days, FMCS gave attendees the opportunity to hear the thoughts of some of today's most important players in labor-management relations, including Secretary of Labor Elaine Chao, AFL-CIO Secretary-Treasurer Richard Trumka, UNITE/HERE Hospitality Industry President John Wilhelm, NLRB General Counsel Ronald Meisburg, and The Permanente Company President and CEO Francis Crosson. The success of our conference illustrates precisely what FMCS does best: providing opportunities for labor and management to come together and discuss their common issues.

## **Keywords**

workplace, economy, globalization, mobile, flexible, workforce, health care, pension costs, employers, employees, union, labor movement, labor, FMCS, AFL-CIO, Service Employees International Union, the United Food and Commercial Workers, the International Brotherhood of Teamsters, and Laborers' International Union of North America

## **Comments**

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*How Can We Help You?*

**FMCS**

**Federal Mediation & Conciliation Service**



# 2006 Annual Report



## Report for Fiscal Year 2006



*FMCS Director  
Arthur F. Rosenfeld*

### Message from the Director

This past August, FMCS' 13<sup>th</sup> National Labor-Management Conference brought more than 1,500 people representing labor and management interests together in Chicago. In addition to providing 60-plus workshops over three days, FMCS gave attendees the opportunity to hear the thoughts of some of today's most important players in labor-management relations, including Secretary of Labor Elaine Chao, AFL-CIO Secretary-Treasurer Richard Trumka, UNITE/HERE Hospitality Industry President John Wilhelm, NLRB General Counsel Ronald Meisburg, and The Permanente Company President and CEO Francis Crosson. The success of our conference illustrates precisely what FMCS does best: providing opportunities for labor and management to come together and discuss their common issues.

With the rapid rise of global free trade and the impending retirement of the baby boomer generation, resolving issues such as health care and pension benefits can strain existing employer and union relationships. For U.S. companies, succeeding in the global economy requires, among other things, a flexible and cost-effective labor force. Yet, higher benefit costs place significant economic burdens on employers and employees alike. Helping employers and unions avoid economically disruptive work stoppages arising from these and other issues constitutes the core work and focus of FMCS.

The financial consequence of strikes and lock-outs can be steep. Using a model developed for the Agency in 2005 by the Employment Policy Foundation, FMCS estimates that work stoppages over the past two years caused employees to lose an estimated 43 million working hours and cost \$950 million in lost wages. These stoppages also reduced company profits by \$263 million. Disruption to ancillary businesses over this period is estimated to have cost an additional \$1.1 billion.

However, these costs would be even greater without the positive effects of FMCS' mediation services. In FY 2006 alone, through early intervention in collective bargaining disputes, FMCS is estimated to have prevented 251 work stoppages and reduced work stoppage duration in 196 cases, preventing the loss of at least \$1.7 billion in employees' wages and company profits for U.S. businesses.

The agency believes that early intervention is critical to reducing the financial consequences of work stoppages. In FY 2006, FMCS involvement at any time prior to a contract expiration reduced work stoppage durations by an average of 25 percent.

I am very proud of the services this Agency's mediators provide and of their professionalism and dedication to our mission. Nationwide in FY 2006, our mediators were involved in nearly 5,500 collective bargaining disputes. In 86 percent of those cases, FMCS assisted the parties in achieving collective bargaining settlements. In addition, we continue to train the labor-management community on methods designed to improve relations. FMCS provided relationship development and training in 2,445 cases during this fiscal year. Our employment mediation services to federal, state and local governments continue to be in wide demand as more units of government turn to FMCS as an alternative to courtroom litigation. During FY 2006, FMCS mediated 1,022 employment-related disputes, and mediated 1,625 grievance cases.

In addition to our domestic work, FMCS provides overseas training on a reimbursable basis at the request of foreign governments and non-governmental organizations in support of international core labor standards and advancing free-market institutions. To cite an important example of this work, FMCS is taking part in an ongoing initiative by the U.S. government to engage the People's Republic of China on labor and rule of law issues. In FY 2006, a team of four FMCS mediators worked with the U.S. Department of Labor and the Chinese Ministry of Labor and Social Security to help establish labor relations committees in China and to train Chinese government arbitrators in mediation. This project, involving three trips to Qingdao, China as well as work in Beijing, has contributed to the establishment of fifteen labor relations committees. A significant outcome of this initiative has been a continuing dialogue with Chinese government officials and leading academics on the U.S. labor relations system and the importance of collective bargaining and the recognition of workers' rights in a free-market economy. With the recent proposed reform of Chinese labor law regarding the resolution of workplace disputes, FMCS is well-positioned to continue its engagement with the government of China on labor issues of concern to U.S. workers and the companies that employ them.

As global competition and domestic economic and demographic forces continue to transform American workplaces, the Federal Mediation and Conciliation Service provides state-of-the-art assistance to employers and employees as they confront the challenges of modern labor-management relations.



Arthur F. Rosenfeld  
Director

## **FY 2006 Agency Services**

### **Agency Mission**

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

#### **1. Collective Bargaining Mediation: Initial and Successor Contract Negotiations**

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

In FY 2006, FMCS mediators were actively involved in 5,484 collective bargaining contract negotiations in every major industry throughout the United States.

#### **2. Relationship Development and Training Programs**

Although our primary focus continues to be resolution of conflict as it arises, preventing conflict is also an important goal. The agency's relationship-building training programs are designed to improve labor-management relationships and to develop approaches toward collective bargaining that prevent friction or disputes from arising. These kinds of training programs improve the quality of the parties' relationships and make mediation more effective.

In addition to our training programs, field mediators continuously participate in outreach activities by lecturing at universities, seminars and conferences, and meet with local leaders in the collective bargaining community.

### **3. Grievance Mediation**

Grievance mediation involves the use of a neutral party to mediate grievances that may arise during the life of a collective bargaining contract. This service is provided to the private and public sectors. Continuing a recent trend toward longer term contracts, 24 percent of the contracts negotiated in FY 2006 were of more than 3 years duration. These longer contract terms increase the importance of resolving contentious issues arising during the term of a contract. Left unresolved, these grievances have the potential to become major sources of contention between the parties in subsequent negotiations. In FY 2006, FMCS mediated 1,625 grievance mediation cases and helped the parties reach agreement in over 1,200 of these.

### **4. Arbitration Services**

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

During FY 2006, the Office of Arbitration Services processed nearly 17,000 requests for arbitration panels from labor and management customers nationwide. Arbitrators on the FMCS roster heard and decided 2,473 labor arbitration cases.

### **5. 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, equal employment opportunity mediation skills, and workplace violence prevention. The Institute runs as a reimbursable program and is funded by fees received from training participants.

## **6. Employment Mediation**

Outside the collective bargaining arena, 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' role as a provider of these services. The legislative intent behind these acts was to expand the use of alternative dispute resolution throughout the Federal government, reduce litigation costs, and promote better government decision-making. The Agency 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 2006, FMCS mediated 1,022 employment cases.

## **7. International Training and Exchange**

Beyond the nation's borders, FMCS plays an important role in promoting collective bargaining and conflict resolution around the world. FMCS' international work is a small, but integral, part of our services. Emerging democracies often struggle to compete effectively in a globally integrated marketplace. Part of their struggle includes the implementation of an effective labor relations system. Other nations and foreign organizations have sought our assistance in designing systems that resolve and prevent industrial conflict where a formal system has not been developed to manage it. International training programs are also a knowledge-sharing experience: FMCS mediators 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' international efforts are designed to level the economic playing field for U.S. companies and workers by strengthening the rule of law and workers' rights in developing countries. In addition to supporting U.S. companies and workers in the global market by advocating core labor standards for all nations, the program helps create the stable and productive work forces that are needed to attract foreign investment and improve living conditions. Equally important, FMCS helps establish the labor relations institutions that are essential to the smooth functioning of free market economies. In addition to industrial relations, FMCS mediators assist with rule of law initiatives, thereby helping to support 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' International Program operations are reimbursed and 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.



## Mediation Services Program Data

<b>PROGRAM SERVICES</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>1. COLLECTIVE BARGAINING MEDIATION</b>				
Assigned Cases <sup>1</sup>	19,516	18,493 <sup>2</sup>	17,102	15,072
Private Sector	17,568	16,738	15,489	13,539
Public Sector (state and municipal government units)	1,329	1,295	1,160	1,219
Federal Sector	619	460	346	314
Mediated Cases <sup>3</sup>	6,640	4,748	5,215	5,484
Private Sector	4,912	3,274	3,847	3,874
Public Sector (state and municipal government units)	1,218	1,077	1,086	1,319
Federal Sector	510	397	256	291
Activity Rate <sup>4</sup>	34%	26%	30%	35%
Number of Mediated Cases Settled	4,988	3,768	3,557	3,864
Percentage of Mediated Cases Settled through FMCS	74%	79%	87%	86%
Activity Rate in Significant Cases <sup>5</sup>	50%	51%	47%	45%
<b>2. GRIEVANCE MEDIATION</b>				
Assigned Cases	1,419	1,639	1,705	1,632
Mediated Cases	1,407	1,544	1,675	1,625
Private Sector	NA	1,168	1,334	1,219
Public Sector (state and municipal government units)	NA	205	270	270
Federal Sector	NA	171	141	136
Number of GM cases settled	NA	1,264	1,212	1,219
Percentage of Cases Settled Through FMCS	NA	82%	72%	75%
<b>3. RELATIONSHIP-DEVELOPMENT AND TRAINING</b>				
Number of Training Classes Provided	2,594	2,281	2,257	2,445
Private Sector	1,693	1,565	1,315	1,552
Public Sector (state and municipal government units)	901	599	749	730
Federal Sector	213	117	117	163
<b>4. EMPLOYMENT MEDIATION</b>				
Number of Employment Mediation Cases <sup>6</sup>	1,310	1,596	1,446	1,022
Federal Sector	525	1,417	1,202	993
Public Sector (state and municipal government units)	8	5	47	13
Private	628	174	79	16
Number of EM cases settled <sup>7</sup>	773	718	484	523
Percent of EM Cases Settled	59%	45%	48%	51%
<b>5. OUTREACH</b>				
Number of Outreach cases <sup>8</sup>	5,392	4,741	3,513	3,859

<sup>1</sup> Section 8(d) of the Act requires that any employer or labor organization provide notice to this Agency 60 days prior to contract expiration. Not all cases providing notices are assigned. In FY 2006, the FMCS intake of cases exceeded 23,000.

<sup>2</sup> In FY 2004, the Agency determined that it was no longer appropriate to group collective bargaining mediation cases with grievance mediation cases.

<sup>3</sup> Mediated cases (formerly called "active" cases) represent the number of cases in the FY where mediators have become active in the negotiations.

<sup>4</sup> Defined as the number of closed cases where there was at least one meeting, divided by the number of total closed assignments.

<sup>5</sup> Significant cases are generally defined as situations where the bargaining unit exceeds 1,000 members.

<sup>6</sup> This number includes EM cases, plus dispute design cases, regulatory cases, and cases falling into the category of 'other.' These case types are included in the EM category because they were included in prior fiscal years. All services under these case types have been provided on a reimbursable basis.

<sup>7</sup> Estimated for FY 2003 and FY 2004.

<sup>8</sup> FMCS requires all mediators to engage in outreach efforts. These 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.

<b>Work Stoppage Information</b>					
	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Work stoppages carried from preceding FY	60	41	29	25	52
Work stoppages beginning within FY	308	277	269	301	247
Work stoppages closed within FY	327	289	273	274	269
Work stoppages open at end of FY	41	29	25	52	30
Average duration of work stoppages in closed cases (number of days)	53.7	60.5	76.7	41.1	70.9
Estimated number of worker-hours lost due to work stoppages (1,000s)	17,686	17,078	71,501	18,064	25,175

<b>Work Stoppage Cost Information</b>			
	<b>Direct Costs</b>	<b>Indirect Costs</b>	<b>Total Costs</b>
<b>Year</b>	<b>(\$1,000s)</b>	<b>(\$1,000s)</b>	<b>(\$1,000s)</b>
1999	883,010	896,481	1,779,490
2000	3,350,203	3,672,152	7,022,355
2001	495,484	476,000	971,484
2002	363,522	461,289	824,811
2003	372,678	329,595	702,273
2004	1,102,475	267,260	1,369,735
2005	488,075	450,737	938,812
2006	725,180	686,468	1,411,648

<b>Savings to Parties Attributable to Mediation</b>			
	<b>Reduced Incidence</b>	<b>Reduced Duration</b>	<b>Total Savings</b>
<b>Year</b>	<b>(\$1,000s)</b>	<b>(\$1,000s)</b>	<b>(\$1,000s)</b>
1999	756,974	211,149	968,122
2000	1,992,529	303,092	2,295,621
2001	667,206	60,372	727,578
2002	840,936	272,595	1,113,531
2003	717,239	224,287	941,525
2004	2,259,575	173,177	2,432,752
2005	1,269,679	798,666	2,068,345
2006	1,320,946	374,872	1,695,818

### **Arbitration Services Program Data**

<b>Activity</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Panel Requests	17,282	17,332	16,382	15,370	15,572
Panels Issued <sup>9</sup>	18,885	19,023	18,033	16,787	16,854
Arbitrators Appointed	8,335	8,595	7,875	7,592	6,860
<b>Activity Charged For</b>					
Travel Days	.45	.48	.45	.46	.46
Hearing Days	1.09	1.15	1.09	1.15	1.11
Study Days	2.44	2.35	2.37	2.40	2.40
<b>Total</b>	<b>3.98</b>	<b>3.98</b>	<b>3.91</b>	<b>4.01</b>	<b>3.97</b>
<b>Charges</b>					
Per Diem Rate	\$721	\$764	\$802	\$836	\$860
Amount of Fee	\$2,884	\$3,048	\$3,197	\$3,396	\$3,605
Amount of Expenses	\$318	\$364	\$344	\$336	\$335
<b>Total Charged</b>	<b>\$3,202</b>	<b>\$3,412</b>	<b>\$3,542</b>	<b>\$3,732</b>	<b>\$3,940</b>

<sup>9</sup> Frequently, the labor-management parties request more than one panel for arbitration cases, resulting in an increase in the number of panels issued over the number of requests received.

	2002	2003	2004	2005	2006
<b>Total Number of Issues</b>	<b>1,989</b>	<b>2,314</b>	<b>2,581</b>	<b>2,629</b>	<b>2,473</b>
<b>General Issues</b>	<b>463</b>	<b>506</b>	<b>417</b>	<b>308</b>	<b>320</b>
Overtime Other Than Pay <sup>10</sup>					
Distribution of Overtime	26	35	41	2	6
Compulsory Overtime	12	9	3	2	1
Other Overtime	10	12	1	4	4
<b>Seniority</b>					
Promotion & Upgrading	52	63	42	26	40
Layoff Bumping & Recall	48	71	69	57	39
Transfer	21	14	9	0	0
Other Seniority	25	35	15	8	24
Union Officers <sup>11</sup>	14	13	21	0	1
Strike & Lockout	2	1	2	1	0
Working Conditions <sup>12</sup>	29	19	20	12	23
Discrimination	24	17	18	18	18
Management Rights	63	71	61	72	85
Scheduling of Work	67	47	61	62	50
Work Assignments	70	99	54	44	29
<b>Economic Wage Rates &amp; Pay Issues</b>	<b>229</b>	<b>233</b>	<b>209</b>	<b>167</b>	<b>178</b>
Wage Issues	36	42	95	134	156
Rate of Pay	60	60	33	7	1
Severance Pay	8	5	1	2	1
Reporting, Call- in & Call-back Pay	7	10	6	0	0
Holidays & Holiday Pay	26	21	14	8	7
Vacations & Vacation Pay	39	27	26	0	4
Incentive Rates & Standards	7	15	9	3	1
Overtime Pay	46	53	25	13	8
<b>Fringe Benefits Issues</b>	<b>99</b>	<b>112</b>	<b>104</b>	<b>100</b>	<b>127</b>
Health & Welfare	58	61	46	47	48
Pensions	8	11	8	7	19
Other Fringe Issues	33	40	50	46	60
<b>Discharge &amp; Disciplinary Issues</b>	<b>947</b>	<b>1,091</b>	<b>996</b>	<b>937</b>	<b>913</b>
<b>Technical Issues</b>	<b>86</b>	<b>97</b>	<b>69</b>	<b>47</b>	<b>59</b>
Job Posting & Bidding	38	43	39	43	43
Job Evaluation	11	21	14	1	14
Job Classification	37	33	16	3	2

<sup>10</sup> Overtime pay issues included under this category are economic, wage rates and pay issues

<sup>11</sup> Included in this classification are issues concerning super seniority and union business.

<sup>12</sup> This classification also includes issues concerning safety.

	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
<b>Scope of Agreement</b>	<b>65</b>	<b>53</b>	<b>58</b>	<b>50</b>	<b>28</b>
Subcontracting	41	36	44	42	24
Jurisdictional Disputes	14	5	7	7	4
Foreman, Supervision, etc.	8	9	7	1	0
Mergers, Consolidations, Accretion, Other Plants	2	3	0	0	0

<b>Arbitrability Issues</b>	<b>215</b>	<b>361</b>	<b>289</b>	<b>219</b>	<b>191</b>
Arbitrability of Grievances	100	139	96	38	26
Procedural	60	102	62	68	96
Substantive	23	25	18	28	37
Procedural & Substantive	17	12	16	10	17
Other Arbitrability Questions	0	0	0	0	0
Not Elsewhere Classified	115	83	97	75	15