

FLRA

Office of the General Counsel

Executive Order 13522

***Creating Labor-Management Forums to
Improve Delivery of Government Services***



E.O. 13522 Purpose

- To establish a cooperative and productive form of labor-management relations throughout the executive branch.
- To improve the delivery of government services to the American people.

E.O. 13522 Policy

- Federal Employees and Union representatives are an essential source of front-line ideas and information about how to deliver government services.
- A non-adversarial labor-management (LM) forum to discuss government operations will promote satisfactory labor relations and improve productivity and efficiency.
- LM forums complement the existing collective bargaining process.
- LM forums allow parties to work collaboratively to deliver the highest quality services to the American public.
- Management should discuss workplace challenges and problems with labor and jointly devise solutions rather than adhering to the traditional bargaining procedures.

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Implementation of LM Forums

- Agencies directed to work with Unions to establish, or adapt existing LM forums at the level of recognition and other appropriate levels as agreed to by the parties, to help identify problems and propose solutions to better serve the public and agency missions.
- Established a National Council on Federal LMR (Council) to oversee implementation of LM forums.

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Expectations for LM Forums

- Allow employees and unions to have pre-decisional involvement in all workplace matters, without regard to whether subjects are negotiable under the Statute;
- Expeditiously provide union with adequate information on such matters where not prohibited by law;
- Make good-faith attempt to resolve issues concerning proposed changes to conditions of employment, including 7106(b)(1) subjects, in LM forums;
- Evaluate and document in consultation with union changes in employee satisfaction, manager satisfaction, and organizational performance.

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Agency Reporting Requirements

- Agencies to submit plans to the Council for review and certification.
- Agency plans must address how agency will conduct a baseline assessment of current state of LR;
- Development of metrics to monitor improvements in LM satisfaction, productivity gains, and cost savings.

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Section 7106(b)(1) pilot projects

- To evaluate impact of bargaining over section 7106(b)(1) subjects, several pilot projects will be established where agencies elect to bargain over some or all section 7106(b)(1) subjects and participate in impasse resolution procedures on such subjects.
- Council to oversee pilot projects and evaluation of such projects and impact on organizational performance, employee satisfaction and LR.

E.O. 13522 Summary and Focus

- The Executive Order 13522 seeks to improve the delivery of high quality government services by establishing:
 - A cooperative and productive form of labor-management relations ;
 - Agency LM forums to identify problems and propose solutions to better serve the public, improve employee work life and labor-management relations;
 - Pre-decisional involvement for employees and their union representatives in all workplace matters to the fullest extent practicable.

Pre-Decisional Involvement

Under EO 13522 Agencies must establish labor-management forums and, through the forums

- Allow employees and union **pre-decisional involvement** to the fullest extent practicable on all workplace matters without regard to negotiability under §7106 of the Statute
- Expeditiously provide information to union representatives, where not prohibited by law
- Make good-faith attempt to resolve issues concerning proposed changes to conditions of employment, including those involving §7106(b)(1)

PRE-DECISIONAL INVOLVEMENT

Executive Order 13522 does not define the term
“pre-decisional involvement”

E.O. leaves PDI for Labor-Management Forums to
define according to the needs of the organization

PRE-DECISIONAL INVOLVEMENT

Basic Principles

PDI occurs early when ideas are forming

Participants have common expectations

Information is freely shared

Joint development of solutions

Consensus based problem-solving, focused on interests

Early Involvement

Management:

- At what point should union be involved?

Union:

- At what point does union want to be involved?

Answer to both questions varies with the issue presented

Common Expectations

Is there a Common Understanding of what Authority will be Delegated to the Labor Management Forum?

What will Occur After PDI?

- Consensus reached – proceed to implementation without further bargaining
- Recommendation accepted by principals
- Recommendation modified and accepted
- No Consensus reached – revert to proper place in existing labor-management relationship
- Will statutory bargaining be required?

Fully Sharing Information

Management will disclose all relevant information as part of PDI problem solving

Information provided as part of process

No need for statutory information requests

No delays in waiting for information

No litigation

Creates issues of trust and confidentiality

PROBLEM SOLVING APPROACH

Negotiator vs. Problem Solver

Problem-solving processes to create solutions through consensus decision-making

Collaborative approach, based on parties' interests rather than their positions

Problem Solving Approach

As opposed to being adversaries work together to find solution

Change from traditional two opposing teams of negotiators to one group of problem solvers

Issues Appropriate for Pre-Decisional Involvement

Establish criteria for determining which issues are appropriate for PDI

Recognize not all issues may be appropriate for PDI

Traditional post decision bargaining is not a failure of PDI, if parties have common understanding of when it will be used.

Approaches to Pre-Decisional Involvement

Has issue been presented as a problem or a solution?

- Solution: We need 8 more people on graveyard shift.
- Problem: Job not getting done on graveyard shift.

Does issue have one answer that one party or the other already has taken a position on?

- Position: You must upgrade all clerical positions, nothing less than that is acceptable.
- Problem: Difficulty retaining support staff in critical support positions

Pre-Decisional Involvement Considerations

- Process can be time-consuming
- Must learn new skills which are not historically used in labor relations.
- Learning curve for consensus/interest-based approaches
- No winners or losers.
- Unreasonable expectations on either side as to outcomes of involvement.
- May increase costs if both PDI and traditional bargaining are used.

Benefits of Pre-Decisional Involvement

- Employees have meaningful input into decision
- Helps foster change and not force it.
- Avoids adversarial approach to collective bargaining.
- Leads to better quality decision making, more support for decision and more timely implementation
- May avoid costs associated with lengthy bargaining process and resolution of rights-based bargaining disputes