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Federal Mediation and Conciliation Service

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Fifty-Sixth Annual Report of the Federal Mediation and Conciliation Service, Fiscal Year 2003

Keywords

Federal, key workplace documents, Catherwood, ILR, agency, mission, FMCS, services, collective bargaining, mediation, negotiations, program, employment, prevention, training, conflict, resolution, contract

Comments

Federal Mediation and Conciliation Service

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This report details the activities of this agency in fiscal year 2003.

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

Since my confirmation in August 2002, I have been personally involved in two high profile work disputes with a significant impact on the nation's economy: the West Coast ports dispute between September and November 2002, and a dispute involving Verizon Communications Inc., in July through August, 2003. Both situations exemplify the issues that continue to plague the labor management community, in particular, the use of technology, the desire by employers to implement cost-saving technological advancements, rising health care costs, and the needs of business to respond to rapidly changing economic conditions.

Although the West Coast ports and Verizon disputes received significant publicity during fiscal year 2003, our field mediators were involved in 6640 collective bargaining disputes nationwide. In 75% of those cases, we assisted the parties in achieving collective bargaining settlements. In addition, our mediators continue to train the labor-management community on methods designed to improve labor-management relations. We provided relationship development and training programs 2594 times during this fiscal year. Our employment mediation services to federal, state and local governments continue in wide demand as more agencies have turned to FMCS for alternatives to courtroom litigation.

The American workplace is changing and the Federal Mediation and Conciliation Service will change with it so that we can continue to provide state-of-the-art assistance

to employers and employees as they confront the challenges of modern labor-management relations.

Peter Hurtgen, Director

I. INTRODUCTION

A. Agency Mission

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

B. FMCS Services

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

1. Collective Bargaining Mediation – Initial and Successor Contracts
2. Relationship Development and Training Programs
3. Arbitration Services
4. Grants to Promote Labor-Management Cooperation
5. Training for Labor and Management by the FMCS Institute for Conflict Management
6. Employment Mediation (Federal employment mediation and private sector employment mediation)
7. Training and Exchange Programs for International Organizations and Government
8. Youth Violence Prevention in Schools and Conflict Resolution

1. Collective Bargaining Mediation: Initial and Successor Contract Negotiations

Collective bargaining mediation is a voluntary process that occurs when a third-party neutral assists the parties in reaching agreement in contract negotiations. This includes initial contract negotiations, which take place between an employer and a newly certified or recognized union representing its employees, and negotiations for successor collective bargaining agreements. Mediation services are provided not only to the private sector, but also to the public sector, including federal agencies, and state and local governments. Mediators have no authority to impose settlements; their only tool is the power of persuasion. Through collective bargaining mediation, FMCS helps avert or minimize the impact of work stoppages on the U.S. economy.

In FY 2003, FMCS mediators were actively involved in 6640 collective bargaining contract negotiations in every major industry and service throughout the United States, a decrease of about 117 cases from last fiscal year. However, the number of contracts expiring this year was far less than last fiscal year. In FY 2002, 45,339 contracts expired. In this fiscal year, only 37,844 contracts expired, which explains the reduction in dispute activity.

For data regarding collective bargaining mediation in successor contracts and initial contract negotiations, and cases of significance in each category during this fiscal year, see Sections II and III.

2. Relationship Development and Training Programs:

Although our primary focus continues to be resolution of conflict as it arises, prevention of conflict at the outset is also an important goal. Since its inception, FMCS has offered relationship-building training programs designed to improve the labor-management relationship and develop approaches toward collective bargaining that prevent friction or disputes from arising. The training improves the quality of the parties' relationship and makes mediation more effective. When such training is requested, the mediator determines the parties' needs and designs a program that is specifically tailored for those parties. FMCS offers a wide array of these services to address workplace problems and in fiscal year 2003, this work represented 16% of our agency activity. FY 2003 data shows that the number of training programs provided is consistent with last fiscal year.

Data from fiscal years 2000, 2001 and 2002 show that roughly 22% of collective bargaining agreements exceed 3 years in duration. This increase in contract duration has created a demand for training programs that emphasize the importance of collaborative working relationships.

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

For data regarding preventative mediation and cases of significance during this year, see Section IV.

3. Arbitration Services

National labor policy favors the settlement of contractual disputes by arbitration. When conflicts arise over the interpretation or implementation of a contract or contract provision, FMCS assists through voluntary arbitration. A professional arbitrator, acting in a quasi-judicial capacity, hears arguments, weighs evidence and renders a decision to settle the dispute, usually binding on both parties. On request, FMCS Arbitration Services provides the disputing parties with a "panel" of qualified, private labor arbitrators from which they select the arbitrator to hear their case. The panels are drawn from an FMCS computerized nationwide roster of 1400 labor arbitrators. To join the FMCS roster, arbitrators must be approved by an Arbitration Review Board, which meets quarterly to consider new applicants. There is also an arbitration user focus group that reviews and makes recommendations to the FMCS Director on changes in arbitration service, policies and procedures. The FMCS holds annual Arbitrator

Symposia where arbitrators have an opportunity to discuss and share the latest information about their profession.

For FY 2003 data regarding arbitration services, see Section V.

4. Grants Program

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

For FY 2003 data regarding the grants program, see Section VI.

5. FMCS Institute

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

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

6. Employment Mediation:

Outside the collective bargaining arena, FMCS has provided employment mediations services to the federal sector and to other state and local governments. These mediation services include resolution of employment-related disputes. The Administrative Dispute Resolution Act of 1990, the Negotiated Rulemaking Act of 1990,

¹ Section 205A(a)(1).

and the Administrative Dispute Resolution Act of 1996 expanded FMCS's role as a provider of these services. The legislative design was to expand the use of alternative dispute resolution throughout the federal government, reduce litigation costs, and promote better government decision-making. We provide consultation, training, dispute resolution systems design and facilitation services to many federal agencies, and to state and local agencies. Employment mediation is also provided to the private sector to resolve workplace disputes falling outside of the traditional collective bargaining context, i.e., equal employment opportunity disputes.

7. International Training and Exchange:

Our work extends beyond the nation's borders. FMCS plays an important role in promoting collective bargaining and conflict resolution in other countries. Our international work is a small, but integral part of our services. Other nations struggle, as we do, to compete effectively in a globally integrated marketplace. Part of that struggle includes an assessment of the role and structure of the country's labor relations systems. 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: we are "cross-trained" as we gain familiarity with complex issues affecting the global economy. As a result, we are more effective in assisting labor and management in resolving disputes with international implications.

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

8. Youth Violence Prevention and Conflict Resolution:

This program provides a means of nonviolent conflict resolution for students and school staff. Stakeholders from each community, including teachers, parents, students and law enforcement officials work collaboratively with mediators to develop unique software applications (using the Agency's TAGS system) for each community. The goal is to improve the school environment by helping students and staff address underlying conflicts that are at the root of disputes that become violent or hurtful. Since its inception in fiscal year 2000, the Youth Violence Prevention and Conflict Resolution program has expanded from six communities to 10 communities, representing a cross-section of our nation's youth.

In fiscal year 2003, we held a stakeholders meeting to determine how various communities were utilizing the program. The University of North Texas published a paper evaluating the program and found that, using TAGS, communities, schools, parents, teachers and students are very effective in airing differences through constructive online problem-solving and anonymous surveys. One site used TAGS to administer a tolerance survey to address students' beliefs about barriers among groups and supported a "youth court" for students to track court cases of juvenile offenders. A second community used TAGS to administer student surveys on tobacco use, providing information to school administrators about student perceptions. A third community designed a project Web site that allowed anonymous reporting of vandalism. A fourth

community created a “Teen Mediafest,” encouraging students to generate creative messages to their peers addressing violence, mental and physical health, and drug and alcohol use. Finally, one FMCS community partner received the Illinois Governor’s Cup Award, recognizing outstanding community effort in youth violence prevention.

While TAGS technology is extremely useful for higher level elementary and middle school age children, the technology is too advanced for younger children. As a result, during this fiscal year, we developed an interactive CD-ROM prototype aimed at teaching conflict resolution skills to pre-school and elementary school children.

C. Nature of Collective Bargaining in FY 2003

As the nation’s economy tightened, but appeared slowly headed toward recovery, the war in Iraq created new economic concerns. Those concerns, coupled with the lingering impacts of 9-11, continued dramatic increased health insurance costs, pension cost pressures caused by dramatic declines in financial markets and an aging workforce, technological changes impacting the nature of the work and where the work is performed, as well as increased global competition, impacted collective bargaining negotiations over the last year.

Fiscal year 2003 was a critical bargaining year, with major contracts expiring in the following industries: aerospace, defense, transportation, shipping, telecommunications, food manufacturing, construction, health care, as well as federal, state and local governments. While the West Coast ports and Verizon disputes remained in the public eye, mediators were actively involved in 6640 collective bargaining contract negotiations in every major industry and service throughout the United States during the fiscal year. With our assistance, 4988 contracts were reached. As a result, 75% of our dispute cases resulted in negotiated settlements.

With respect to work stoppages, there were 289 work stoppages during this fiscal year. The West Coast ports dispute involved a work stoppage of approximately 10 days, with a significant impact on the nation’s economy.² We have been actively involved in settling severe work stoppages around the nation, including a 14 day strike involving 4000 Lockheed Martin machinists who manufacture F-16 fighter jets, a series of one-day rolling strikes by 6000 service and maintenance employees working in 14 Minneapolis/St. Paul hospitals and clinics, and a 55-day strike among 500 employees employed by Waukesha Engine.

We have been equally successful at averting strikes. We averted a work stoppage at Verizon, where a strike would have involved close to 80,000 employees and phone service in 13 states. Strikes were also prevented in a defense-related dispute involving 10,000 Northrop Grumman Ship Systems employees, and 2000 employees of the Denver Colorado Regional Transportation District, which provides mass transit to 250,000 riders.

² Collectively, the West Coast ports handle close to \$300 billion dollars a year of goods to and from the United States. The closure of the ports for 10 days had a substantial impact on the economy. See Section II, *infra*, for more information regarding the West Coast ports dispute and its impact on the economy.

D. GPRA Achievements:

The Government Performance and Results Act requires all federal agencies to identify performance goals. For every service provided, we identified specific goals for fiscal year 2003 and the chart below identifies our performance during this fiscal year:

Service	Goals/Objectives	Actual Performance
Dispute Mediation	1. Close 14,740 cases	1. Closed 19,306 cases
	2. Assign 32.9% of active cases ³	2. Assigned 34% of active cases
Arbitration Services	1. Provide 19,021 panels	1. Provided 19,039 panels.
	2. Average number of days between receipt of request and panel provided should not exceed 5 workdays	2. Average workdays 7.61 from receipt of panel request to panel provided
Employment Mediation (conflict resolution services to state, local and federal government sectors and private sector)	1. Close 829 cases	1. Closed 1,310 cases
	2. Monitor number of participants exposed to dispute resolution techniques	2. 7,077 participants exposed to dispute resolution techniques
	3. Settle 60% of non-EEOC	3. 47% of non-EEOC settled
	4. Settle 52% of EEOC cases	4. Settled 50% of EEOC cases
Regulatory Negotiations	1. Close 5 regulatory negotiations	1. Closed 3 ⁴
	2. Assist 75 organizations	2. Assisted 122 organizations
International Efforts	1. Assist 75 foreign governments	1. Assisted 60 foreign governments
FMCS Institute	1. Provide 12 courses	1. Provided 13 courses
Grants Program	1. Provide 18 grants to labor-management committees	1. Provided 13 grants ⁵

³ The Agency does not assign every active case to a mediator. An active case is defined as one where an F-7 has been filed. However, not every case is assigned to a mediator. We assign cases where the bargaining unit is in excess of 15 or the case involves an initial contract.

⁴ There is an increase in the number of private and public facilitators to perform the highly technical task of facilitating regulatory negotiations. Some of the Agency's work has gone to other mediators.

⁵ We awarded fewer grants this year because of a policy decision to assign a larger number of grants to industries, and those grant recipients received maximum funding allowable. As a result, there were fewer grant recipients, but receiving larger grant funding.

Service	Goals/Objectives	Actual Performance
Regional Labor-Management Conferences	1. Conduct 75 Agency-sponsored conferences at regional level	1. Conducted 67 Agency-sponsored conferences at the regional level

In addition to the above chart, it should be noted that the Agency continues its success rate in dispute cases. In this fiscal year, we settled 75% of our collective bargaining mediation cases. Although we were unable to secure collective bargaining agreements in 25% of our cases, this does not mean that we were not otherwise successful. In this regard, the mediator could have assisted the parties in reducing the number of open or unresolved issues.

Another important measurement of success includes the number of times the labor-management community consented to a mediator's intervention. As noted above, not every case is assigned to a mediator. Once a case is assigned, the mediator contacts the parties to offer his/her assistance. Even where cases are assigned to mediators and the mediator offers assistance, the parties must consent to the mediator's intervention. Mediation is a voluntary process and even a skilled mediator cannot intervene in the absence of consent.

Bearing this in mind, in fiscal year 2003, we assigned 19,516 cases to mediators. It is presumed that, in each case, the assigned mediator contacted the parties and offered his/her services to resolve the dispute. Of those assigned cases, the parties accepted mediation 6640, roughly 34% of the time, consistent with last year's rate of 35%. Over the next fiscal year, we will work to improve our penetration rate by continuously educating the public about the mediation process and its advantages in order to increase the number of situations where our services can be utilized and work stoppages avoided.

E. New Initiatives:

1. Strategic Plan:

The Agency's five-year strategic plan was recently approved by the Office of Management and Budget. To chart the Agency's future course, we looked at certain trends that have a significant impact on the workplace including (1) the cost and complexity of health care; (2) the effects of globalization on the workplace; (3) the application and importance of technology in the workplace; and (4) workplace litigation and conflict focusing on individual employees outside the scope of collective bargaining and focusing on individual employees. With these factors in mind, we crafted our strategic goals, which focus on:

1. Minimizing the number and severity of work stoppages influencing interstate commerce, national security, and/or the U.S. health care industry;
2. Increasing the number of collective bargaining partners with an ongoing commitment to improving their relationship;

3. Facilitating a commitment to, and development of, systems for handling workplace disputes arising outside of the collective bargaining context, by labor and management at a significant number of organizations;
4. Assisting labor and management to effectively deal with major issues that drive conflict in the evolving workplace, including health care, technology, effects of globalization, and diversity; and
5. Sharing knowledge gained from the Agency's experience in workplace conflict resolution with those outside of the workplace context such as schools, courts, and international organizations.

The Agency's plan details the strategies we will employ to achieve these goals and our annual performance plans will address specific performance measurements we will use to determine our success in each area.

2. Web site

In fiscal year 2003, the Agency launched its new Web site. The Web site was designed with the President's Management Agenda E-government Initiative in mind: it affords the public easy access to the Agency and its programs. The Web site provides a wealth of information about each Agency department and the services available to the labor-management community. The Web site has the following capabilities:

- On-line filing of statutorily-required contract expiration notices (F-7 forms) through the website;
- On-line filing of arbitration panel requests;
- On-line filing of grant applications;
- On-line quarterly submission of grantee progress reports;
- On-line registration for Institute courses;
- Publication of FMCS-related Federal Register announcements;
- Repository of all Agency reports to Congress, including Annual Reports, Performance Plans and Strategic Plans;
- Regular updates on cases of national significance (i.e., West Coast Ports dispute and current Verizon dispute) with links to newspaper articles of interest;
- Video messages from the Director, speeches delivered by staff members, and articles published by employees;
- Links to TAGS e-conferences;
- Cases of interest and best practices are regularly posted; and
- Communication for the public, via e-mail, to Agency personnel.

3. Access to Neutrals Program

In FY 2003 we proposed a registry of neutrals program. The purpose of the initiative is to develop a register of individuals, approved by the Agency, to whom we can refer employment-related disputes (i.e., EEO cases) where the Agency might be unable to assign a mediator to attend to that dispute. A description of the program was published in the Federal Register in May 2003. We have reviewed all of the public

comments and, during fiscal year 2004, we will meet with interested parties to address questions and issues related to implementation of the program.

F. Summary

All FMCS activity is aimed at promoting and improving conflict resolution and collective bargaining processes in the United States. This helps American businesses become and remain more competitive in the international marketplace and increases the quality of working life of American workers. Through collective bargaining mediation, FMCS averts or minimizes the impact of work stoppages on the U.S. economy, either in initial bargaining relationships, or in mature bargaining relationships. Relationship development and training programs offer labor and management the skills to improve long-term workplace relationships. Arbitration provides the internal jurisprudence that helps the parties administer their collective bargaining agreements. The grants program promotes innovative, joint approaches to building effective labor-management relationships. Through federal employment mediation, FMCS helps government agencies reduce the likelihood of litigation, speeds up federal processes, and improves the delivery of regulated government services. Our international training and exchange program offers training to foreign governments in these same techniques, promoting the establishment of sound labor-management relations and conflict resolution systems in strategic areas of the world.

The complexity of issues in today's collective bargaining arena requires us to play an increasingly important role in critical negotiations and in guiding the parties to constructive agreements.

II. COLLECTIVE BARGAINING MEDIATION:

A. Mediation Process:

Collective bargaining mediation is a voluntary process which occurs when a third-party neutral assists the parties in reaching agreement in contract negotiations. This includes initial contract negotiations, which take place between an employer and a newly certified or recognized union representing its employees, and negotiations for successor collective bargaining agreements.

FMCS mediators are in touch with both parties even before negotiations begin. The first contact with a mediator is triggered by the legally required notice of intent to open a collective bargaining agreement, or a certification. During negotiations, mediators use their skills to guide the parties to a settlement acceptable to both sides. Mediators may make suggestions, and offer procedural or substantive recommendations with the agreement of both parties. Their primary tool is the power of persuasion. Their effectiveness derives from their status as respected neutrals, their acceptability to the parties, their broad knowledge and experience in the process of collective bargaining, and, especially, the quality of their ideas, suggestions and perspectives.

B. FY 2003 Cases of Significance:

1. Pacific Maritime Association//International Longshore and Warehouse Union, AFL-CIO

Fiscal year 2003 began with the West Coast ports dispute. The dispute involved 10,500 longshoremen and clerks represented by the International Longshore and Warehouse Union, and employed by various terminal operators, stevedores, and shipping companies at 29 ports stretching from Seattle to San Diego. Collectively, the companies constitute a multi-employer association known as the Pacific Maritime Association (PMA). The challenging issue for these negotiations was technological advancement and the corollary effect on job security for union members. The public became aware of the dispute shortly after the July 2002 contract expiration, when it became increasingly apparent that the flow of goods could be halted. Over the next five months, the U.S. and the world economy were disrupted by the dispute, which included a 10-day closure of the West Coast Ports. Viewing the closure of the ports as a threat to the health and safety of the nation, the President of the United States elected to invoke the Taft Hartley Act for the first time in 24 years.

The 29 West Coast ports collectively handle nearly half of the container cargo entering or leaving the United States, with goods valued at more than \$300 billion a year. It is the entry point for electronics, automobiles, auto parts, apparel, and toys from Asia. The timing of the dispute, arising in July 2002 and continuing through October, impaired the ability of the U.S. economy to recover from the recession, as these months are crucial for the nation's retailers to prepare for the Christmas season.

The members of the PMA, a multi-employer association representing terminal operators, stevedore, and shipping companies, conduct business in a highly competitive

environment. Success in this industry is measured by the ability to rapidly and economically move cargo on and off vessels. As dock space became increasingly limited, the efficient movement of cargo required implementation of technology to facilitate the processing of cargo.

Prior to 2002, implementation of technology had been uneven and unequal throughout the 29 ports. To address these challenges, the PMA proposed technological changes that would significantly alter the nature of the waterfront work, allowing them to operate efficiently, and compete globally. The union perceived these changes as a threat to job security. Accordingly, the union's response to management's bargaining demands included work preservation, wage increases for its current members, and improvements to pension plans.

July 1, 2002 – Contract Expiration and Weekly Extensions Through September:

The parties commenced negotiations close to three months before contract expiration, with no settlement of the primary issues. On July 1, 2002, the contract covering the docks' 10,500 employees expired. The parties agreed to weekly contract extensions until early September, when the PMA alleged that the union was staging a slowdown and paralyzing operations.

FMCS mediators were in constant contact with the parties from the time negotiations began. When it was clear that a crisis could not be averted, the parties agreed to the active participation of our mediators. In October 2002, Secretary Treasurer of the AFL-CIO, Richard Trumka, joined the negotiations.

September 29 to October 9, 2002 - The Lockout and Mediation Attempts:

On September 29, 2002, the PMA locked out 10,500 employees alleging that they had engaged in a slowdown to pressure the employers in the negotiations. The union denied that it staged a slow down and instead argued that its members were adhering to contractually and federally mandated safety rules. The lockout resulted in significant cargo backups and delayed shipments, resulting in higher costs for thousands of retailers and manufacturers. Over 220 ships were essentially "parked" in the Pacific Ocean awaiting unloading, while exporters were forced to ship their goods with expensive air freight and others lost orders from the United States because earlier shipments were held in port terminals. Some shipping companies ceased sending vessels to the West Coast because of container shortages. Director Peter J. Hurtgen arrived on the West coast shortly before the lockout began. He and his representatives, including the Deputy Director and the local mediator, engaged in round-the-clock mediation efforts to resolve the dispute.

On October 6, 2002, the Director concluded negotiations close to midnight. The parties were unable to reach agreement or to extend the existing contract.

October 7, 2002 – Invocation of Taft Hartley Board of Inquiry Provisions:

On October 7, 2002, the President of the United States invoked the Taft Hartley Act to commence the process of reopening the ports and ending the lockout.

Section 206 of the Taft Hartley amendment to the National Labor Relations Act allows the President of the United States to appoint a Board of Inquiry if a strike or lockout affects an entire industry, or a substantial part thereof, which may “imperil the national health or safety.” Upon receipt of the Board of Inquiry’s written report of the factual elements of the dispute, Section 208 allows the President to petition a district court to enjoin any strike or lockout that, if permitted to continue, “imperils national health or safety.” On October 7, 2002, the President signed an Executive Order creating a Board of Inquiry under Section 206 of the statute. The Board consisted of former Tennessee Senator Bill Brock, and Professors Patrick Hardin and Dennis Nolan. The Board of Inquiry immediately commenced a closed-door fact finding mission, inquiring into the issues involved in the dispute and ascertaining the causes and circumstances thereof. On October 8, 2002, the Board of Inquiry fulfilled its statutory mission and submitted a written report to the President. The Act does not allow the report of the Board to contain recommendations.

October 10, 2002 – Invocation of Taft Hartley “National Emergency” Injunction:

On October 10, 2002, after submission of the Board of Inquiry report, the President, through the Attorney General, sought a temporary restraining order under Section 209 of the statute enjoining both parties from engaging in any job action that would interfere with the continuation of dock work, including a management-led lockout or a union-supported slow down. The President cited economic damage from the lockout and the war on terrorism as a threat to the nation’s health and safety. Although the parties agreed to continue processing military cargo during the lockout, Defense Secretary Donald Rumsfeld, in a sworn statement, asserted that a prolonged port closure could “degrade military readiness, hinder the department's ability to prosecute the global war on terrorism, and undercut other defense needs and world-wide commitments.” On October 10, 2002, United States District Court Judge Alsup issued a temporary restraining order reopening the ports and sending employees back to work. The judge scheduled a hearing for October 16, 2002, to determine whether a permanent injunction mandated the statutory 80 day cooling off period.

October 10 – October 16, 2002 - The Ports Re-Open:

Under court order, employees returned to work and commenced the task of processing cargo, while the Director and his representatives continued their attempts to mediate an acceptable solution to the dispute.

Employees continued to work under court order, but with an understanding from the judge that if the union encouraged or participated in a slow down, the union could be

held in contempt and ultimately face potential fines. The PMA continued to claim that employees engaged in a slowdown and forwarded productivity data to the Justice Department supporting its claim. The union asserted that productivity and cargo movement was slow because of the significant backlog of work, and blamed the PMA for the lockout that caused the backlog. The union maintained its position that it was complying with federally mandated safety requirements when performing assignments and that it was not engaged in a slow down.

October 16, 2002: Judge Orders Permanent Injunction and 80 Day Cooling Off Period:

On October 16, 2002, Judge Alsup issued a permanent injunction that kept the ports open for the full 80 day cooling off period while the union and the PMA continued negotiations with the Director and his representatives.

NLRB Prepares for “Final-Offer” Election During Cooling Off Period While Director Mediates:

While the Director continued mediating the dispute under a tight timeline, the National Labor Relations Board prepared for a “final offer” election under Section 209(b) of the statute. The statute requires that, upon the issuance of a court order enjoining a work stoppage, the parties have 60 days in which to resolve the dispute. At the conclusion of the 60 day period, the parties’ positions are to be reported to the President of the United States by the Board of Inquiry, along with efforts made to settle the case, statements by all of the parties, and a statement of the employer’s last offer. Within 15 days thereafter, the NLRB is statutorily mandated to hold a secret ballot election on whether employees wish to accept the final offer. Due to the strict timelines involved, the parties continued the mediation process with the Director while the NLRB prepared its Regional offices up and down the coast to hold a last offer election.

November 4, 2002 - Tentative Agreement Reached on Technology Issues:

After 3 weeks of ongoing negotiations, tentative agreement was reached covering the technological issues. The agreement in essence allowed the PMA to implement technological changes, but with notice requirements to the union and arbitration procedures to resolve disputes consistently throughout the ports. Any technological change, after notice to the union, may be submitted to a joint labor-management technology committee for their recommendation. In the absence of agreement by the committee, either party can file for arbitration, first through an area (or local) arbitrator, but with appeal rights to a “coast” arbitrator. Review by a coast arbitrator satisfied one important objective: ensuring consistent, uniform, and efficient technological changes industry-wide and an end to the practice of unequal and uneven implementation of technology. Although the union secured the return of previously transferred rail and yard planners, the introduction of new technology, in the short term, would cost the union 400 positions through retirement and transfers to other duties. Despite resolution of this significant issue, other issues remained, including pension benefits, and wages.

November 5 – November 12, 2002 - Director Calls a One Week Recess:

The parties continued negotiations on the outstanding issues, but, under advisement from the Director, recessed negotiations for one week. Under instructions from the Director, PMA used the recess to collect data calculating the potential savings from the technological changes and evaluating the savings against the cost of enhancing pension benefits, health care coverage, and wages for remaining employees.

November 24, 2002: Parties Reach Final Agreement:

Following close to two weeks of continuous negotiations mediated by the Director and his representatives, and a mere three weeks prior to the expiration of the cooling off period, the parties reached full agreement. The six-year agreement guarantees stability on the ports for a significant period. The contract guarantees job security for all existing clerks, increases in pay and benefits, continuation of full medical coverage, and pension increases. The contract was ratified by the largest margin in the union's history, the injunction was discharged, and the "final offer" election was canceled, so ending the most costly labor dispute in 25 years.

2. Verizon/International Brotherhood of Electrical Workers, AFL-CIO, and Communication Workers of America, AFL-CIO

Verizon is the nation's largest telephone company, employing approximately 78,000 technicians and telephone operators represented by the IBEW and CWA in 13 states stretching from Virginia to Maine. Collective bargaining agreements with both unions expired in August 2003, and the membership authorized a strike upon contract expiration. An 18-day strike in 2000 led to a backlog of 250,000 repairs and new phone orders that took months to process. A strike in this case would primarily affect installation of new phone lines, repairs, and ability to reach directory-assistance operators. Seeking to avoid another strike, the Director called all parties to Washington to commence mediation directly with him.

The parties in this case wrangled over issues plaguing collective bargaining negotiations in the last few years: the rising cost of health insurance, and how to balance job security with the company's need to respond to a tough economy and fierce competition. Regarding health insurance costs, citing a 12% increase in health insurance costs, Verizon proposed that its employees contribute more toward their health coverage when they previously contributed about 5 percent of the cost. Simultaneously, Verizon sought greater flexibility to reduce and relocate its workforce. The expired contract allowed for no more than a 0.7% annual workforce transfer unless faced with pressures from "an external event." The company now demanded an increase to 8%. This demand came on the heels of an arbitrator's award, issued a few weeks prior to contract expiration, ordering Verizon to reinstate and make whole 2300 laid off workers because the company violated the job security provisions when it laid them off. The arbitrator rejected the company's argument that new technology, increased competition and

changing government policy was equivalent to “external factors” permitting the layoffs. Verizon continued to demand the right to lay off employees in shrinking business areas, such as traditional land-line telephone business, and expand it in faster growing areas where the company faces stiff competition, such as wireless and high-speed Internet access businesses.

The unions resisted changes in the health insurance costs partially because the company posted profits in the second quarter, immediately prior to contract negotiations. As for job security, the unions wanted to maintain the expired contract language regarding job transfers, and sought an assurance that employees who lose their jobs in one area can obtain reassignment to another part of the company.

Amidst these positions, bargaining commenced with the Director and Northeast regional management about 5 days prior to contract expiration. Talks continued in Washington, while local bargaining committees met in other parts of the Northeast. Negotiations continued for 10 consecutive days, including weekends and late night sessions. After a 2 week hiatus, the parties returned to the bargaining table with the Director and reached agreement on September 4, 2003. Verizon’s vice president praised the Director’s “insightful approach” and the Unions similarly saluted the Director’s “dedicated efforts, experience and professionalism” in helping the parties resolve the contentious issues.

3. Northrop Grumman Ship Systems / Pascagoula Metal Trades Department, IBEW, IAM, and OPEIU

Northrop Grumman is a \$15 billion, global aerospace and defense company, providing products and services in defense and commercial electronics, systems integration, information technology and non-nuclear shipbuilding. Northrop Grumman Ship Systems (NGSS) is a division of Northrop Grumman, headquartered in Pascagoula, Mississippi. The group includes the Ingalls Operations and the Ship Systems Full Service Center, located in Pascagoula, and the Avondale Operations, located in New Orleans, Louisiana, Tallulah, Louisiana, and Gulfport, Mississippi. NGSS employs more than 17,000 shipbuilding professionals and is one of the nation's leading companies for the design, engineering, construction, and support of major surface ships for the U.S. Navy, U.S. Coast Guard, international navies, and commercial vessels of all types. Of these 17,000 employees, 10,000 are represented by 13 different labor unions (9 Metal Trade Unions, and locals of the IBEW, OPEIU, and IAM). Contracts in these units expired in late February 2003.

In November 2003, the parties commenced negotiations with the assistance of a mediator. The parties met daily in mid-February 2003 in order to reach agreement prior to contract expiration.

Throughout the 78 meetings held with the parties, complicated issues pervaded the negotiations, the most significant of which included health care premiums, drug costs and plan designs, wages, holidays, contract language, and contract duration. On February 24, 2003, tentative agreements were reached with the Metal Trades Council (9 of the

unions involved), and, soon thereafter, agreements were reached with the remaining unions.

Ratification votes failed in every unit, and all unions had strike-vote authorization. FMCS immediately invoked a 14-day cooling off period and asked all parties to return to negotiations to avoid a highly disruptive work stoppage, that had the potential to affect the economies in three states and impact on the impending war in Iraq.

With FMCS intervention and intense negotiations, all 13 unions reached 4 year agreements with NGSS and the contracts were ratified. The parties agreed to some of the most progressive and innovative agreements in the shipbuilding industry. They will form a joint labor-management committee to develop and implement a variable pay/gain sharing plan, and have formed a joint task force to address health care issues in order to avoid similar problems during successor contract negotiations.

4. Regional Transportation District (RTD)/Amalgamated Transit Union

Regional Transportation District (RTD) provides bus and light rail service for the Denver metropolitan area. Approximately 250,000 riders utilize the service on a daily basis. For many riders, it is the only means of public transportation. A strike, involving 2000 unionized employees, would have significant impact on Denver and surrounding communities.

The contract expired in December 2002, and a strike was threatened months earlier. Bargaining commenced in November 2002 and the FMCS became active in the dispute in January 2003. Colorado's designated state mediator participated as well.

Mediation commenced with over 100 open issues, but these were quickly narrowed to 20 in three negotiation sessions. Both sides prepared for a strike despite this progress. The Employer's final offer was rejected in March 2003, and the contract was extended for another month. The media soon gained an interest in the dispute, as the strike issues narrowed to wages, overtime pay, health insurance, management rights, and workplace policies.

Hours before contract expiration, while employees readied for picketing, an agreement was reached resolving all outstanding issues. The morning news programs announced the successful resolution of the dispute.

5. Lockheed Martin Aeronautics/International Association of Aerospace and Machinists, Local 776

Lockheed Martin Aeronautics manufactures F-16 fighter jets in Fort Worth, Texas. The company employs 14,000 workers, of which 4000 are represented by the IAM. Historically, the parties' relationship grows increasingly adversarial during contract negotiations. The local mediator contacted the parties two weeks prior to contract negotiations, but the parties resisted mediation efforts at that time.

FMCS mediators became actively involved in the dispute about a week prior to contract expiration. The principle issues centered on the company's compressed work proposal and a new health care plan. The union resisted a compressed work schedule, was opposed to a new health care plan, and proposed increases to wages and pension plan benefits. Negotiations proceeded for five consecutive days under FMCS auspices when the company delivered its final offer. The Union presented the offer to its membership without a recommendation. The membership rejected the offer and voted to strike.

The strike attracted media attention, and continued for one week, when the mediator invited the parties to return to the table. Thirteen days into the strike, the parties returned to negotiations with the mediator and tentative agreement was reached on the 14th day of the strike.

6. Minnesota Hospitals Association/SEIU

The Minnesota Hospitals Association (MHA) is a multiemployer association consisting of fourteen hospitals and large clinics in the Minneapolis/St. Paul metropolitan area. All of the hospitals are represented by Service Employees International Union, Local 113, who represents more than 6000 service and maintenance workers at the fourteen MHA facilities.

The collective bargaining agreements covering all the SEIU units were scheduled to expire in late February 2003. Despite multiple negotiation sessions, little progress had been made, and in early February, MHA requested the assistance of the mediator. The Union opposed mediation at the time but assured the mediator, and MHA, that it would assent to mediation prior to any work stoppage. In mid-February, following the filing of appropriate notices with FMCS and the affected MHA institutions, the Union commenced informational picketing at selected MHA institutions, amidst widespread media coverage.

Throughout February, the assigned mediator and Regional leadership of FMCS monitored the progress of negotiations. When the contract expired, the Union consented to mediation. Negotiations were extremely complex, they were attended by over one hundred participants, and the parties remained far apart. More than fifty issues remained open and little progress was made. The Union continued to demand their economic package, and other issues including contract duration and a neutrality agreement in future organizing campaigns. Negotiations stalled in March, with no future mediation sessions formally scheduled, yet the mediator maintained daily contact with both sides. After some time, the mediator asked the parties to return to the table and the mediator continued efforts to move the parties toward agreement. The Employer presented the Union with a final offer. Shortly after receipt of the final offer, the Union filed unfair labor practice charges with the NLRB and simultaneously filed one day strike notices on selected MHA institutions. They did not submit the offer for a vote by the membership. The media showed interest in the dispute particularly when the strike notices continued and the first of the one-day strikes occurred in the middle of April.

Despite the mediator's attempt to generate movement by the parties, both sides remained firm. Concerned that no additional meetings were formally scheduled, the mediator persuaded the principal spokespersons to attend a meeting at the FMCS offices in Minneapolis. During this meeting, it became clear that there was a miscommunication between the parties regarding the final offer: the Union believed that the entire final offer "expired" on April 6, while the Employer contended that only certain parts of the offer expired on that date. The Employer requested that the final offer be submitted to the membership for a vote, while the Union indicated a desire to expand the rolling strikes' duration from one to multiple days. Convinced that the dispute was in danger of escalating and concerned about the parties' ability to bring closure to the negotiations without significant economic and community disruption, the mediator explored different package options with the parties. The mediator persuaded the parties to meet face-to-face as a means to halt the escalation of the conflict.

When the parties met again with the mediator, the mediator suggested a "package" option to resolve the principal issues separating the parties, including wages, health insurance, pension and a neutrality agreement. At the conclusion of a long mediation session, a new package was outlined and the Union agreed to submit it to its membership. The contract was ratified, averting a work stoppage that would have affected not only the employees, but access to health care for the residents of the Twin Cities.

7. Waukesha Engine/IAM:

Waukesha Engine produces diesel engines and employs 800 workers, of which 500 are represented by the Union. The highly skilled, unionized workforce is responsible for maintenance, welding and assembly of complex engines. The Union has represented these employees for over 50 years and, in the past, had a positive working relationship with the company.

Waukesha Engine has been a profitable operation for many years, and as a result, employees have generally enjoyed superior wages and benefits. However, when negotiations commenced in January 2003, the company, while acknowledging profits, proposed \$5 million dollars in "cost-saving" measures, including changes to the health insurance programs, layoffs out of seniority, and elimination of paid lunches for all employees. The company maintained that any contractual increases must be offset by corresponding "cost-savings" reductions.

Although the parties resolved some issues without mediation, significant contract language issues and economics were unresolved when FMCS was asked to join the negotiations. The company maintained its demand for \$5 million dollars in cost savings, while the Union searched for these savings in areas that would be acceptable to the membership. In May 2003, the Union submitted the company's "final offer" to membership for a vote. The offer was rejected and the membership voted to strike. The

strike began the afternoon of the vote and the company immediately hired 200 temporary replacements.

Almost 45 days into the strike, and after several mediated sessions, the membership rejected an 'amended' proposal. The company was prepared to declare impasse and implement its final offer. The mediator asked the parties to return to the table and worked with the parties to fashion an acceptable resolution. A contract and strike settlement was reached, 55 days into the strike.

In addition to the economic harm of the strike, there has been a significant deterioration of the good-will that existed between the parties prior to this labor dispute. The parties' historic labor-management partnership is now a memory, and many cooperative efforts have been abandoned. With the contract now ratified, we will extend our efforts to help the parties re-establish a good working relationship.

8. Williams Controls/UAW

The employees of Williams Control have been on strike since September 2002. Since that date, the mediator has been actively involved in negotiating a settlement of the contract terms and a strike settlement. The most significant issue involved health insurance for retirees, and ultimately the right of the economic strikers to return to work. During the strike, the Union filed unfair labor practices with the NLRB, but during the course of the NLRB's investigation, it became evident that the statutory strike notice was not timely filed with the FMCS thereby affecting the statutory protection of the strikers and their reinstatement rights. In August 2003, almost a year after the strike began, the parties entered into a 5-year contract, allowing retirees to maintain their health insurance, and allowing the strikers to return to work within a four month period.

9. Southwest Washington Health District and Clark County Health Department/LIUNA

Southwest Washington Health District employed 120 employees represented by LIUNA. These employees were scheduled to transfer to Clark County Health Department by January 2003. In September 2002, the FMCS was asked to mediate an interagency transfer agreement that eased the transition from Southwest Washington Health District to the Clark County Health Department. Using interest-based bargaining techniques, the mediator facilitated a transfer agreement by January 1, 2003.

Once the transfer was complete, the FMCS was asked to mediate the first collective bargaining agreement between LIUNA and the Clark County Health Department. Using interest-based bargaining techniques, and an existing contract from an OPEIU bargaining unit in Clark County, the parties negotiated each provision of their new collective bargaining agreement. The process was complex and time consuming: they reviewed each provision of the OPEIU contract, determined its practical applications, compared each provision against LIUNA's previous agreement with Southwest Washington Health District, and determined which sections of the OPEIU and

LIUNA contracts were acceptable to both parties. The parties were forced to deal with difficult issues, including seniority credit and its relation to the transfer, new wage schedules, and reclassification of certain positions due to the transfer. The mediator looked for consensus on each provision and ultimately the parties executed a two year agreement.

10. San Francisco Ballet / International Association of Musicians

The San Francisco Ballet company employs approximately 67 musicians. The state of the economy and the decline in tourism have negatively affected endowment income, ticket sales and contributions to ballet.

While the contract between the American Federation of Musicians Local 6 and the Ballet company expired in December 2002, the parties desired early intervention because of their previous positive working relationship with the FMCS and local mediators. Months before contract expiration, the parties asked to use interest-based bargaining techniques, using FMCS's Technology Assisted Group Solutions (TAGS) computer-based program. With the help of two mediators utilizing our TAGS system, the parties resolved 18 of 27 non-economic issues in 3 days. Encouraged by this success, the parties agreed to address their outstanding economic issues. Generally, interest-based bargaining is a difficult technique to use when resolving economic issues. Nonetheless, the parties were able to complete the economic portion of negotiations in 2 days, also using interest-based bargaining techniques. As a result of the cooperative efforts of parties, the local mediator has been asked to address a national convention of ballet directors regarding FMCS's dispute resolution services.

C. Collective Bargaining Mediation Data

Intake					
Fiscal Years 1999 Through 2003	1999	2000	2001	2002	2003
Union and Employer Notices ⁶	36,854	34,038	33,344	40,677	33,046
NLRB and FLRA Certifications ⁷	1,631	1,492	1,446	1,389	1,485
Public Sector Board Requests ⁸	198	191	152	173	173
Union and Employer Requests ⁹	1,903	2,521	2,704	3,100	3,140
Total	40,586	38,242	37,646	45,339	37,844

⁶ Notifications to the Service by one or both parties desiring to modify a contract that is expiring, or for a specific reopening of an existing contract.

⁷ Notifications from these two agencies regarding certification or recertification of bargaining units. Bargaining for an initial contract usually follows such certifications.

⁸ Requests for mediation assistance from public sector parties where a state has a Public Sector Board with jurisdiction over labor contracts, but no state mediation service is available.

⁹ Requests from the parties for mediation assistance where no notification to the Service has been filed.

Case Numbers Issued Fiscal Years 1999 Through 2003 ¹⁰	1999 25,676	2000 26,323	2001 25,071	2002 25,282	2003 26,774
Case Numbers Assigned Fiscal Years 1999 Through 2003 ¹¹	1999 19,200	2000 19,574	2001 19,116	2002 19,303	2003 19,516
Cases Closed Fiscal Years 1999 Through 2003 ¹³	1999	2000	2001	2002	2003
By consolidation after assignment ¹⁴	685	1,125	619	727	728
By Final Report with meetings ¹⁵	6,188	6,321	6,424	6,757	6,640
By Final Report with no meetings ¹⁶	12,422	13,291	12,107	10,861	11,938
Total	19,295	20,737	19,150	18,345	19,306
Dispute Meeting Conferences Fiscal Years 1999 Through 2003 ¹⁷	1999 19,329	2000 17,837	2001 17,933	2002 17,920	2003 17,702
Work Stoppage Information Fiscal Years 1999 Through 2003 ¹⁸	1999	2000	2001	2002	2003
Work stoppages beginning in the fiscal year	362	400	432	308	277
Work stoppages in closed cases in the fiscal year	411	392	445	327	289
Average duration of work stoppages					

¹⁰ Case numbers assigned to notifications, certifications, and requests received by the Service. Some notifications are subsequently consolidated into a single case with a specific case number; therefore, the lower total of case numbers issued when compared to the intake.

¹¹ Cases assigned to a mediator. The decision to assign a case involves many factors and not all cases are assigned.

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

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

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

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

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

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

in closed cases (number of days)	50.5	390	40.7	53.7	60.5
Contract Mediation Analysis By Sector					
Fiscal Years 1999 Through 2003	1999	2000	2001	2002	2003
INTAKE	40,586	38,242	37,646	45,339	37,844
CASE NUMBERS ISSUED					
Private Sector	23,856	24,386	23,135	23,170	24,775
Public Sector	1,141	1,216	1,185	1,362	1,366
Federal Sector	678	720	750	749	632
ASSIGNED					
Private Sector	17,444	17,681	17,241	17,266	17,568
Public Sector	1,089	1,168	1,139	1,296	1,329
Federal Sector	666	725	739	741	623
CLOSED CASES ¹⁹					
Private Sector	17,394	18,786	17,219	16,331	17,302
Public Sector	1,199	1,209	1,150	1,297	1,341
Federal Sector	701	742	781	717	663

¹⁹ Excludes cases closed by consolidation after assignment.

III. INITIAL CONTRACT NEGOTIATIONS:

A. Initial Contract Negotiations and Processes:

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

Negotiations can be further complicated by one or both parties' inexperience in collective bargaining and labor-management relations. For the last several years, FMCS has placed special emphasis on mediation of initial contract negotiations between employers and newly certified or recognized bargaining units. It is our policy that all initial contract cases are promptly assigned for mediation, and that mediators make every effort to become actively involved in assisting the parties in achieving agreements. Since 1996, FMCS maintained a rule requiring all initial contract cases remain open for two years pending an agreement between the parties, or the closing of the case for other reasons.

For more than a decade, the NLRB regional offices have provided paper copies of certifications to the FMCS. Because the process varied in different parts of the country, the FMCS did not receive the certification within a reasonable period of time after issuance, severely hampering our ability to assist the parties. To streamline this process, and ensure our prompt receipt of certifications after their issuance, FMCS's National Office receives, via e-mail from the NLRB's headquarters, a spreadsheet of all certifications issued within the month. This data includes not only the company and union involved, but also includes a full and complete description of the certified unit, number of employees in the unit, date of certification, and addresses, telephone, facsimile and e-mail addresses of the parties involved. This system is more efficient, ensures that we receive the certifications no more than one month after issuance, and allows for our intervention as soon as possible.

B. Initial Contract Bargaining Data

Initial Contract Bargaining	FY 99	FY'00	FY'01	FY02	FY03
Private Sector initial contract cases received:	1,715	1715	1,745	1,486	1,578
Assigned to mediators:	1,657	1,677	1,702	1,458	1,506
Assigned from NLRB certifications:	1,397	1,296	1,282	1,185	1,266
Assigned from other sources: (e.g. voluntary recognition)	260	381	420	273	240
Cases closed by FMCS: (Mediated and non-mediated)	661	867	1,892	1,361	1,473
Mediated cases closed with agreement reached:	137	231	360	243	190
Percentage of mediated cases	47.9	52.9	55.1	50.3	47.7
Mediated cases closed without agreement reached:	149	206	293	240	208
Percentage of mediated cases ²⁰	52.1	47.1	44.9	49.7	52.3
Non-mediated cases closed with agreement reached:	249	255	676	538	642
Percentage of non-mediated cases:	66.4	59.3	54.6	61.3	59.7
Non-mediated cases closed without agreement reached:	126	175	561	339	433
Percentage of non-mediated cases ²¹	33.6	40.7	45.3	38.7	40.3
Percentage of mediated and non-mediated cases	58.3	56.0	54.8	57.4	56.5
Closed with agreement reached:					
Closed cases involving ULP ²² filed by either party:	75	128	263	221	193
Closed cases involving work stoppages:	19	24	43	29	20
Closed cases involving work stoppages with	10	14	21	20	10
Agreement reached:					
Average number of days between statutory notice receipt and closure: ²³	166	176	85	75	72

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

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

²² Unfair Labor Practices

Average number of days for cases carried over	351	363	432	396	318
And closed in next fiscal year:					
Assigned cases carried over to next year:	1,001	813	792	784	881

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

IV. RELATIONSHIP DEVELOPMENT AND TRAINING PROGRAM:

In today's changing workplace and economic environment, businesses and unions recognize that the quality of the labor-management relationship is an important factor in an organization's ability to compete. As a result, the role of federal mediators has evolved beyond traditional crisis intervention during the last few days of collective bargaining negotiations. More frequently, mediators are involved during the life of a contract to address workplace issues between the parties, and they train both sides in effective bargaining, communications, joint problem solving and innovative conflict resolution methods. Increasingly, FMCS offers a broader range of services to respond to changing customer requirements. These "preventive mediation" (PM) services are collaborative union-management processes and are as important as our dispute mediation services.

B. FY 2002 Preventative Mediation Cases of Significance:

1. Longmont Foods d/b/a ConAgra/UFCW Local 990 and IOUE Local 1

ConAgra is a turkey processing plant, employing a culturally diverse workforce. Half of its workforce, about 400 employees, are represented by either UFCW or IOUE. In late 2002, we worked with the parties to develop a labor-management committee. We facilitated committee meetings into December 2002, and assisted the parties in resolving workplace problems. Since the inception of the committee, the parties developed on-site foreign language classes, high school degree equivalency (GED) classes, arranged for assistance to employees with immigration issues, and developed a scholarship program for employees' children. The labor-management committee now works effectively on its own, with occasional site visits by the mediator.

2. Environmental Protection Agency/AFGE

The labor-management relationship at the federal Environmental Protection Agency (EPA) offices in Chicago was historically volatile. There were a large number of unresolved grievances and the parties functioned on an adversarial basis. When a new Regional Director was appointed in the Chicago office, he demonstrated commitment to the mediation process by sending EPA labor relations specialists to the FMCS Institute for a course in mediation skills. The course was well received, as evidenced by the EPA's request to replicate it in the Chicago office. In the fall of 2003, four mediators conducted a 5-day mediation skills training class. In order to remain responsive to the needs of the class, adjustments were made to the program agenda and content during the one week training program. The participants were anxious to apply their newly learned skills at the worksite. A follow-up facilitation session with the training participants, conducted several months later, showed that the participants utilized the skills learned during the training. The EPA reported an increase in the grievance-settlement rate and improved communication between the parties. The EPA continues to work with FMCS on additional training for other managers and union officials.

3. Southeast Navy Regional Navy Command / American Federation of Government Employees (AFGE), International Association of Firefighters (IAFF), and the National Association of Government Employees (NAGE)

The Navy's Southeast region is headquartered in Jacksonville, Florida. It includes 17 commands and several thousand employees. The Southeast Navy Regional Command established a labor-management consortium, and, in August 2003, the FMCS was asked to train new members of the labor-management consortium, using interest-based, problem-solving techniques. After training, we facilitated discussions concerning housing, security and safety among 40 members of the labor-management consortium. Using subcommittees, and interest-based, problem-solving processes, the consortium resolved many complex issues through consensus and cooperation. The parties learned that occasional disagreement does not preclude cooperative efforts in other areas.

4. Perkins School District

The Perkins School District elementary school teachers and administrators asked for assistance in improving their overall working conditions. The parties complained of a growing distrust and lack of effective communication between teachers and administrators. We met with representatives of various factions within the district to fully assess their situation. We delivered a two-day training program for all teachers and administrators within the school, other district administrators, and all Board of Education members, focusing on advanced communication skills and development of a common vision for the school. Participants identified the issues dividing them and developed an action plan to rectify the situation. The parties created a labor-management committee to implement their objectives. The labor-management committee was trained by an FMCS mediator, who currently facilitates the committee's meetings, and all parties are optimistic that working conditions will soon improve.

C. Relationship Development and Training Data

Relationship Development and Training Cases

Fiscal Years 1999 through 2003 ²⁴	1999	2000	2001	2002	2003
Assigned ²⁵	2,891	2,782	2,629	2,610	2,574
Closed by Final Report ²⁶	2,954	2,792	2,655	2,618	2,594

Outreach Cases

Fiscal Years 1999 Through 2003 ²⁷	1999	2000	2001	2002	2003
Assigned	5,518	5,504	5,436	5,800	5,392
Closed by Final Report	5,626	5,621	5,645	5,881	5,484

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

²⁵ Cases assigned to a mediator.

²⁶ Closed by a Final Report filed by the mediator.

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

V. ARBITRATION SERVICES:

A. Arbitration Services:

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

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

To join the FMCS Roster, arbitrators must be approved by an Arbitration Review Board, which meets quarterly to consider new applicants for appointment to the roster by the FMCS Director. There is also an arbitration user focus group, which reviews and makes recommendations to the FMCS Director on changes in Arbitration Service policies and procedures.

B. FY 2003 Accomplishments:

The following represents the accomplishments of the Office of Arbitration Services during fiscal year 2003:

- **E-filing:** To encourage on-line filing for arbitration panels, the Office of Management and Budget approved our request to increase fees for non-electronic panel requests, while maintaining the \$30 on-line fee. The result has been an increase in on-line filing from 386 in fiscal year 2002 to 2140 in fiscal year 2003.
- **Revision of Arbitration Policies:** Policies and Procedures have been revised by clarification of the criteria for admittance to the roster. The Arbitration Review Board has proposed, and the Director is now considering a policy that arbitrators who have not been active on the roster for a period of two years must reapply to the Arbitrator Review Board to gain re-admission.
- **Untimely Awards:** In the last two fiscal years, the Office of Arbitration services instituted timeliness requirements for awards. If two or more awards are overdue

in non discharge cases, or there is one overdue award in a discharge case, the arbitrator is considered unavailable for selection until the awards are rendered. As a result, awards are more timely and the public has filed less complaints regarding untimely awards.

- **Revisions to the R-43:** Revision includes expansion of acceptable forms of electronic payment. Additionally, because the parties now have the opportunity to seek a panel of arbitrators from a particular metropolitan area, 25% of the parties have had substantial savings in travel expenditures.
- **Expansion of arbitrator biographies:** The arbitrators' biographies now include arbitrator's e mail addresses for ease of communication, collective bargaining and arbitration experience, individual fees and cancellation policies, and each arbitrator's time requirements to avoid a cancellation fee.
- **Arbitration Customer Focus Group:** A customer focus group was convened, consisting of arbitrators, and representatives of labor and management, to secure feedback on the selection process, timeliness of awards, geographical boundaries, and concerns about our computer system. Recommendations of the focus group will be reviewed and changes to our procedures will be considered.
- **FMCS Institute:** The Agency's Institute conducted two arbitrator training courses to increase the professionalism and expertise of new arbitrators.

C. Arbitration Services Program Data

Number of Panel Requests, Panels Submitted and Arbitrator Appointments Fiscal Years 1999 Through 2003

Activity	1999	2000	2001	2002	2003
Panel Requests	17,514	16,976	16,594	17,282	17,332
Panels Issued ²⁸	19,062	19,485	18,275	18,891	19,039
Arbitrators Appointed	8,984	9,561	8,706	8,335	8,595
Activity Charged For	1999	2000	2001	2002	2003
Travel Days	.41	.51	.43	.45	.48
Hearing Days	1.20	1.18	1.15	1.09	1.15
Study Days	2.38	2.58	2.40	2.44	2.35
Total	4.02	4.27	3.98	3.98	3.98
Charges	1999	2000	2001	2002	2003
Per Diem Rate	641.49	672.12	693.12	720.75	763.87
Amount of Fee	2,592.00	2863.49	2761.04	2884.46	3047.54

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

Amount of Expenses	248.92	321.67	341.92	318.03	364.32
Total Charged	2,840.92	3185.16	3102.96	3202.49	3411.86

Total Number of Issues

	1999	2000	2001	2002	2003
<i>And Specific Issues</i>					

<i>Total</i>	2,132	2,723	1,902	1,989	2,314
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General Issues

Overtime Other Than Pay*	391	585	434	463	506
Distribution of Overtime	30	48	34	26	35
Compulsory Overtime	8	12	8	12	9
Other Overtime	15	18	10	10	12

Seniority

Promotion & Upgrading	42	86	54	52	63
Layoff Bumping & Recall	48	65	46	48	71
Transfer	13	16	17	21	14
Other Seniority	33	38	25	25	35
Union Officers**	4	12	9	14	13
Strike & Lockout	2	4	3	2	1
Working Conditions***	19	35	35	29	19
Discrimination	21	27	19	24	17
Management Rights	49	75	51	63	71
Scheduling of Work	45	50	43	67	47
Work Assignments	62	99	80	70	99

Economic Wage Rates & Pay Issues

Wage Issues	239	298	227	229	233
Rate of Pay	46	32	29	36	42
Severance Pay	65	75	53	60	60
Reporting, Call- in & Call-back Pay	6	5	6	8	5
Holidays & Holiday Pay	10	12	13	7	10
Vacations & Vacation Pay	15	33	31	26	21
Incentive Rates & Standards	31	54	29	39	27
Overtime Pay	17	25	13	7	15
	49	62	53	46	53

Fringe Benefits Issues

Health & Welfare	63	100	69	99	112
Pensions	27	58	29	58	61
Other Fringe Issues	6	14	11	8	11
	30	28	29	33	40

Discharge & Disciplinary Issues

	1004	1203	849	947	1091
Technical Issues	102	139	81	86	97
Job Posting & Bidding	36	52	32	38	43
Job Evaluation	24	28	18	11	21

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

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

*** This classification also includes issues concerning safety.

Job Classification	42	59	31	37	33
Scope of Agreement	61	74	45	65	53
Subcontracting	40	48	29	41	36
Jurisdictional Disputes	10	16	8	14	5
Foreman, Supervision, etc.	7	5	5	8	9
Mergers, Consolidations, Accretion, Other Plants	4	5	3	2	3
Arbitrability of Grievances	146	193	109	100	139
Procedural	98	120	76	60	102
Substantive	35	42	14	23	25
Procedural & Substantive	13	24	19	17	12
Other Arbitrability Questions	0	7	0	0	0
Not Elsewhere Classified	126	131	88	115	83
Total Number of Cases State & Region	1999	2000	2001	2002	2003
Mountain	142	85	123	115	136
Arizona	9	15	10	15	20
Colorado	47	28	40	30	47
Idaho	6	3	7	5	7
Montana	8	11	16	7	11
Nevada	30	12	13	31	23
New Mexico	35	11	26	19	20
Utah	5	4	5	5	6
Wyoming	2	1	6	3	2
Pacific	153	128	140	151	129
Alaska	8	6	13	7	2
California	86	59	66	73	67
Hawaii	2	2	0	1	3
Oregon	17	32	28	31	12
Washington	40	29	33	39	45
Miscellaneous	9	16	9	13	15
Philippines	0	0	0	0	0
Puerto Rico	2	4	1	2	7
Virgin Islands	4	4	4	10	6
Guam	0	0	0	0	0
Others	3	8	4	1	2
New England	20	29	45	17	37
Connecticut	5	10	13	0	4
Maine	2	2	2	2	4
Massachusetts	9	11	12	9	8
New Hampshire	2	0	2	1	0
Rhode Island	1	0	6	3	8
Vermont	1	6	10	2	13
Middle Atlantic	233	289	307	246	284
New Jersey	31	22	30	26	35

New York	95	111	121	71	97
Pennsylvania	107	156	156	149	152
South Atlantic	285	349	385	375	457
Delaware	4	6	12	3	2
District of Columbia	53	31	36	35	50
Florida	55	92	112	125	124
Georgia	25	51	58	41	77
Maryland	48	35	29	49	48
North Carolina	7	21	29	29	37
South Carolina	8	15	14	14	21
Virginia	47	56	30	43	53
West Virginia	38	42	65	36	45
East North Central	673	866	715	950	796
Illinois	207	191	145	216	199
Indiana	71	67	63	84	55
Michigan	187	190	194	158	171
Ohio	154	338	224	413	274
Wisconsin	54	80	89	79	97
West North Central	222	316	314	273	347
Iowa	49	61	68	51	67
Kansas	27	32	38	28	39
Minnesota	40	90	84	82	71
Missouri	85	101	94	89	121
Nebraska	16	17	19	12	17
North Dakota	1	5	8	4	23
South Dakota	4	10	3	7	9
East South Central	118	236	239	221	224
Alabama	23	53	57	51	49
Kentucky	35	70	81	66	71
Mississippi	9	17	32	20	24
Tennessee	51	96	69	84	80
West South Central	110	227	237	308	321
Arkansas	11	35	40	53	53
Louisiana	9	28	23	43	40
Oklahoma	26	68	70	104	79
Texas	64	96	104	108	149
Totals	1,965	2507	2514	2669	2746

VI. GRANTS PROGRAM:

A. Grants:

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

In fiscal year 2003, we received 71 grant applications. We awarded 10 new competitive grants and 3 non-competitive (continuation of prior grants) at a cost of \$1.5 million. These grants supported labor-management committees representing approximately 1.6 million employees in both the private and public sector. An independent FMCS Grants Review Board, chaired by the Director of Labor-Management Grants, does preliminary scoring of each application. Final selection is made by the program director.

B. Fiscal Year 2003 Grant Funding Summary

AREA

San Diego-Imperial Counties (San Diego, CA) 03-CA/A-006

\$113,535 Develop strategies to help workers overcome legal barriers to Employment Using Local Labor-Management Committees

Community Services Agency of the Metropolitan Washington Council (Washington, DC) 03-DC/A-007

\$110,668 Implementation of Workplace Issues and Collective Bargaining in the Classroom in the Metropolitan Washington, DC Area by giving the students a better understanding of the work in the society in both an historical and contemporary perspective.

PLANT

Blue Ridge Paper Products Inc. (Canton, NC) 03-NC/P-002

\$65,000 The creation of a new, more industry competitive “Employee Ownership” organizational culture, through a joint Labor/Management Partnership.

INDUSTRY

H-CAP, INC. (Washington, DC) 03-DC/I-003

\$122,829 Address workforce needs, specifically the current nursing shortage crisis by creating a training program which will offer an industry-led nursing education program.

International Association of Machinists & Aerospace Workers/District Lodge 141M (South San Francisco, CA) 03-CA/I-004

\$125,000 Improve labor-management relations and to enhance productivity and employment security in the airline industry by developing and supporting highly trained and effective labor-management committees.

Consortium for Worker Education, Inc. (New York, NY) 03-NY/I-005

\$119,243 Develop industry led training and business services to help decrease the Employment skills shortage and help improve the workers skills.

Alpena General Hospital (Alpena, MI) 03-MI/I-008

\$116,439 Enhance labor relations in two separate hospitals using a new nursing profession initiative “The Magnet Recognition Program” to mandate standards for hospitals to create healthier work environments and stronger organizations.

Mid-Michigan Construction Alliance (Lansing, MI) 03-MI/I-011

\$120,721 Enhance the chances for finding better ways to achieve positive outcomes to deal with the many labor-management problems in Mid Michigan, organized construction community.

Association of Joint Labor Management Educational Programs (New York, NY) 03-NY/PS-009

\$76,014 Development and implementation of a multi-faceted labor-management committee training program in order to strengthen and promote the need for training for the committees.

City of Fresno (Fresno, CA) 03-CA/PS-010

\$70,801 Improve Labor-Management Communication, Trust and Decision-making during uncertain economic times.

VII. FMCS INSTITUTE:

A. Purpose and Course Offering:

Education and training in labor relations and conflict resolution are an integral part of the Agency's mission for more than half a century. The Institute's primary mission is to offer training and education to labor and management practitioners in a classroom format that is structured, accessible, and convenient to individuals and small groups than the site-based preventive mediation programs. The Institute was established to respond to the changing needs of modern collective bargaining, providing essential training in meeting the challenges of labor-management relations and organizational change.

In fiscal year 2003, the Institute offered 13 classes, covering the following topics:

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

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

VIII. EMPLOYMENT MEDIATION:

A. Services Provided:

Mediation of employment-related disputes is available to federal, state, and municipal government agencies. These services include mediation, conflict resolution systems design, education, training, and the facilitation of multi-party regulatory, environmental and public policy negotiations. All these services are successful alternatives to costly and time-consuming litigation in the settlement of conflict.

FMCS mediates disputes both within agencies (e.g., age discrimination and other unfair employment complaints, whistleblower complaints) and between agencies and their regulated public (e.g., environmental disputes).

The longer-term objective is to assist agencies in institutionalizing these processes. FMCS “trains the trainers,” imparting these skills to agency personnel so they can construct their own dispute resolution system, and also train others within their organization.

1. Federal Employment Mediation:

FMCS concluded nearly 1310 ADR cases for numerous governmental agencies in fiscal year 2003. For most of the governmental agencies listed below, we mediate workplace and discrimination disputes. Our government contracts include:

- **Equal Employment Opportunity Commission**
- **United States Postal Service**
- **Health and Human Services**
- **Department of the Interior**
- **Internal Revenue Service**
- **Department of Agriculture**
- **Department of the Navy**
- **Immigration and Naturalization Service**
- **Federal Bureau of Investigation**
- **Housing and Urban Development**

Additional work included the following:

a. Bureau of Indian Affairs

The FMCS facilitated a four-year regulatory negotiations process for the Bureau of Indian Affairs, a division of the Department of Interior. The Departments of Interior and Transportation allocated \$275 million for road construction and maintenance projects, but a funding formula was required to determine the appropriate distribution of the funds to various stakeholders. The stakeholder representatives included twenty-nine tribal representatives, representing the nation’s 556 recognized tribes throughout the U.S., eighteen federal representatives, and over fifteen technical and legal consultants. Negotiations ran in excess of twenty months. This became a critical issue

when current road projects, needing immediate attention, had to rely on special apportionment from the existing formula.

The committee faced a number of dilemmas: how, when, and at what level of funding would the funds be earmarked and distributed, to what tribes, and when. Partial funds were distributed, but planning was disrupted because of unclear mandates from government officials and tribal leaders. After 4 years of negotiations, concluding in late 2002, agreements were reached on key issues of population, land use, mileage, maintenance and the crafting of two formula options. A notice was published in the Federal Register outlining the committee's draft rule for fund distribution based on specific formulas. Over 1800 comments were received. Committee protocols required that the group consider these comments. After reviewing the public comments in 2003, adjustments were made to the proposed rule and the matter has been resolved.

b. Environmental Protection Agency

In September 2001, FMCS began consultative services with the U.S. Environmental Protection Agency, Office of Research and Development (ORD) seeking to improve employee morale. ORD is the scientific research branch of EPA and employs the nation's leading scientists at various EPA labs. During the initial phase of the working relationship, we developed site-specific improvement plans and implemented the plan at the local lab level. Various programs included conflict management training in communications, diversity, leadership development, and management. ORD incorporated organizational change to address employee morale and legacy planning, and we continue to serve as a consultant for conflict management models. Most recently, we designed a comprehensive, conflict-management training program, which will be implemented in FY 2004.

IX. INTERNATIONAL TRAINING AND EXCHANGE:

FMCS is responding to increasing requests for conflict resolution services outside the traditional domestic labor-management arena. FMCS plays an important role in promoting collective bargaining and conflict resolution in other nations. Friendly foreign governments have sought our assistance in designing systems that resolve and prevent industrial conflict where a formal system has not been developed to manage it. We have held briefing sessions for foreign union and management officials to familiarize them with U.S. labor-management history, laws, and practice.

The International team develops a program plan, outlining specific services, potential venues for those services, and possible funding sources. Since FMCS receives no appropriated funds for its International programs, mediator salaries and expenses are reimbursed through such entities as the Department of State, The United States Agency for International Development (USAID), or the United States Department of Labor.

Overall, we assisted 60 foreign government organizations in FY 2003. Some examples include the following:

a. Baltic Mediation Training Project

In September 2001, FMCS conducted training in dispute resolution techniques for labor, management, and government officials in Riga, Latvia and Vilnius, Lithuania. We maintained our cooperative efforts through fiscal year 2003 and developed a special training program to expose at least one mediator candidate from each country to FMCS dispute resolution techniques. One attorney from the central trade union confederation of Latvia, one labor attorney from the Estonian Ministry of Labor, and one mediator from an NGO from Lithuania, were selected to participate. All three attended new mediator training in the United States (along with other newly hired FMCS mediators) and were assigned to an FMCS Regional Office for 3 weeks, where each had the opportunity to observe mediators working in many different states. This project was funded by the Department of State, Northern European Initiative, and the U.S. Baltic Foundation. Our cooperation continues in the fall 2003, in Riga, Latvia, where we will train labor, management, and government officials in dispute resolution techniques.

b. Mediation and Arbitration Services in Bulgaria

For four years, FMCS assisted Bulgaria in building democratic institutions for conflict resolution. In previous years, we hosted high-level officials from labor, management, and government who observed a wide variety of labor-management conflict resolution systems. As a result, and with our assistance, the Bulgarian National Institute for Conciliation and Arbitration (NICA) was formed. In May 2003, 35 mediators were selected to join that organization, and we designed and implemented training for the newly appointed mediators. Introductory mediation training was provided in May 2003, and we have commenced discussions with NICA's Executive Director about follow-up training on arbitration services and the establishment of a code of ethics.

c. South Korea

South Korean's Labor Education Agency, Korea Labor Education Institute (KLEI), sent seven labor relations professionals, professors, and attorneys to attend the FMCS Institute's course in mediation skills. Subsequently, five individuals from the Korean delegation participated in preventive mediation training and shadowed mediators in the Seattle area. FMCS and KLEI executed a memorandum of understanding agreeing to collaborate on their respective labor relations and alternative dispute resolution techniques and approaches.

d. Conciliation Institutions in Peru

The government of Peru asked for our assistance in strengthening its ability to provide mediation services. The government also sought assistance in creating and training private sector labor mediators. We conducted 4 training programs attended by representatives of labor, management, and conciliators, and also conducted a "train the

trainer” program for government conciliators who are expected to form the nucleus of a training team for other conciliators/mediators in the country.

With respect to strengthening the government’s ability to provide mediation services, we facilitated a steering committee for the development of a new Center for Mediation, Arbitration & Investigation (CENCOAMITP) in the Labor Ministry. It is now the first entity to provide labor conciliation outside of the judicial system. The Labor Minister, Fernando Villarán De La Puente, personally attended the meetings that formed this new center, which commenced activities in July 2003.

We were also asked to assist the government in development of a private sector labor mediation practice. The Ministries of Labor and Justice signed an agreement laying out a framework of cooperation allowing for extrajudicial labor conciliation. The new Center for Mediation, Arbitration and Investigation is expected to train a cadre of private sector conciliators who will, for the first time, provide extrajudicial labor conciliators to generate agreements enforceable in a court of law.

e. Serbia and Montenegro

The American Center for International Labor Solidarity Center, in a project funded by the U.S. Agency for International Development (AID), asked the FMCS to promote and develop conflict resolution mechanisms for unions, employers, and government agencies in war-torn Serbia and Montenegro.

To achieve this objective, FMCS will work with the Solidarity Center from 2003 through 2005 to provide education and guidance on improving negotiations and developing institutional capacity to resolve disputes. During this period, we continue to conduct education programs with partners in Serbia and Montenegro to achieve these objectives. In April 2003, we met with labor, management, and government officials separately, and in focus groups, to develop training needs and guide the development of training materials. In June 2003, we commenced our first training session. It involved interest based bargaining techniques and communications skills for labor, management, and government officials. The parties in both republics are committed to establishing a mediation and arbitration service and to creating the necessary legal frameworks for these to flourish. Both ministries will draft legislation, and we have pledged our assistance in facilitating meetings among interested stakeholders in drafting the legislation. In the meantime, we continue to work with Serbia and Montenegro to develop training programs geared to problem-solving, grievance and arbitration machinery, appropriate contract language, and resolution of individual and collective labor disputes. Additional activities are planned for the next two years.

f. Argentina:

The objective of this project, funded by the U.S. Department of Labor, was to strengthen the capacity of the Province of Córdoba, Argentina (the second largest province in Argentina) to conciliate labor disputes in the wake of the volume of

dismissals resulting from the deep economic recession in Argentina. In phase one of the project (November 2001), FMCS commissioners trained the conciliators and labor inspectors in interest based problem solving techniques. In phase two of the project, the team returned to Córdoba in April 2002 to train private sector labor relations practitioners in win-win negotiation techniques. In September 2002 FMCS trained conciliators from 17 provinces of Argentina, a group that now comprises a Federal Mediation Training Team. The provinces of Río Negro, Mendoza, Buenos Aires, and Neuquén, among others, have already delivered training programs to their respective labor-management communities. Finally, in May 2003, FMCS provided a “train the trainer” program to many of the other members of the Federal Mediation Training Team to prepare them for their expanding the training program around the country.

g. Mozambique:

In collaboration with the United States Department of Labor, during 2002-2003 FMCS conducted a multi-phase program aimed at enhancing the capacity of the Mozambican Ministry of Labor. In the first phase (November 2002), business, labor and government leaders were trained in the areas of interest-based bargaining, consensus decision-making, active listening, communication skills and teambuilding. The training provided the parties with the skills necessary to address a broad range of issues using an interest-based approach. In phase two (June 2003) FMCS trained a cadre of Mozambican business and labor leaders to provide them with a basic understanding of labor-management relations, their roles and responsibilities as stewards and supervisors, interest-based problem solving, consensus decision-making, and teambuilding. Finally, in phase three (September 2003), FMCS commissioners worked with the Labor Ministry and other tripartite stakeholders to develop a sustainable program to continue teaching skills to the Mozambican Labor Relations community after the project has ended. To this end, the commissioners delivered a “train the trainer” course to teach techniques for disseminating information on cooperative labor relations.