

Draft of Executive Order 13xxx-

Creating Labor-Management Forums to Improve Delivery of Government Services

Federal employees and their union representatives are an essential source of front-line ideas and information about the realities of delivering government services to the American people. A non-adversarial forum for managers, employees, and employees' union representatives to proactively discuss government operations will compliment the existing collective bargaining process and facilitate the design and implementation of the comprehensive changes necessary to increase the effectiveness and efficiency of Government. Labor-Management Forums will allow managers and employees to collaboratively champion change in the Federal Government so that agencies can deliver the highest quality services to the American people.

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, and in order to establish a cooperative and productive form of labor-management relations throughout the Executive Branch, it is hereby ordered:

Section 1: The National Council on Federal Labor Relations

a. Establishment and Membership

There is established the National Council on Federal Labor Relations ("Council"). The Council shall comprise the following members appointed by the President:

1. Director of the Office of Personnel Management ("OPM");
2. Deputy Director for Management, Office of Management and Budget;
3. Chair, Federal Labor Relations Authority;
4. President, American Federation of Government Employees, AFL- CIO;
5. President, National Federation of Federal Employees;
6. President, National Treasury Employees Union;
7. President, International Federation of Professional and Technical Engineers, AFL- CIO;
8. The head of a labor union that represents federal employees and is not otherwise represented on the Council;
9. A deputy Secretary or other officer with department- or agency-wide authority from four executive departments or agencies (hereafter collectively "agency"), not otherwise represented on the Council; and
10. One elected office holder from the Senior Executives Association.
11. One elected office holder from the Federal Managers Association.

Members shall serve at the pleasure of the President.

b. Responsibilities and Functions

The Council shall advise the President on matters involving labor-management relations in the executive branch. Its activities shall include:

1. supporting the creation of agency level labor-management forums and promoting partnership efforts between labor and management in the executive branch, to the extent permitted by law;
2. collecting and disseminating information about, and providing guidance on labor-management improvement efforts in the executive branch, including results achieved, to the extent permitted by law;
3. utilizing the expertise of individuals both within and outside the Federal Government to foster successful labor-management relations arrangements.

c. Administration

1. The President shall designate the Director of OPM to serve as the Chairperson of the Council. The responsibilities of the Chairperson shall include scheduling meetings of the Council.
2. The Council shall seek input from nonmember Federal agencies, particularly smaller agencies. It also may, from time to time, invite experts from the private and public sectors to submit information. The Council shall also seek input from Federal manager and professional associations, companies, nonprofit organizations, State and local governments, Federal employees, and customers of Federal services, as needed.
3. To the extent permitted by law and subject to the availability of appropriations, OPM shall provide such facilities, support, and administrative services to the Council as the Director of OPM deems appropriate.
4. Members of the Council shall serve without compensation for their work on the Council, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law, for persons serving intermittently in Government service.
5. All agencies shall, to the extent permitted by law, provide to the Council such assistance, information, and advice as the Council may request.

d. General

1. I have determined that the Council shall be established in compliance with the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2).
2. Notwithstanding any other executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, that are applicable to the Council, shall be performed by the Director of OPM, in accordance with guidelines and procedures issued by the Administrator of General Services.
3. Members of the Council who are not otherwise officers or employees of the Federal Government shall serve in a representative capacity and shall not be considered special Government employees for any purpose.

Section 2: Implementation of Labor-Management Forums Throughout the Executive Branch

The head of each agency that is subject to the provisions of chapter 71 of title 5, United States Code, or any other authority permitting employees of such agency to select an exclusive representative, shall:

- a. establish agency level labor-management forums by creating labor-management committees or councils at appropriate levels, or adapting existing councils or committees if such groups exist, to help change Government;
- b. proactively involve employees and their union representatives as full partners with management representatives to identify problems and craft solutions to better serve the agency's customers and mission;
- c. allow employees and their union representatives pre-decisional involvement on all workplace matters, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. § 7106, and provide adequate information on such matters expeditiously to union representatives where not prohibited by law.
- d. evaluate and document, in consultation with union representatives and consistent with the spirit of this order and any further guidance provided by OPM, progress and improvements in employee satisfaction and organizational performance resulting from the labor-management forums.

Section 3: Election to Negotiate

I hereby elect, on behalf of all executive departments and agencies covered by this order, to negotiate over the subjects set forth in 5 U.S.C. § 7106(b)(1). For purposes of proceedings undertaken pursuant to chapter 71 of Title 5, any attempts by department or agency heads or their subordinate officials to revoke my election shall have no force or effect. Agency heads and their subordinates shall carry out this election to bargain in good faith and consistent with FLRA precedent.

Section 4: Miscellaneous

- a. Nothing in this order shall abrogate any collective bargaining agreements in effect on the date of this order.
- b. Pursuant to Section 2(d) of this order, each head of an executive department or agency shall submit for approval, within 30 days, a written implementation plan to the Director of OPM. The plan shall:
 1. describe how the executive department or agency will conduct a baseline survey of employees and managers engaged in bargaining to assess the current state of labor relations within the department or agency;

2. address how the executive department or agency will develop department-, agency- and/or bargaining unit-specific metrics to monitor improvements in areas such as labor-management satisfaction, productivity gains, cost savings, and other measures as identified by the relevant labor-management forums participants;
 3. confirm that the executive department or agency is committed to bargaining with the exclusive representative(s) of any of its employees over the matters set forth in 5 U.S.C. § 7106(b)(1), consistent with Section 3 of this Order; and
 4. explain the executive department's or agency's plan for devoting sufficient resources to provide annual reports to the Council pursuant to Section 2.d of this Order.
- c. OPM shall review each executive department or agency implementation plan within 30 days of receipt to certify that the plan satisfies all requirements of this order. Plans that are determined to be insufficient will be returned to the executive department or agency with guidance for improvement and resubmission within 30 days.
- d. All executive departments or agencies must have a certified implementation plan in place no later than 90 days after the effective date of this order.