United States General Accounting Office

GAO

Report to Congressional Committees

July 1991

FEDERAL LABOR RELATIONS

A Program in Need of Reform

GAO/GGD-91-101

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-244904

July 30, 1991

The Honorable John Glenn
Chairman, Committee on
Governmental Affairs
United States Senate

The Honorable William L. Clay
Chairman, Committee on
Post Office and Civil Service
House of Representatives

This report provides information about the state of the Federal Labor-Management Relations Program under Title VII of the Civil Service Reform Act of 1978. It is based on views expressed to us by agency, union, and neutral experts in federal labor-management relations and representatives who are involved in day-to-day program operations at federal facilities across the country.

We are sending copies of this report to other congressional committees, the Chairman of the Federal Labor Relations Authority, the Director of the Office of Personnel Management, and other interested parties.

The major contributors to this report are listed in appendix IV. Please contact me on (202) 275-6204 if you have any questions concerning this report.

Rosslyn S. Kleeman

Rosslyn S. Kleeman
Director
Federal Workforce Future Issues

Executive Summary

Purpose

By law, most federal employees have the right to unionize and, thereby, participate with agency management in decisions affecting their working conditions.

How well is the federal labor-management relations program working? Are changes needed for the future? Has the program fostered a cooperative spirit between management and labor so as to help agencies' quality improvement initiatives succeed?

GAO sought insights into these questions by interviewing three categories of experts in federal labor-management relations. They included (1) officials responsible for program operations in federal agencies; (2) leaders of federal employee unions; and (3) neutrals, including current and former officials of the Federal Labor Relations Authority (FLRA) and other third-party agencies, arbitrators, and academics. For a broader perspective, GAO also surveyed agency and union representatives who are involved in day-to-day operations at federal facilities across the country.

Background

The labor-management relations program for nonpostal federal employees is governed by Title VII of the Civil Service Reform Act of 1978. It is administered by FLRA.

The federal labor-management program differs from nonfederal programs in three important ways: (1) federal unions bargain on a limited number of issues—bargaining over pay and other economic benefits is generally prohibited, (2) strikes and lockouts are prohibited, and (3) federal employees cannot be compelled to join or pay dues to the unions that represent them.

Nearly 1.3 million federal employees, or 60 percent of the nonpostal federal workforce, are represented by unions.

Results in Brief

The large majority of all experts GAO interviewed said the federal labor-management relations program is not working well. In general, they said (1) the program is too adversarial and often bogged down by litigation over procedural matters and minutiae; (2) some dispute resolution mechanisms are too lengthy, slow, and complex; and (3) ineffective FLRA management has weakened the program.

Most union officials and neutrals saw the limited bargaining rights as a critical problem. They supported broadening the scope of bargaining to include more matters of concern to employees. The majority of agency officials, however, opposed any change in the existing scope of bargaining.

Agency and union field representatives who responded to GAO's questionnaire tended to agree with their respective headquarters' assessments of the program. However, the respondents differed widely in their views of how well the program was working at the local level. The majority of agency respondents said the relationship with their union counterparts was cooperative and that disputes were generally settled informally. In contrast, the majority of union respondents said disputes usually had to be settled formally by filing grievances or unfair labor practice complaints against agency managers. Likewise, most agency respondents said employee concerns were fully considered in the decisionmaking processes. Fewer than half the union respondents agreed that this was the case.

While GAO's interviews and questionnaire results indicated many perceived shortcomings in the program, they also revealed some positive attitudes that may bode well for the future. The majority of agency and union respondents to the questionnaire said they wanted to be involved in joint labor-management cooperative efforts to improve agency operations. GAO believes this willingness to work together can serve as a good foundation on which to build a consensus for meaningful program reform.

Principal Findings

Experts' Views on the Federal Labor-Management Relations Program

GAO interviewed 30 agency, union, and neutral experts on federal labor-management relations to get their views on the state of the program. (See pps. 18-20.) More than three-fourths of these experts said that:

- Federal collective bargaining has not accomplished the objectives of the statute. They felt the bargaining processes were too legalistic and adversarial and too often led to litigation over procedural matters and minor disputes.
- Some of the processes used to resolve disputes between management and employees were too slow, lengthy, and complex. They blamed FLRA's

past management of the program for its untimely, inconsistent, and unclear decisions.

Over two-thirds of the experts supported an "agency shop" approach, whereby employees would be required to pay fees to the unions that represent them even if they do not belong to the union. Some said an agency shop is needed if unions are to have adequate resources to properly carry out their statutory responsibilities. Others believed such action should be coupled with elimination of the requirement to give union representatives paid time off from their regular jobs to do union business.

On other issues, the experts disagreed on how the program was working or how it should be changed.

- The greatest difference in opinion was over the scope of bargaining—the extent to which working conditions should be negotiated by unions and agency management. Over half of the agency officials opposed any change. However, all union officials and over 80 percent of neutrals supported increased bargaining rights.
- Over three-fourths of union officials and neutrals believed that labor relations was a low priority for federal agencies and was not well integrated into agency operations. The majority of agency officials disagreed.
- Agency officials and most neutrals believed unions file too many unfair labor practice charges over minor issues. Union officials countered that the problem was FLRA's failure to order strong remedies to deter violations of the statute by agency officials.

Views of Local Agency and Union Representatives on Day-to-Day Relationships

In some instances, agency and union questionnaire respondents were in agreement on the state of the program. For example, 70 percent of all respondents said it takes too long to resolve disputes. More often, however, they disagreed widely on how well the program was working at the local level. For example:

- 72 percent of agency respondents thought disputes too often led to litigation, contrasted to 41 percent of union respondents;
- 96 percent of union respondents supported broadening the scope of bargaining, but only 21 percent of agency respondents agreed;

- 73 percent of agency respondents said their installations considered labor relations concerns most of the time when making operational decisions; 56 percent of union respondents said these concerns were seldom or never considered;
- 93 percent of union respondents favored an agency shop; 54 percent of agency respondents did not; and
- 74 percent of agency respondents characterized their relationships with the unions as cooperative, as contrasted to 47 percent of union respondents who said a cooperative relationship existed.

Agency and Union Representatives Seek Opportunities to Cooperate

Over 65 percent of the agency and union respondents told GAO their installations and offices had participated in cooperative labor-management initiatives. Although a greater percentage of agency respondents (70 percent) than union respondents (43 percent) said the initiatives were positive, the majority of all respondents said they wanted to be involved in cooperative efforts in the future. (See pps. 63-75.)

Recommendations

Based on the views expressed to GAO in this study, the problems in the federal labor-management relations program appear to be so widespread and systemic that piecemeal technical revisions would not be a workable solution. Accordingly, GAO is not making any specific recommendations for changes to the program. Rather, GAO recommends that the appropriate committees of Congress hold hearings on the state of the program with a view toward establishing a panel of nationally recognized experts in labor-management relations and participants in the federal program to develop a proposal for comprehensive reform. (See pp. 76 and 77.)

Experts' Comments

GAO discussed its findings with the experts who participated in the study. Officials from FLRA said they were endeavoring to make their decisions clearer and more timely. They also said they were undertaking programs to promote cooperative efforts. Some agency and union officials agreed there had been improvements. However, there was consensus that the systemic problems with the program remained unresolved.

Contents

Abbreviations

AFGE	American Federation of Government Employees
AFLC	Air Force Logistics Command
ALJ	Administrative Law Judge
BNA	Bureau of National Affairs
EEOC	Equal Employment Opportunity Commission
FLRA	Federal Labor Relations Authority
FLRC	Federal Labor Relations Council
FMCS	Federal Mediation and Conciliation Service
FSIP	Federal Service Impasses Panel
IRS	Internal Revenue Service
LMR	Labor Management Relations
MSPB	Merit Systems Protection Board
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
NTEU	National Treasury Employees Union
OPM	Office of Personnel Management
OSC	Office of Special Counsel
QWL	Quality of Work Life
RBO	Relationship by Objective
TQM	Total Quality Management
ULP	Unfair Labor Practice

Introduction

The Federal Service Labor-Management Relations Statute, Title VII of the Civil Service Reform Act of 1978,[1] allows nonpostal federal employees to bargain collectively through labor organizations of their choice and thereby participate with agency management in the development of personnel policies and practices and other decisions that affect their working lives.[2]

The past three decades have seen the federal labor-management relations program evolve from a simple executive order, providing for consultation between agency management and employee organizations, to a formal collective bargaining program, established in law. The program is enforced by an independent administrative agency, the Federal Labor Relations Authority (FLRA), as well as by the federal courts. The latest available data from the Office of Personnel Management (OPM) shows that as of January 1989, about 1.3 million federal employees, or 60 percent of the total nonpostal federal workforce, were represented by unions. They were represented by 101 labor organizations in 2,266 bargaining units.

History of Federal Labor-Management Relations

Executive Order 10988

The Lloyd-LaFollette Act of 1912 established the right of federal employees to belong to labor organizations as long as the organizations did not impose a duty on employees to engage in or assist in a strike against the government. However, it was not until 1962, when President Kennedy issued Executive Order 10988, that a federal labor-management relations program was officially established.

The order was the result of a presidential task force study that found that 33 percent of federal employees, mostly in the postal service and among blue-collar workers, belonged to employee organizations. But lacking guidance, the various agencies of the government had proceeded on widely varying courses in dealing with these organizations. Some,

[1]Public Law 95-454, 5 U.S.C. 7101 et seq.

[2]Labor-management relations in the Postal Service are governed by the provisions of the Postal Reorganization Act (Public Law 91-375, Aug. 12, 1970).

such as the Tennessee Valley Authority and various units of the Department of the Interior, had engaged in close to full-scale collective bargaining with the trade unions that represented their employees. Most agencies, however, had done little or nothing. In submitting its report to the president the task force said:

"The Task Force is strongly of the opinion that employee organizations are capable of contributing more to the effective conduct of the public business than heretofore has been the case . . . The Task Force wishes most emphatically to endorse the President's view that the public interest calls for a strengthening of employee-management relations within the Federal Government."

Among other provisions, Executive Order 10988 recognized the right of federal employees to join, or refrain from joining, employee organizations and established procedures for granting recognition to federal employee organizations. These organizations were given the right to consult or negotiate with agencies on matters that concerned working conditions and personnel policies, within the limits of applicable federal laws and regulations. Certain other matters, including the agency's mission, its budget, its organization and assignment of personnel, and the technology of performing its work were deemed "management's rights" and therefore nonnegotiable.

The order allowed individual agencies to establish procedures to deal with grievances, appeals, and negotiation impasses, but it specifically precluded strikes or binding arbitration as means of resolving such disputes.[3] Arbitration hearings by private arbitrators were permitted for employee grievances so long as the arbitrators' decisions were advisory and not binding on agencies.

Executive Order 11491

In 1969, a review of the program by an interagency study committee indicated that the policies of Executive Order 10988 had brought about more democratic management of the workforce and better employee-management cooperation and that negotiation and consultation had produced improvement in a number of personnel policies and working conditions. The review also found that union representation of employees in exclusive bargaining units had expanded greatly to include 52 percent of the total federal workforce subject to the order.

[3]Binding arbitration is a procedure whereby parties unable to agree on a solution to a problem agree to be bound by the decision of a third party (arbitrator). The glossary (p. 98) defines a number of other terms used in this report.

However, the study committee also concluded that the variety of agency policies adopted under the decentralized arrangement allowed by Executive Order 10988 was a cause for concern and that significant changes were needed to meet the conditions produced by the dramatic growth in union representation of federal employees. In particular, the study group believed more workable means were needed for dealing with disputes that occurred in union organizing activities and in the negotiation and administration of labor-management agreements.

As a result of the study committee's recommendations, Executive Order 11491 was issued on October 29, 1969. The new order retained the basic principles and objectives underlying Executive Order 10988 and added a number of fundamental changes in the overall labor-management relations structure. A Federal Labor Relations Council (FLRC) was established as a central body to administer the program and make final decisions on policy questions and adjudicate three types of labor management disputes: (1) negotiability appeals, (2) exceptions to arbitration awards, and (3) appeals of decisions by the Assistant Secretary of Labor for Labor-Management Relations on unfair labor practice and representation cases. FLRC was composed of the Chairman of the Civil Service Commission, the Director of the Office of Management and Budget, and the Secretary of Labor.[4]

Several other processes were instituted to assist in the resolution of labor-management disputes:

- To protect the rights of agencies and employees and to prevent labor disputes that would adversely affect the rights of the public, the order defined certain actions of agencies and unions to be unfair labor practices (ULPs) and set up procedures for resolving them.[5]
- The Assistant Secretary of Labor for Labor Management Relations was authorized to resolve questions principally related to ULP complaints against agency and union officials and representation cases. For example, the Assistant Secretary could decide which employees were eligible to join unions and settle disputes arising from elections in which employees chose which, if any, union they wanted to represent them.

[4]The Civil Service Commission was subsequently abolished by Reorganization Plan No. 2 of 1978, and some of its responsibilities were assigned to OPM. In the labor-management relations program OPM provides policy guidance, technical assistance, and training and information to agencies.

[5]Examples of possible ULPs by agency officials included withholding a promotion because of an employee's union activity and declining to negotiate with unions over changes in working conditions. Examples of possible ULPs by union officials included ordering a strike or work slowdown and coercing employees to join a union.

- The Federal Mediation and Conciliation Service (FMCS), an independent agency established in 1947 to assist labor and management in private sector negotiations, was authorized to extend mediation assistance to parties in federal sector negotiations.
- The Federal Service Impasses Panel (FSIP) was established as an agency within FLRC with authority "to take any action it considers necessary" to resolve negotiation deadlocks.
- The use of binding arbitration to resolve employee grievances and contract disputes over the interpretation and application of collective bargaining agreements replaced the advisory arbitration that existed under the earlier order.

The program continued to expand under Executive Order 11491 and by 1977, 58 percent of nonpostal federal employees were represented by unions.

Title VII of the Civil Service Reform Act of 1978

In 1977, a presidential task force identified a number of problems, particularly related to structure and organization, that remained unresolved in the executive order program. Recommendations developed by the task force formed a basis for two parts of a reform program—a reorganization plan and proposed substantive legislation.

The reorganization plan took effect on January 1, 1979, and the Federal Service Labor-Management Relations Statute, Title VII of the Civil Service Reform Act of 1978, took effect on January 11, 1979. The main changes from Executive Order 11491 were as follows:

- To administer the program, FLRA was established as an independent agency in the executive branch to replace FLRC and assume the Assistant Secretary of Labor for Labor-Management Relations' role in the program. FLRA is headed by a three-member panel, commonly known as the "Authority," that is responsible for issuing policy decisions and adjudicating labor-management disputes.
- An independent Office of the General Counsel was established within FLRA. Working through regional directors and staffs in nine regional offices, the General Counsel's chief responsibility is to investigate ULP charges and issue and prosecute complaints before the Authority on behalf of the charging party. Under the executive order program, the charging party had to prosecute its own ULP complaint. The regional directors also investigate and make determinations on representation petitions and supervise representation elections.

- With certain exceptions, FLRA decisions were subjected to judicial review.
- The statute provided for expanded coverage of negotiated grievance procedures and arbitration to include all complaints relating to employees' working conditions—even appeals for which a statutory appeal procedure existed, such as discharges, demotions, and discrimination complaints.
- FSIP was continued as an entity within FLRA to resolve negotiating impasses.

Although the Federal Service Labor Management Relations Statute was modeled after the National Labor Relations Act, applicable to the private sector, it also carried over many of the policies and approaches of the executive order program. Therefore, it is different from labor-management relations programs in the nonfederal sector in several ways:

- "Bread and butter" issues, such as wages, fringe benefits, and many other issues relating to hiring, firing, promoting, and retaining employees, which are the focus of private sector bargaining, generally cannot be negotiated in federal contracts. Since the first executive order, federal sector bargaining has been generally limited to the way personnel policies, practices, and procedures are implemented.
- Traditional bargaining incentives, i.e., strikes and lockouts, are prohibited.
- "Agency Shop" or "fair share" representation fees, are prohibited. Under the federal program, employees are entitled to select a union to represent them, but they cannot be compelled to join or pay a fee for the representation that the union is required to provide.

Objectives, Scope, and Methodology

Our objectives were to examine how well the federal labor-management relations program was working under the Federal Service Labor-Management Relations Statute and determine if changes were needed to make it operate more effectively and efficiently in the future. Specifically we looked at

- experience with collective bargaining in federal agencies,
- efficiency and effectiveness of the dispute resolution processes and the third-party agencies that administer them, and
- federal sector experience in employee involvement and labor management cooperation activities.

Our work was done in two parts. First, we interviewed a total of 30 experts in federal labor-management relations to get their views on the state of the program. They included persons in three categories—neutrals, agency officials, and union officials—as follows:

Neutrals:

- six incumbent and former top FLRA officials, including the Chairman, General Counsel, a regional director, and three former chairmen;
- four incumbent and former FSIP officials, including the Chairman, former executive director, and two former members who were university professors and arbitrators;
- the director of the federal program at FMCS;
- two arbitrators; and
- a professor of public administration with expertise on the federal labor-management relations program.

Agency Officials:

- 11 officials with labor-management relations responsibilities in federal departments and agencies, including the Department of Defense, the Department of the Air Force, the Department of the Navy, the Department of Health and Human Services, the Department of Labor, the Department of Transportation, the Department of Veterans Affairs, the General Services Administration, the Government Printing Office, the Internal Revenue Service, and the Immigration and Naturalization Service;[6] and
- the Deputy Associate Director of Personnel Systems and Oversight at the Office of Personnel Management.

Union Officials:

- presidents of the three largest federal unions, including the American Federation of Government Employees, the National Treasury Employees Union, and the National Federation of Federal Employees; and
- a group interview with the Secretary-Treasurer of the Public Employees Department of the AFL-CIO and officials from three constituent unions, the International Brotherhood of Electrical Workers, the National Air Traffic Controllers Association, and the International Federation of Professional and Technical Engineers.

In most of the 30 interviews, the officials' top staff assistants participated in the discussions.

[6]See pages 16-17 for the criteria used in selecting these departments and agencies.

Using the information gathered in these interviews, we developed a questionnaire to survey union and agency representatives who were involved in day-to-day program operations at federal facilities throughout the country to obtain their perspectives of the federal labor-management relations program.

Our survey universe was selected from the latest available listings of bargaining units compiled by OPM.[7] Where several bargaining units had been consolidated into larger or agencywide units, we obtained listings from the individual agencies of the federal facilities that made up the consolidated units.

We selected bargaining units in 10 departments and agencies whose headquarters we visited.[8] Two additional agencies in the Department of Defense and the Bureau of Prisons were added so that our survey universe would include at least 80 percent of the total federal workforce represented by unions.[9]

We mailed questionnaires to a random sample of 1,174 agency and union representatives who were named by their respective agencies and unions as having responsibility for labor-management relations at the installations, offices, and regions that made up our sample. We received 966 usable responses to the questionnaire, 476 from agency respondents, and 490 from union respondents. Overall the response rate was 83 percent. The response rate was higher for agency representatives (94 percent) than for union representatives (75 percent).

Our selection of agencies was based on the following criteria, which were intended to provide a diverse range of agencies that would include at least 80 percent of the represented workforce:

- large and small agencies;
- Defense and nondefense agencies;
- agencies with both white-collar and blue-collar employee bargaining units;

[7]Union Recognition in the Federal Government, published by the Office of Personnel Management, 1989.

[8]These were the 10 departments and agencies listed on page 15 other than the Department of Defense. The Department of Defense was not included in the survey universe because of the large representation of other Defense organizations already included in the universe.

[9]The two additional organizations were the Department of the Army and the Defense Logistics Agency.

- agencies with professional and nonprofessional employee bargaining units;
- agencies with nationwide bargaining units and activity-level bargaining units;
- agencies with strong representation by the major unions;
- agencies with law enforcement employees; and
- agencies with unique labor-management relations situations, such as the Government Printing Office, where pay rates are negotiable,[10] and the Department of Transportation, which experienced an illegal strike by air traffic controllers.

Our sampling techniques allow us to discuss our findings as they relate to the agencies we selected. The questionnaire survey methodology is discussed in greater detail in appendix I.

To review the development of the federal labor-management relations program, we examined the legislative history and other relevant literature and information on the program.

We did our work between February 1990 and March 1991 in accordance with generally accepted government auditing standards.

[10]Under 44 U.S.C. 305, Government Printing Office employees have much broader bargaining rights than other executive branch employees.

Perceptions of the State of Labor-Management Relations in the Federal Government

The Federal Service Labor-Management Relations Statute asserted that "labor organizations and collective bargaining in the civil service are in the public interest" and identified several goals the labor-management relations program was expected to accomplish. These goals included effective and efficient government, amicable settlement of disputes, and employee participation through labor organizations in decisions that affect their working lives.

The agency officials, union officials, heads of third-party agencies, and other neutrals that we interviewed believed the program had not effectively accomplished these objectives. Similarly, the responses to our questionnaire by agency and union representatives responsible for day-to-day program operations at the local level showed considerable displeasure with the program. However, the agency and union respondents had significantly different opinions on how well particular aspects of the program were working. In some cases, their views differed from those of their respective headquarters officials.

This chapter discusses the concerns about the state of the program expressed to us by the interviewees and questionnaire respondents.

Collective Bargaining Processes

Collective bargaining is one of the keystones of the statute. It is defined in the statute as the mutual obligation of agency management and union representatives to meet at reasonable times and to consult and bargain in a good faith effort to reach agreement on matters that affect the working conditions of employees and to put any agreement into writing if requested by either party.

Interviewees' Perceptions of the Collective Bargaining Processes

Almost all (29 of 30) of the interviewees said that collective bargaining in the government is far too legalistic and adversarial and tends to get bogged down in litigation over procedural matters and minor disputes. The tendency of the parties to resort to litigation rather than resolving their differences at the bargaining table was the program's shortcoming most frequently mentioned by the interviewees. Following are examples of the specific comments they made about the bargaining process.

Agency Officials:

- "There is too much litigation. Way too much litigation. We are nitpicking over things. And that is the focus . . . . When you talk to labor relations people in the federal sector or go to seminars, the conversations all tend

to revolve around the case law and how to overturn cases and get something going in another circuit."

- "[We need to] put the labor relationship more into the hands of the managers and farther out of the hands of the brass and [lawyers]. A good deal of the expense of labor relations is litigation, [caused] by taking a legalistic approach rather than a practical managerial approach to problem solving."
- "We have become a litigious labor relations program. Some of it is necessary, but much of it I think is unnecessary and it has cast to me sort of a pall or an aura that we are more concerned with advocating and posturing than . . . [solving] problems."
- "We have people on the management side that would love to litigate every little issue they possibly could."
- "What we have . . . is a labor law program not a labor relations program . . . I think it is harmful to everybody."
- "Do you know how long we have been arguing about the smoking policy? . . . It is still going on and there is no end in sight. [Agency labor relations officials] and union representatives sit down and talk about it forever and ever. It is frustrating that we are spending our time dealing with issues like that, given the challenges we have."
- "[The unions] have clearly said, if you do not agree with us, we will litigate the issues. We have chosen to accept that challenge. We have litigated the issue. And our only defense is to hang our hat on the smallest of details."

Union Officials:

- "The whole concept of good faith bargaining . . . gets a slap in the face when management arbitrarily says, "No, we don't want to negotiate over this" and you have to [file] a negotiability appeal through the FLRA, take three years, management doesn't agree with the FLRA decision, they don't implement it, we have to file a ULP . . . meanwhile the patient died."
- "In 1978 . . . in my state of the union message—the act was just passed at that time— I said we're going to be involved in a legalistic maze for the next ten to fifteen years. Unfortunately it's been longer than that and it's going to be longer unless we do something about it."
- "The [labor-management relations statute] is the federal sector equivalent of the Edsel—the wrong concept at the wrong time. It has spawned endless litigation and engendered adversarial relations . . . [the statute] does not promote the resolution of conflict, it inspires it."
- "After ten years, labor relations in the federal sector is rooted in formality, legalism and adversarial proceedings and is almost completely devoid of ingenuity, pragmatism and common sense."

Neutrals:

- "I am not sure if anyone with a crystal ball would have predicted exactly what is happening now . . . the incredible amount of frustration on the part of managers and unions . . . A lot of energy, a lot of talent . . . is not being focused in a way that is productive . . . [We] continue to reward folks that win the most unfair labor practices or the legal department."
- "The federal sector is characterized by an adversarial and litigious relationship. . . . Given such a "bramble bush" of obstacles . . . what is amazing is not that collective bargaining in the federal sector is anemic, but that it exists at all!"
- "Collective bargaining is a misnomer. I don't know another name to give it at the moment, but it isn't bargaining as it is practiced [in the nonfederal sector]. And that has been true for a long time."
- "[Agencies and unions] litigate everything. They file exceptions to every arbitration award and every unfair labor practice decision. They appeal every non-negotiability assertion and they go to court on every case. . . . The program is too litigious. I see that as a big failure and the statute I see as designed to encourage that."
- "Litigation and minutiae are the norm too often. This is not a pretty picture. Labor-management relationships at the activity level often are petty, marked by personal animosity. . . . We're on a downhill slide in this program and there's no end in sight."

Several cases on which FLRA decisions were made in 1990 illustrate the minor issues that the parties referred to FLRA rather than agreeing among themselves: the use of a radio at a worksite,[1] consumption of surplus coffee during breaks,[2] cancellation of a 1984 annual picnic,[3] removal of a water cooler,[4] change in office seating arrangements,[5] removal of two office partitions and a typewriter,[6] and a requirement

[1]American Federation of Government Employees Local 1568 and U.S. Department of Housing and Urban Development, 34 FLRA 630 (1990).

[2]Veterans Administration, VA Hospital, Brockton, Mass. and National Association of Government Employees, SEIU, AFL-CIO, 35 FLRA 188 (1990).

[3]US Army Adjutant General Publication Center, St. Louis, MO and American Federation of Government Employees AFL-CIO, Local 2761, 35 FLRA 631 (1990).

[4]U.S. Department of Labor, Employment Standards Administration, Boston, MA and American Federation of Government Employees AFL-CIO, 37 FLRA 25 (1990).

[5]U.S. Department of Health and Human Services, Social Security Administration and American Federation of Government Employees AFL-CIO, Local 1164, 36 FLRA 655 (1990).

[6]U.S. Department of Health and Human Services, Social Security Administration, and American Federation of Government Employees AFL-CIO, 38 FLRA 193 (1990).

that civilian guards salute the military.[7] As one agency official candidly told us:

"The minutiae we have to bargain over is a trade off. It is sort of cathartic in the fact that it lets the unions believe that they are really negotiating something, while from management's standpoint, they are the non-important issues."

Another general complaint by the interviewees was that contract negotiations take too long and often end up in arduous appeals processes, sometimes before serious negotiations have occurred. Three examples were cited:

- The American Federation of Government Employees (AFGE) and the Air Force Logistics Command (AFLC) began negotiations over day care facilities at five air logistic centers in 1978. It took 10 years before day care was made available to AFLC employees because of complex and lengthy litigation, including a hearing before an arbitrator, a hearing and two appeals before FLRA, two court proceedings, a petition to the Supreme Court, a Court of Claims proceeding over the agency's responsibility for paying its share of the arbitrator's fee, and finally a decision by the Comptroller General regarding the use of appropriated funds for day care facilities.
- AFGE's National Border Patrol Council and the Immigration and Naturalization Service continue to operate under a 1976 negotiated agreement because of a series of prolonged deadlocks in subsequent negotiations. For 5 years, extensive litigation occurred over the issue of which union should represent the employees. Later, various appeals arose from negotiations that reached an impasse in 1986. According to union officials, the agency has appealed the most recent FLRA decision and the new contract still is not implemented.
- In a case that began in 1981, the International Association of Machinists filed an unfair labor practice charge against the Department of the Army at the Aberdeen Proving Ground, Maryland, when the agency refused to negotiate over its decision to close the facility over a holiday weekend and require employees to use 1 day of annual leave. The case took 8 years, wending its way through a hearing and an appeal before FLRA, the U.S. Circuit Court of Appeals, and finally the Supreme Court. The outcome, which did not resolve the issue, was the Supreme Court ruling in 1988 that the union should have filed a negotiability appeal instead of an unfair labor practice charge. As one newspaper account of

[7]Service Employees International Union, Federal Employee Metal Trades Council of Charleston, Local 696 and U.S. Department of the Navy, Naval Station Charleston, South Carolina, 38 FLRA 10 (1990).

the case noted: "It is as if the machinery of the United Nations were invoked to resolve a fender bender."[8]

Most of those interviewed attributed the perceived problems with the bargaining process to the statute. However, their opinions of what was wrong with the statute differed widely. Union officials and neutrals pointed to the absence of the dynamics in the statute that they said make collective bargaining work in the private sector—broad-scope bargaining (over pay, benefits, and most work rules) and the right to strike or other actions forcing the parties to strive to meet deadlines. They added that the profit motive encourages management in private companies to quickly settle minor disputes.

Agency officials and some neutrals thought the statute encouraged litigation and conflict rather than cooperation and settlement. For example, one of the neutrals—a university law professor who was also a former member of FSIP—told us he felt much of the adversarial confrontation in the program stemmed from the fact that the National Labor Relations Act (NLRA) provided the model for the Federal Service Labor-Management Relations Statute. He pointed out that NLRA deals with private sector employers who for the most part are opposed to union representation, whereas the statute governing federal labor relations affirmatively states that labor organizations and collective bargaining by federal workers are in the public interest. Therefore, he believed the emphasis in the program should be on settlement of disputes rather than concentrating on whether agencies have engaged in good or bad faith bargaining.

The great majority of interviewees also placed part of the blame on FLRA itself. They pointed to long delays in issuing decisions and to unclear and inconsistent rulings. Some cited the high percentage of decisions rejected by the courts. All of these factors were seen as encouraging litigation.

At the time of our interviews, FLRA had gone for 14 months with only one member and the two new members had just been confirmed by the Senate. Therefore, it was too early for the interviewees to judge the current panel.

[8]Washington Post, April 5, 1988, citing Federal Labor Relations Authority v. Aberdeen Proving Ground, 485 U.S. 409 (1988).

Two of the former chairmen of the FLRA we interviewed recommended abolishing FLRA and placing the federal program under the National Labor Relations Board (NLRB), which administers the labor relations program for the private sector and the Postal Service. They questioned the need for a separate agency for the federal program. One former chairman said FLRA has too much machinery for too few results.

The majority of neutrals said they thought the attitudes of the parties toward the bargaining process were part of the reasons for the program's difficulties. They said many union and agency representatives have accepted the adversarial and legalistic nature of the existing program and would rather fight than solve problems amicably.

Agency and Union Field Representatives' Views

The questionnaire responses from agency and union field representatives showed they generally had the same opinion as the interviewees that the bargaining process is characterized by time-consuming negotiations and disputes.

Over 73 percent of agency respondents said there was too much litigation, contrasted to 41 percent of union respondents. Both groups (73 percent of union and 65 percent of agency respondents) thought it took too long to resolve disputes involving their installations or offices, and about half of them thought contract negotiations took too long. Fifty-one percent of union respondents said disputes at their installations or offices had to be resolved by filing grievances or unfair labor practice charges rather than being worked out informally. Thirty-two percent of agency respondents said this as well. Figures 2.1–2.4 show the union and agency respondents' views about these areas.

Figure 2.1: Agency and Union Respondents' Views on Amount of Litigation in Federal Labor-Management Relations Program

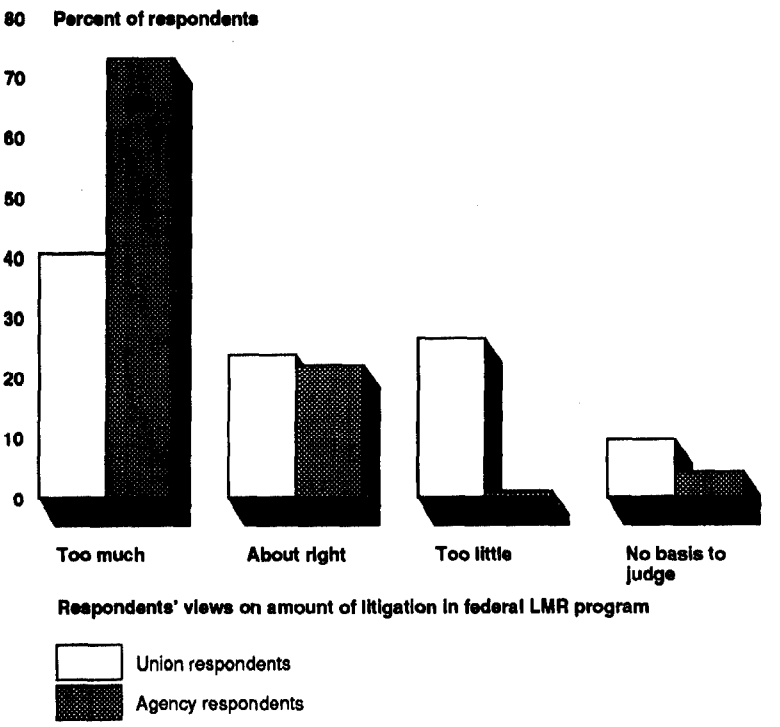


Figure 2.2: Agency and Union Respondents' Views on Length of Time Required to Resolve Disputes

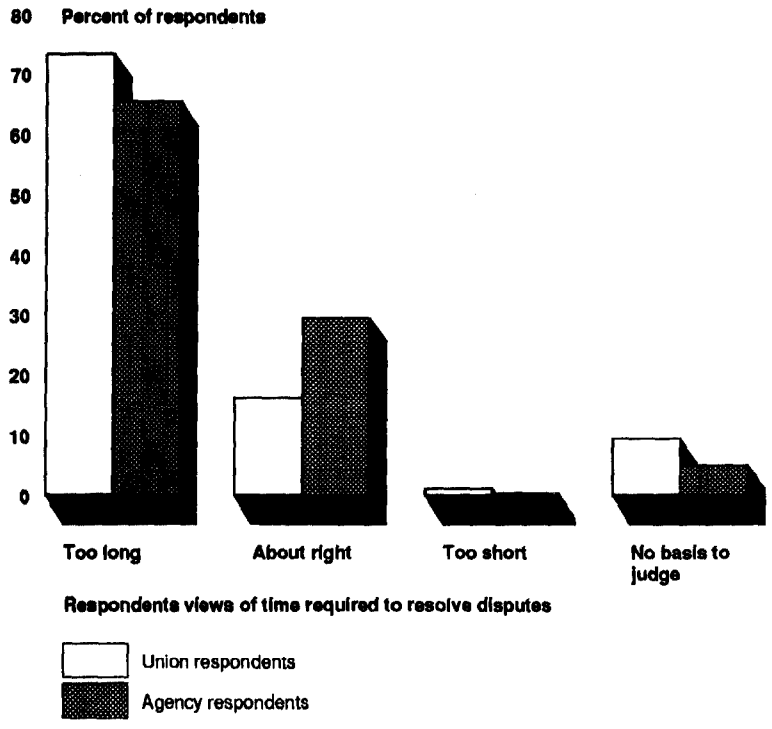


Figure 2.3: Agency and Union Respondents' Views on Length of Contract Negotiations

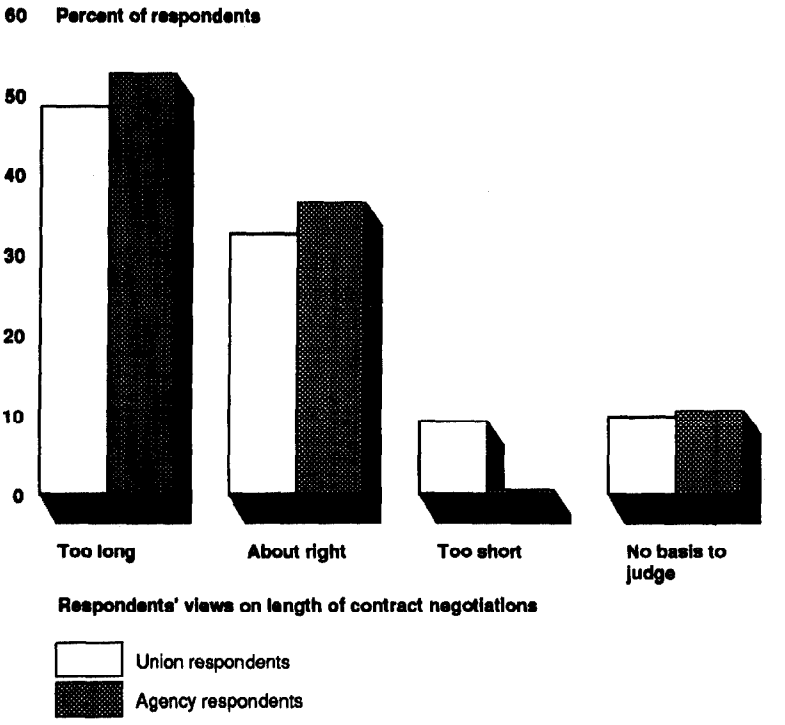
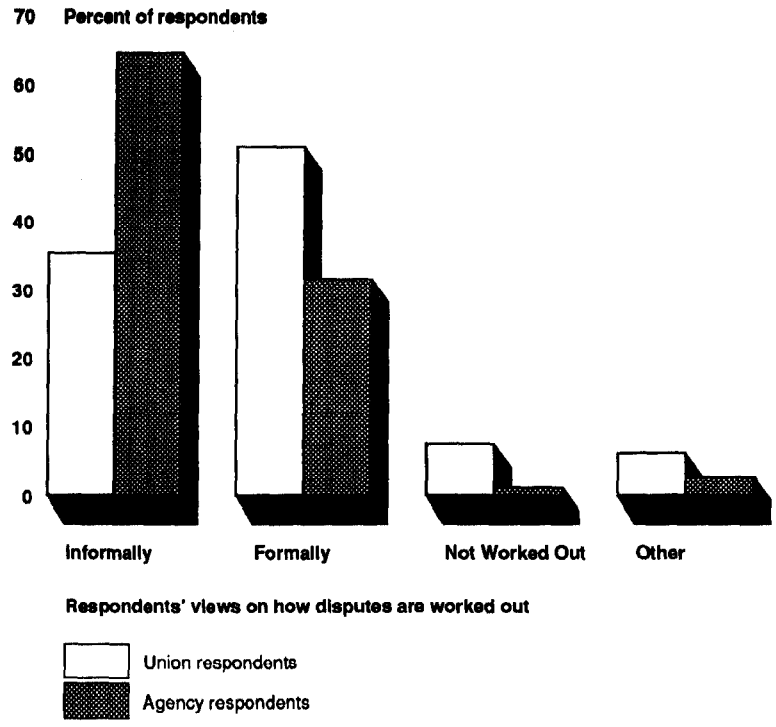
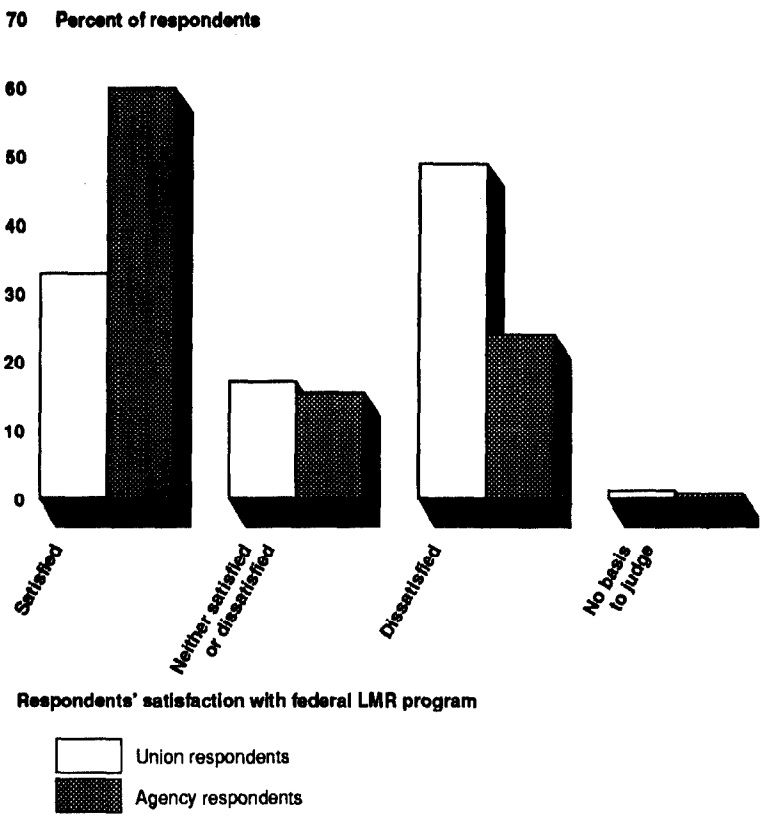


Figure 2.4: Agency and Union Respondents Differ on How Disputes Are Worked Out



We also asked respondents how satisfied or dissatisfied they were with the federal labor-management relations program overall. Despite their dissatisfaction with many facets of the program, 60 percent of agency respondents said they were generally or very satisfied with the program overall compared to 33 percent of union respondents. Figure 2.5 shows the contrasting views of agency and union respondents.

Figure 2.5: Agency and Union Respondents Differ on Satisfaction With the Federal Labor-Management Relations Program



Scope of Bargaining

As previously discussed, a limited number of issues can be negotiated in the government. Since the first executive order program, bargaining has been restricted to personnel policies and practices and matters that affect working conditions. It may not include issues that are controlled by other federal statutes, such as pay and benefits. It may not deal with matters covered by regulations that have governmentwide application. For example, many work rules governing the hiring, firing, promotion, and retention of employees are established by regulations issued by OPM.

The first executive order on labor-management relations also excluded from bargaining such "management rights" as agency mission, budget, organization, work assignments, and almost all significant employment decisions. These, plus several additional "management rights," remain outside the scope of bargaining today, except that:

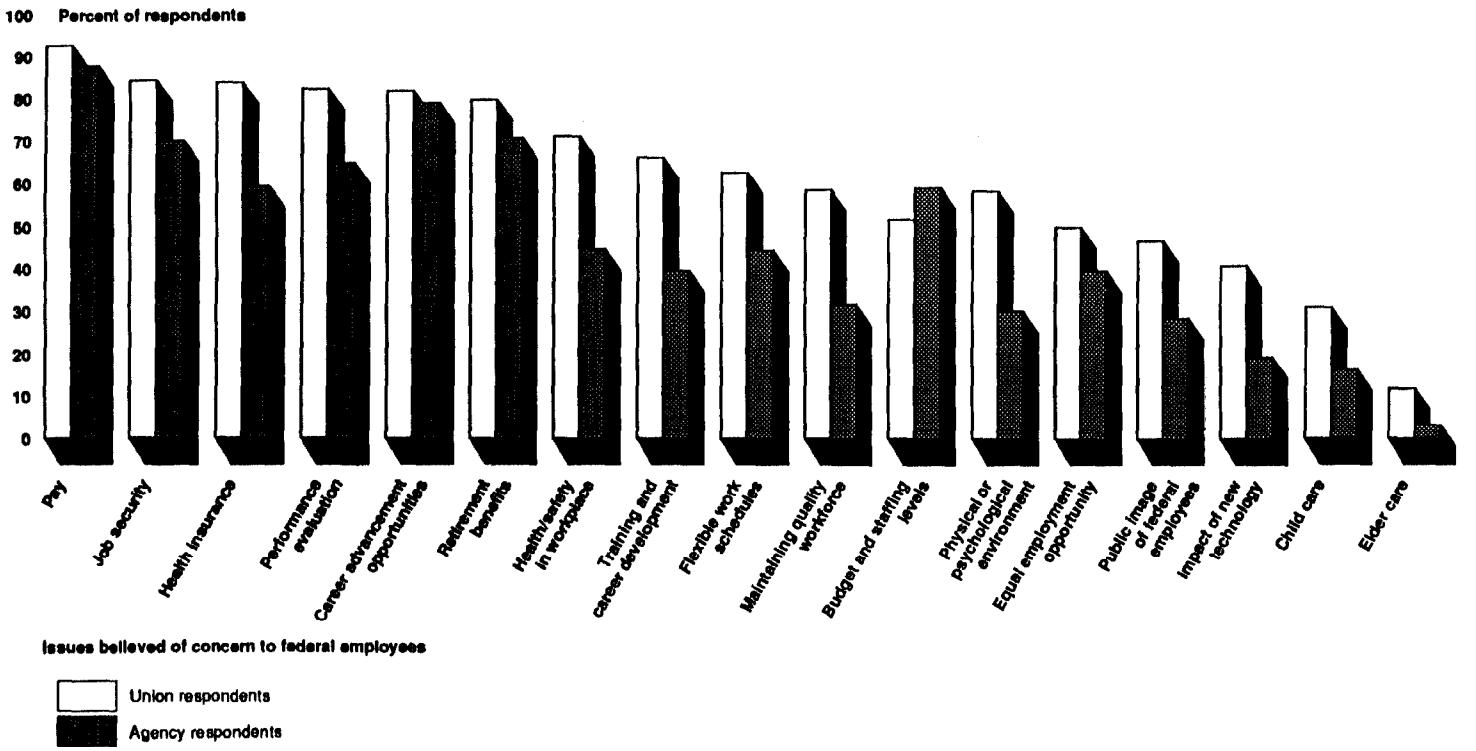
- Management must negotiate the procedures used in exercising its rights and arrangements for employees adversely affected by management actions.
- Management may bargain the numbers, types, and grades of employees assigned and the technology and means of performing work.

Therefore, much of the negotiation in the government centers on the impact of various management actions, such as agency reorganizations and reductions-in-force, or on procedures to implement the actions.

Our questionnaire to agency and union field representatives listed 17 employment issues and asked the respondents to indicate how much concern they believed employees at their locations had about each issue. (See fig. 2.6.) More than 50 percent of agency and union respondents said seven of the issues were of "great" or "very great" concern to employees at their locations. These issues were pay, career advancement (promotion opportunities), retirement benefits, job security, performance evaluation, health insurance, and budget and staffing levels. The majority of union respondents also listed five other issues as being of "great" or "very great" concern to employees—health and safety in the workplace, flexible work schedules, training and career development, work environment, and maintaining a quality workforce.

Bargaining is extremely limited on most of the 12 issues. However, substantive bargaining is allowed on flexible work schedules and some health and safety issues and work environment issues. It should be noted that bargaining over flexible work schedules was mandated by the Federal Employees Flexible and Compressed Work Schedules Act of 1982 (5 U.S.C. 6130).

Figure 2.6: Percentage of Agency and Union Respondents Rating Issues to Be of "Great" or "Very Great" Concern to Federal Employees



Interviewees' Perceptions of the Scope of Bargaining

The agency officials we interviewed did not dispute that the scope of bargaining is very restricted in the federal government, but the majority of them said that they do not want bargaining rights to be increased. They believe that a strong "management rights" clause is necessary for agencies to carry out their missions. The officials' major complaint was their obligation to bargain with unions over the impact and implementation of minor management decisions.

All union officials and most neutrals saw the limited scope of bargaining allowed as a critical problem that gave employees and union officials little effective voice in matters of real importance. The union officials

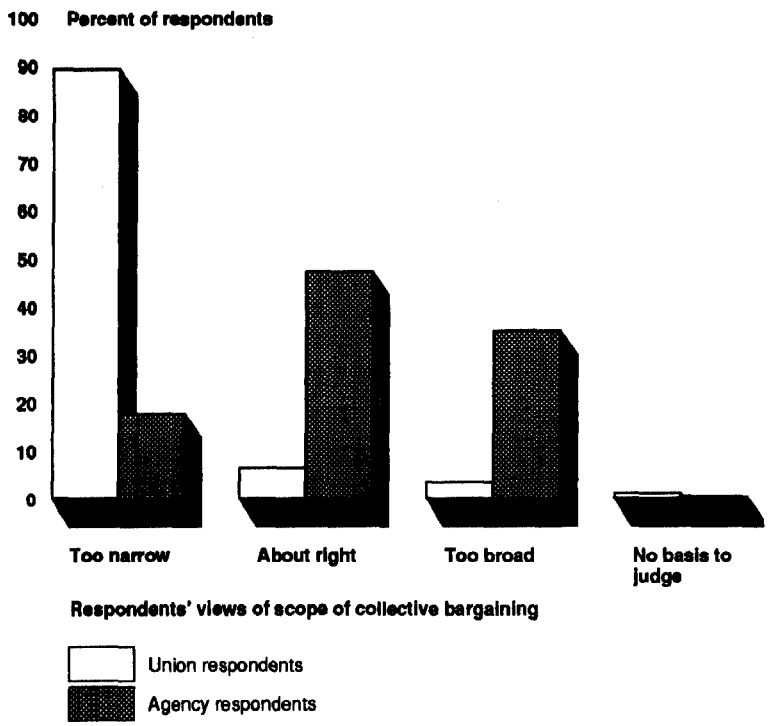
said they had expected the statute to give unions greater equality at the bargaining table, but instead they believed there had been little improvement from the old executive order program, and in some areas bargaining rights had even decreased. They said the restrictions imposed by the "management rights" clause relegated unions and agencies to bargaining "around the fringes" in some important areas. As one union official put it, "Unions are forced at the onset into a defensive posture. Negotiations are efforts to prevent the worst rather than to create the best." Some neutrals thought the bargaining limitations bred frustration, causing unions to hold fast on the issues they could negotiate, including giving excessive attention to "petty ones."

All union officials, 13 of 14 neutrals, and 5 of 12 agency officials supported a broader scope of bargaining to include more matters of concern to employees. They differed, however, as to how broad they believed the scope should be. The union officials and five neutrals, including one former chairman of the FLRA, favored full collective bargaining on all matters, including pay and benefits. Others supported a variety or combination of means to broaden the scope, including bargaining over some economic issues, a modification or elimination of the management rights clause, and less regulation by agencies and OPM. Most agency officials (7 of 12), however, opposed any change in the scope of bargaining.

Agency and Union Field Representatives' Views

Agency respondents to our questionnaire were much more opposed to increasing the scope of bargaining than union respondents. (See figure 2.7.) About 82 percent of agency respondents said the scope was either "about right" or "too broad"; the majority specifically rejected any move toward negotiations over pay (66 percent) and benefits (56 percent). In contrast, 90 percent of union respondents said the scope of bargaining was too narrow. About 87 percent of union respondents favored bargaining over pay and 93 percent supported bargaining over benefits.

Figure 2.7: Agency and Union Respondents Differ on Scope of Collective Bargaining



Prohibition Against Agency Shop or Representation Fees

Federal employees are entitled to form bargaining units and to select unions to represent them. A union must represent all employees in the bargaining unit, but the employees cannot be compelled to join the union or pay dues to support it. Fewer than one-third of all federal employees who are represented by unions are also dues-paying union members. However, the statute allows agency employees who represent a recognized union to use on-the-clock time, known as "official time," to carry out employee representation activities.

This differs from private sector and nonfederal public sector arrangements in many states, in which employees can be required to pay dues to the union or at least a "fair share" of the costs a union incurs in representing employees.[9] Such arrangements are called "union security," "agency shop," or "fair share representation fees."

[9]In the private sector,"union security" arrangements are negotiable in 29 states and the District of Columbia. Twenty-three states and the District of Columbia mandate or authorize agency shop arrangements for nonfederal public sector employees.

Interviewees' Perceptions on Agency Shop and Representation Fee Prohibition

The large majority of all interviewees believed the statute's prohibition of "agency shop" and "representation fees" was a problem; however, they characterized the problem very differently.

The union officials said they have a broad obligation under the statute to represent all employees in bargaining units fairly and equitably, without regard to their membership or nonmembership in the union. They felt this responsibility provided little incentive for employees to join and pay dues to the union. One union official said with the union's limited resources, they could not possibly match the "legions of attorneys and other personnel specialists" available to agencies and had to rely mainly on volunteer stewards and officers, who must carry out their employee representation responsibilities while holding down their regular government jobs.

Some agency officials felt that granting "official time" to union officials for representational purposes was costly to the government and contributed to many of the disputes between labor and management. Because of the low union membership rates, some of them said that unions do not speak for all employees and tend to concentrate on the problems raised by "malcontents." Others said union representatives were often ineffective and lacking in bargaining skills and knowledge and that an agency shop would enable unions to afford more full-time union paid representatives. Eight of the 12 agency officials we interviewed supported an agency shop arrangement. Two of these eight officials believed an agency shop arrangement should be coupled with elimination of the official time provisions. Three agency officials opposed any changes from the existing statutory proscription. The remaining agency official had no opinion on the subject. Some examples of the agency officials' comments follow.

"I personally would be willing to seriously explore an 'agency shop'. We can not set up this huge machinery that we have set up and leave it there so that it cannot work."

"If we had the right to negotiate 'union security' then the union would have to start taking its responsibilities seriously and improve its representation of the employees or they will vote them out. I believe a strong knowledgeable financed union is in the employer's interest because it can become a true partner in establishing and working together on [mutual] objectives."

"I would give the union 'agency shop' . . . [then] we would be out of the official time business."

"I do not know if I am comfortable about 'agency shop'. It requires taking money from employees [pay check]. . . [the amount of a] 'user fee' would be hard to determine."

One of the agency officials who supported an agency shop arrangement cautioned that its imposition, without better union leadership, could cause some represented employees to view union decertification as an appealing alternative.

Nine of 12 neutrals with views on the issue agreed that an agency shop approach was needed in the government. Some of them explained that effective and representative unions are important to a successful labor-management relations program and that adoption of union security arrangements would make unions self-sufficient and more accountable to employees.

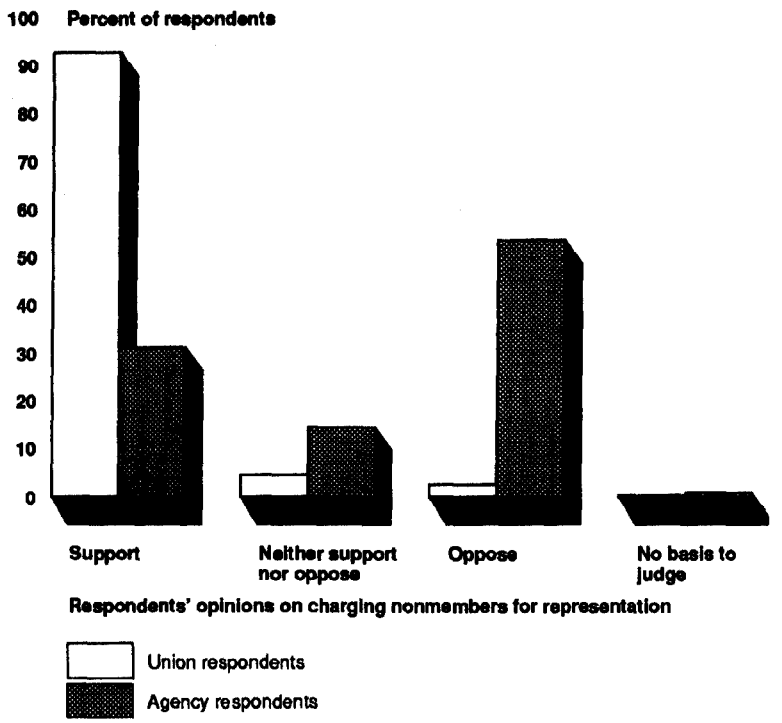
Agency and Union Field Representatives' Views

The questionnaire results showed union representatives to be in agreement with their headquarters officials that an agency shop arrangement was needed. About 93 percent of the union respondents supported an agency shop requirement or a "fair share" representation fee. As one union representative commented on his questionnaire:

"The procedures are too legalistic. Federal employees' due process rights, grievance rights, merit system, safety and health procedures virtually need the services of a [lawyer]. What they get is an occasional soon-to-be burned out volunteer representative, who quickly realizes he has put his own job in jeopardy. He then finds his grievance [procedure] adversary is an agency attorney who responds with legalistic mumbo-jumbo. Union representatives are denied [sufficient] official time to represent and to train for an extremely complex system."

However, only about 31 percent of agency respondents agreed that any changes were necessary. Figure 2.8 shows the different views of union and agency respondents on agency shop and representation fees.

Figure 2.8: Agency and Union Respondents Disagree on Charging Nonmembers for Representation



With regard to the agency officials' criticism about the skills and effectiveness of union representatives:

- Fifty-four percent of all respondents (50 percent of agency respondents and 58 percent of union respondents) thought that union representatives were not adequately trained. Far fewer—27 percent of union and 8 percent of agency respondents—thought that agency labor relations officials were not adequately trained.
- Eighty-two percent of union respondents thought they were effectively representing employees at their installations and offices. In contrast, 45 percent of agency respondents thought the union representatives were effective, and 38 percent thought the union representatives were generally or very ineffective.

Importance of Labor Relations in Federal Agencies

According to most of our interviewees, labor-management relations is a low priority in federal agencies. All union officials and 9 of 11 neutrals who said they had a basis to judge believed labor relations matters were not well integrated into the agencies' operational decisionmaking. The majority of agency officials (7 of 12) said that labor relations concerns were usually considered in their agencies' decisionmaking; the other five stated they often were not.

The following examples of statements made by agency officials in our interviews illustrate these differing views.

"The system is subject to some perverse rules . . . the more combative the labor relations, the greater the stature . . . When we have bad relations the commander calls [labor relations officers] every day and [they have] direct access. But when the unions are quiet, it is out of sight, out of mind, unfortunately."

"Sometimes [labor relations officials] have been greatly involved; other times not greatly. Now once again we have political appointees making decisions. And they do not even know they have unions. They do not know somebody down in personnel deals with it. We have a big reorganization on the horizon and the union is not being factored in. . . . When it hits the press . . . the union will go to Congress."

"We are much, much better now integrating [labor relations] into the operational system than we have been in the past. . . Here, because we have an Assistant Secretary [with labor relations responsibilities], we do get involved."

"I would like to say that it's always considered. [But] if it were, then we wouldn't have about a thousand unfair labor practice charges a year, of which about 60 percent are for failure to inform the union of changes that are being made by management."

In all but two of the agencies in our review, labor relations was not a separate function on the agencies' organizational charts, operating instead as part of the personnel offices. As one official explained: "I would call [labor relations] a step-child. Your Director of Labor Relations is being eclipsed by the Director of Human Resources and he or she is being eclipsed by Planning."

The majority of union, agency, and neutral officials we interviewed who had an opinion believed that middle-level managers and supervisors viewed bargaining with the union as a nuisance or one more hurdle to getting anything done. They said bargaining is rarely seen as an opportunity to obtain useful input from employees. Almost half of the neutrals we interviewed said they had no basis for an opinion in this area.

All union officials, 7 of 10 agency officials, and 3 of 5 neutrals who had a view said OPM was not effective in furthering the goals of the labor-management relations program. However, most of those who criticized OPM praised its Labor Agreement Information Retrieval Service (LAIRS) and other information services.[10]

Agency and Union Field Representatives' Views

For an indication of how well labor relations matters are integrated into operations at local installations and offices, our questionnaire asked union and agency representatives about (1) the degree to which labor relations concerns were considered in operational decisionmaking, (2) whether union representatives were consulted sufficiently in advance of changes that affected working conditions, and (3) the amount of labor relations training provided to line managers and supervisors.

The agency and union respondents had quite different answers to these questions. Over 73 percent of agency representatives said that labor relations were considered in operational decisions and that union representatives were consulted sufficiently in advance of workplace changes most of the time. About 64 percent said agency line managers were adequately trained from a moderate to very great extent.

The union respondents disagreed. The majority of them said labor relations concerns were not integrated into agency operations and they were consulted sufficiently in advance of workplace changes only some of the time. About 18 percent believed, from a moderate to very great extent, that agency managers and supervisors had received adequate training. One union respondent commented: "Our [labor relations officer] answers all grievances for managers and supervisors, so why do we even involve management?" Figures 2.9 to 2.11 show the contrasting views of agency and union respondents.

[10]LAIRS was developed to track specific provisions found in federal sector labor-management agreements. The LAIRS file, as of February 1990, contained 2,230 agreements.

Figure 2.9: Agency and Union Respondents Differ on Frequency Labor Relations Considered in Operational Decisions

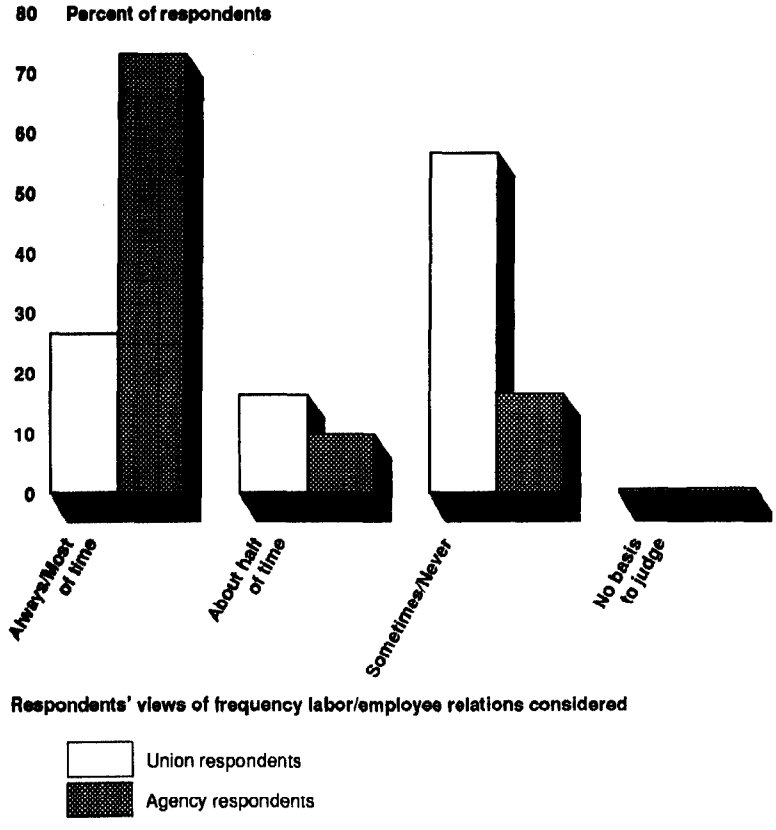


Figure 2.10: Agency and Union Respondents Disagree on Timeliness of Consultation With Union Representatives

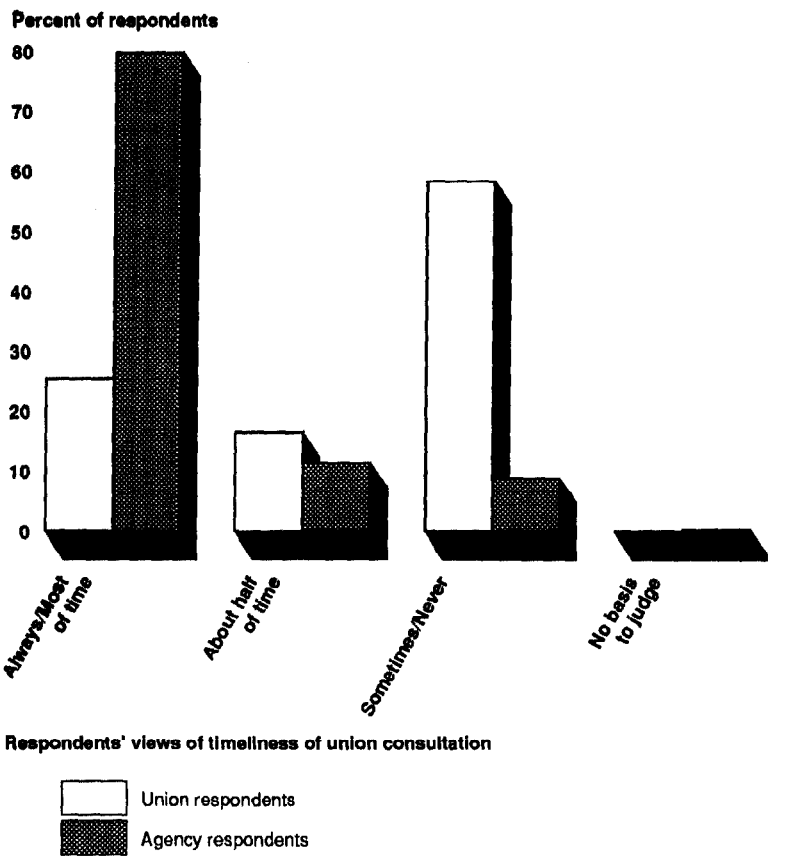
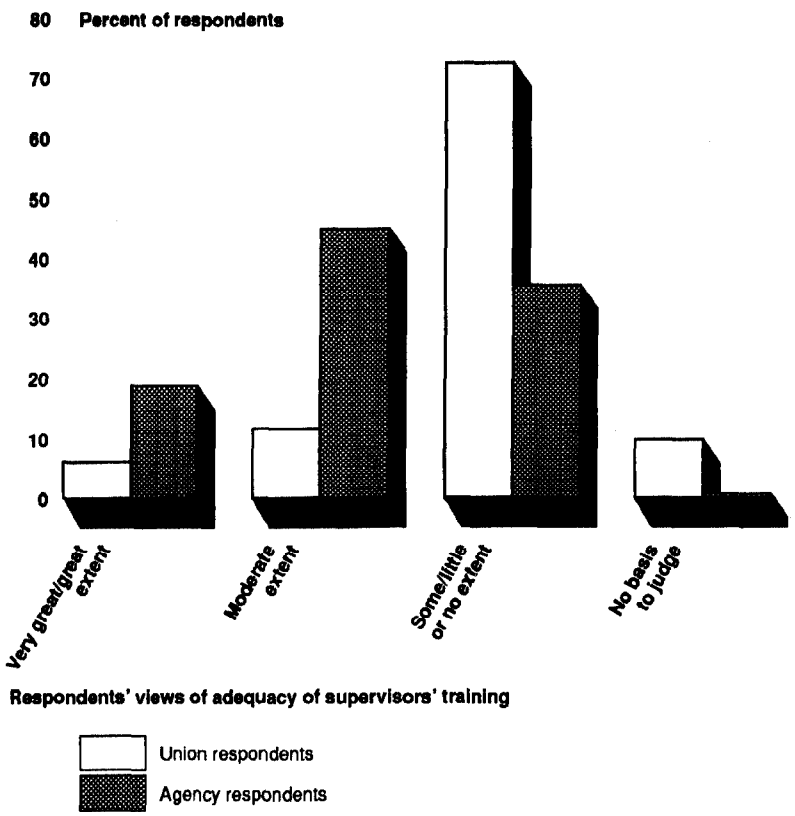


Figure 2.11: Agency and Union Respondents Differ on Adequacy of Labor-Management Relations Training for Line Managers and Supervisors



Agency respondents also had a more positive view of OPM's effectiveness in furthering the goals of labor management relations than union respondents. About 40 percent of agency respondents rated OPM effective in this area compared to only 17 percent of union respondents.

Perceptions of Federal Dispute Resolution Agencies and Their Processes

The Federal Service Labor-Management Relations Statute prescribes a number of procedures by which disputes between unions and agency management are to be resolved.

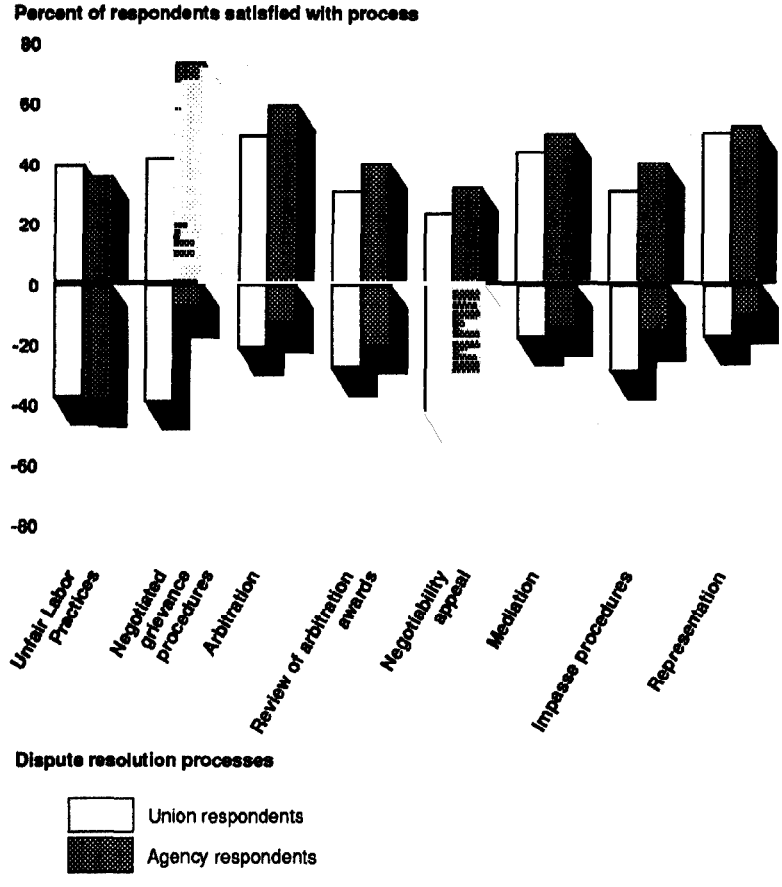
Our interviews with agency and union officials and neutrals disclosed considerable concern that some of the dispute resolution procedures were too slow, complex, and susceptible to delaying and stalling tactics by the parties involved. The main targets of criticism were procedures for handling negotiability appeals and unfair labor practice charges, particularly the way these procedures were administered by FLRA.

Generally, agency and union respondents to our questionnaire were more satisfied than the interviewees with the dispute resolution procedures. However, about 70 percent of respondents believed disputes took too long to resolve. Also both agency and union respondents tended to express the same opinion as their headquarters counterparts that the procedures for resolving unfair labor practice charges were not working well. The union respondents believed the negotiability appeals procedures also needed improvement, but this view was not shared by the agency respondents.

Figure 3.1 shows the degree of satisfaction or dissatisfaction perceived by agency and union respondents with each of the dispute resolution processes prescribed by the statute.[1]

[1]The percentages shown in this figure were calculated using the views of respondents who said they had a basis to judge. Also, the figure does not show the percentages who were neither satisfied nor dissatisfied. Those data are shown in appendix III.

Figure 3.1: Agency and Union Respondents' Satisfaction/ Dissatisfaction With Dispute Resolution Processes



The Negotiability Appeal Process

Negotiability questions arise when the union submits a contract proposal at the bargaining table that the agency representative alleges is contrary to law or regulation or interferes with "management rights." Questions of negotiability are resolved by referring the disputed proposal to FLRA for a ruling. Under the statute, the union has 15 days after the agency makes its allegation to file an appeal. Bargaining on the issue(s) stops until the union's written appeal is processed by FLRA.

Allegations of nonnegotiability may be raised at any stage of the bargaining process or even after bargaining has been completed. For example, the statute subjects negotiated agreements to approval by the agency head. In this post-agreement review, the agency head may allege that certain issues that have been agreed to by the parties are nonnegotiable. Negotiability questions may also be raised by agency officials

when the parties are in mediation or in impasse proceedings before FSIP, or even after FSIP has issued a decision, as FSIP decisions are also subject to agency head review.

Interviewees' Perceptions of the Negotiability Appeal Process

More than two-thirds of the experts we interviewed thought the negotiability appeal process was working poorly and was a major obstacle to effective bargaining in the government. Their reasons included the following:

- The statutory time limit compels unions, in order to protect their appeal rights, to formalize a negotiability dispute before the bargaining process has run its course. Thus, the process generates litigation over proposals that might be worked out through bargaining, mediation, or impasse procedures.
- The process is susceptible to delaying and stalling tactics because allegations of nonnegotiability are easily made and FLRA often has taken years to render decisions.
- FLRA's decisions were inconsistent, unclear, and untimely.

Of the 30 interviewees, 28 said they found it difficult to understand what was negotiable and not negotiable even though FLRA has issued hundreds of negotiability appeals decisions. For example, a union official said that a data search produced a list of at least 69 cases on the issue of "seniority" where FLRA had sometimes determined seniority questions negotiable and sometimes determined they were not. An FLRA official told us that in retrospect, she felt it was a mistake for FLRA to use a case-by-case method of adjudicating negotiability questions rather than issuing broad decisions covering the negotiability of particular subjects.

In general, the experts we interviewed felt that FLRA decision-making would be improved if its rulings were clearer and more consistent and concentrated on broad principles of negotiability. Some also believed time limits for issuing decisions should be imposed on FLRA, pointing out that it sometimes took FLRA years to process an appeal, and issues were often moot by the time a decision was rendered.

The interviewees suggested that the resolution of negotiability issues should be tied closer to the bargaining process through face-to-face meetings of the parties and third parties. Some of them proposed greater use of innovative impasse techniques, such as "med-arb," whereby a

mediator-arbitrator works directly with the parties to resolve the underlying problem so that many potential negotiability issues become moot.

Three of the experts we interviewed, who were former members or officials of FSIP, thought FSIP should be given more authority to deal with issues where allegations of nonnegotiability have been made. The majority of agency officials agreed that an expanded FSIP role was appropriate. However, they believed FSIP decisions should remain subject to agency head review.

Union officials and the majority of neutrals believed the best way to improve the negotiability appeal process was to increase the scope of bargaining, thus greatly reducing the number of negotiability issues and, in effect, eliminating the need for the process. They also urged that the statutory requirement for agency head approval of negotiated agreements be rescinded.

Agency and Union Field Representatives' Views

The agency respondents to our questionnaire who said they had a basis to judge were generally evenly divided in their views on the negotiability appeal process among those who were satisfied, dissatisfied, and neither satisfied or dissatisfied. However, almost twice as many union respondents were dissatisfied with the process than were satisfied. (See fig. 3.1.) Almost half of all respondents shared their headquarters officials' views that it was difficult to understand what is negotiable and nonnegotiable under the statute.

Some significant differences between agency and union views were evident. Almost 60 percent of the union respondents said that negotiability issues were a hindrance to bargaining at least half of the time compared to about 33 percent of agency respondents who held that view. Similarly, about 84 percent of the union respondents said the "agency head review" requirement should be eliminated or modified, but fewer than one third of agency respondents agreed. (See figs. 3.2 and 3.3.)

Figure 3.2: Agency and Union Respondents Differ on Frequency Negotiations Hindered by Negotiability Issues

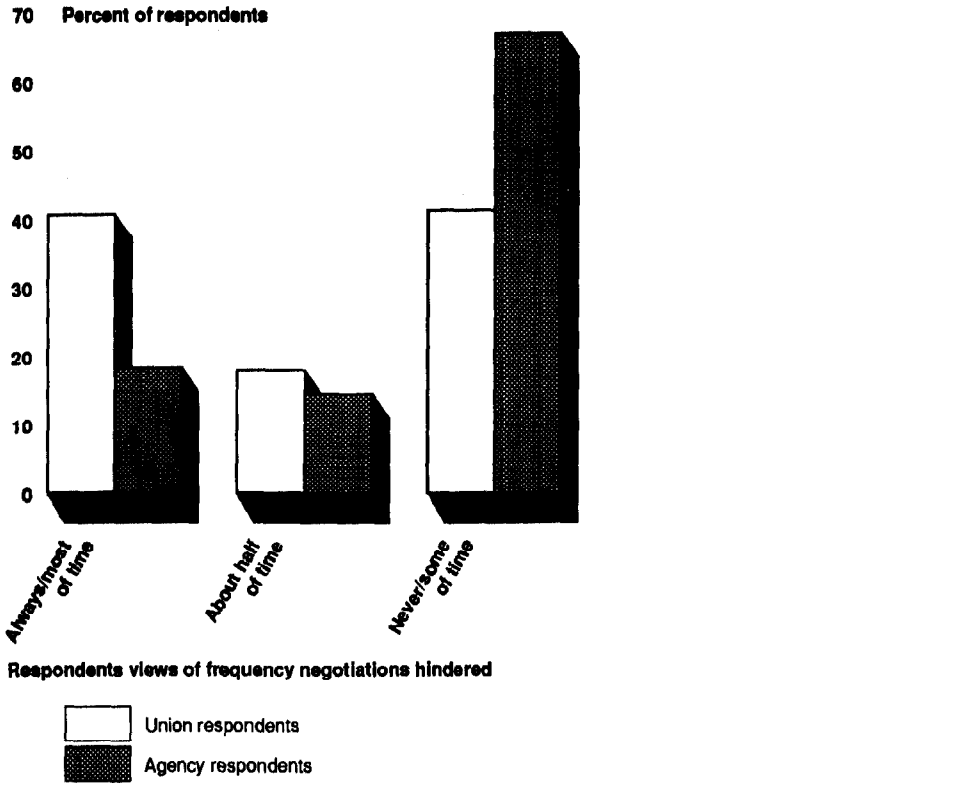
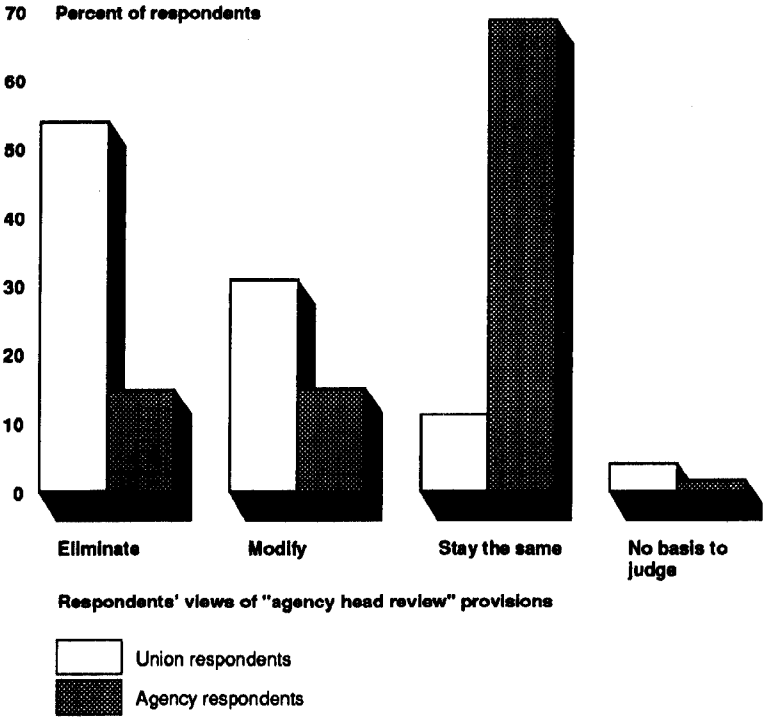


Figure 3.3: Agency and Union Respondents Differ on Agency Head Review



Unfair Labor Practice Procedures

To protect the rights of employees and agencies, and to prevent labor-management disputes that would adversely affect the rights of the public, the Federal Labor-Management Relations Statute, like most state laws and the National Labor Relations Act, has defined certain practices of agencies and unions as unfair labor practices (ULPs). Examples of ULPs by agency officials include discriminating against employees, such as not granting promotions because of their union activity, or making changes in working conditions without first notifying the union and negotiating the changes if the union requests. Examples of union ULPs include engaging in a strike or work slowdown or refusing to represent employees unless they join the union.

Similarly, the federal statute has adopted, with some adjustments, the same processes for filing and resolving ULPs as contained in the National Labor Relations Act. Charges are investigated by the regional staff of FLRA's General Counsel. If the investigation shows the charge has merit and voluntary settlement efforts fail, the regional director issues a complaint. The General Counsel then prosecutes the case on behalf of the

charging party before an FLRA administrative law judge (ALJ). The ALJ's decision is final if no objections are made, but ALJ decisions may be appealed to the three-member Authority. If the facts of the case are not in dispute, the case may be stipulated and transferred directly to FLRA without an ALJ hearing.

Most ULP charges are filed by unions against agency management, and the number of cases has grown each year. In fiscal year 1990, 7,097 unfair labor practice charges were filed, representing an increase of 10 percent over fiscal year 1989 and 36 percent over fiscal year 1986. According to statistics provided by FLRA's General Counsel, more than half of all ULP charges were filed over management's alleged failure to bargain with unions over changes in working conditions.

Interviewees' Perceptions of Unfair Labor Practice Procedures

Almost all of the experts we interviewed agreed that too many ULPs are filed, but they differed widely on how the number could be reduced. Three-fourths of agency officials and almost two-thirds of neutrals said the unions file too many charges over minor issues or issues that are more appropriately resolved through negotiated grievance procedures. As examples, they cited charges filed about agencies altering partitions in work areas and moving a coffee pot from one area of an office to another. Some of them felt that such minor ULP cases proliferate because the process is free to unions, whereas issues filed as grievances, which are not resolved in the negotiated grievance procedure, have to be resolved through arbitration, which is costly to both parties. Four agency officials said they thought the FLRA field staff was biased toward unions in its investigation of charges.

All union officials said agency management too often ignores its responsibilities under the statute. In their opinion, this occurred because FLRA had not strongly enforced the statute. As examples, they said FLRA had not ordered effective remedies, such as status quo ante or "make whole" remedies when agencies violate the statute, and FLRA's General Counsel had not sought injunctive relief in court to delay management action until bargaining obligations have been met.

The majority of neutrals we interviewed agreed that unions file too many charges over minor issues. However, they also said that management often ignores its statutory obligations and the parties do not try hard enough to settle the underlying problems.

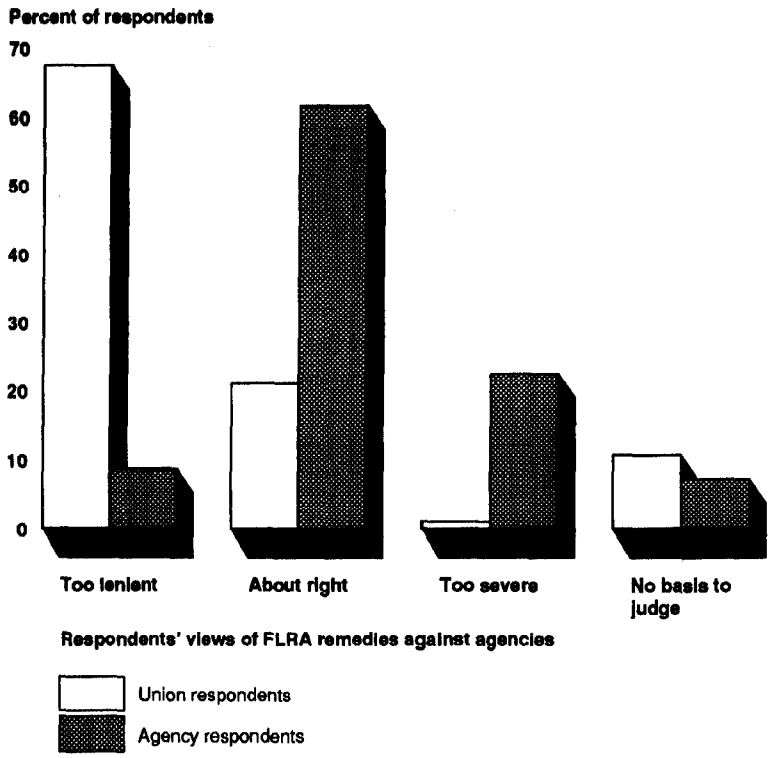
The interviewees had various suggestions for improving the ULP process:

- Some agency officials said a stronger standard is needed by which FLRA would dismiss charges when the alleged failure to bargain is over minor issues. Others suggested adoption of an informal procedure that would require the parties to attempt to settle problems before filing charges with FLRA.
- The union officials said FLRA must order stronger remedies and sanctions and seek injunctive relief in court when serious situations warrant fast action. They believed this action was necessary to deter future violations of the statute by agency management.
- Most neutrals did not recommend any changes to the ULP process. However, one-third of neutrals agreed with the union officials' views that FLRA should order stronger remedies and sanctions.
- FLRA's General Counsel recommended that her office be allowed to go to court on its own motion to get temporary restraining orders without having to seek permission from the Authority. She also said additional resources would help FLRA resolve cases more promptly.

Agency and Union Field Representatives' Views

No clear trend in views about the ULP procedures was evident in the responses to our questionnaire. About one-third of all respondents were dissatisfied with the ULP procedures, about one-third were satisfied, and the remaining one-third were neither satisfied nor dissatisfied or had no basis to judge. (See fig. 3.1.) However, about 67 percent of union respondents agreed with their headquarters officials' views that the remedies ordered by FLRA against agencies were too lenient. About 84 percent of agency respondents said that the FLRA remedies were about right or too severe. Figure 3.4 shows the contrasting views of agency and union respondents.

Figure 3.4: Agency and Union Respondents Differ on Remedies Ordered by FLRA Against Agencies



Review of Arbitration Award Process

Either party—labor or management—may file exceptions to an arbitrator's award with FLRA. If the award relates to an employee removal or other serious adverse action as defined in the statute, appeals must be made directly to the courts. FLRA may dismiss the exception on procedural grounds, uphold the award, or find that the award is deficient and overturn or modify it. If no exceptions are filed, the award is final and binding on both parties.

From the effective date of the federal statute—January 13, 1979—until December 31, 1990, FLRA had decided 1,811 exceptions to arbitration awards. According to data maintained by OPM, 10,250 arbitration decisions were issued during this period. Thus, approximately 18 percent of all arbitration awards have been appealed to FLRA. About 60 percent of

the exceptions were filed by unions, and about 40 percent were filed by agencies. FLRA modified or set aside 19 percent of the appealed awards. In 3 percent of the exceptions filed by unions and 44 percent of exceptions filed by agencies, FLRA modified or set aside the awards. The most frequent grounds for overturning awards were that they conflicted with laws or governmentwide regulations.

There is no similar appeal process in the labor-management relations statute applicable to the private sector. Rather, arbitration awards are final and binding, and the courts will intervene in limited circumstances, such as fraud, bias, or the arbitrator exceeding his authority. In the history of labor arbitration, court action has been instituted in fewer than 1.5 percent of all private sector awards, and in those instances the awards were rarely overturned.[2]

Interviewees' Perceptions of the Review of Arbitration Awards Process

The main concern cited by the experts we interviewed was that too many exceptions to arbitration awards were being filed with FLRA, thus making arbitration less final and binding than envisioned in the statute. The union officials had two other objections. They pointed out that FLRA rules provide that arbitration awards are not final until FLRA has ruled on any exceptions; therefore, agencies can not be compelled to implement awards to which exceptions have been filed until FLRA issues its decisions. They were also concerned that the only means of enforcing an arbitration award is through the ULP process. They said direct enforcement of arbitration awards through court orders would be preferable.

Union officials felt the review of arbitration awards process should be eliminated. Half of the neutrals we interviewed agreed with the union officials. Other than saying that FLRA decisions on exceptions should be made more expeditiously, the agency officials we interviewed had no suggestions for changing the process.

Agency and Union Field Representatives' Views

Among union respondents with a basis to judge, there was no clear trend of satisfaction or dissatisfaction about the review of arbitration award process. Union responses were generally evenly divided among those who were satisfied, dissatisfied, neither satisfied nor dissatisfied, and had no basis to judge the process. However, of those agency respondents with a basis to judge, more were satisfied with the process (40 percent) than were dissatisfied (20 percent). (See fig. 3.1.)

[2]Elkouri and Elkouri, How Arbitration Works, pp. 30-31.

Agency and Union Field Representatives' Views of FLRA's Management of Dispute Resolution Processes Under its Jurisdiction

As discussed in chapter 1, most of FLRA's work is divided between its three-member Authority and its General Counsel. The Authority issues policy decisions and adjudicates the three types of cases discussed above: (1) negotiability appeals, (2) appeals of ULP decisions issued by FLRA administrative law judges, and (3) review of arbitration awards. FLRA's General Counsel is responsible for regional operations. Working through regional directors and staffs in nine regional offices, the General's Counsel's chief responsibility is to investigate ULP charges and prosecute charges it finds to be valid before the Authority.

The questionnaire asked respondents to rate the Authority and the General Counsel's field operations in four categories: "impartiality," "efficiency," "competency," and "overall effectiveness." The questionnaire results show that union and agency respondents generally agreed with the views and criticisms of FLRA voiced by their respective headquarters. (See figs. 3.5 to 3.8.) In particular, the respondents' ratings of the Authority's efficiency, described on the questionnaire as timeliness in processing cases and issuing decisions, were much lower than their ratings of other third-party agencies' efficiency.

Figure 3.5: Agency and Union Respondents' Views of Impartiality of Third-Party Dispute Resolution Agencies

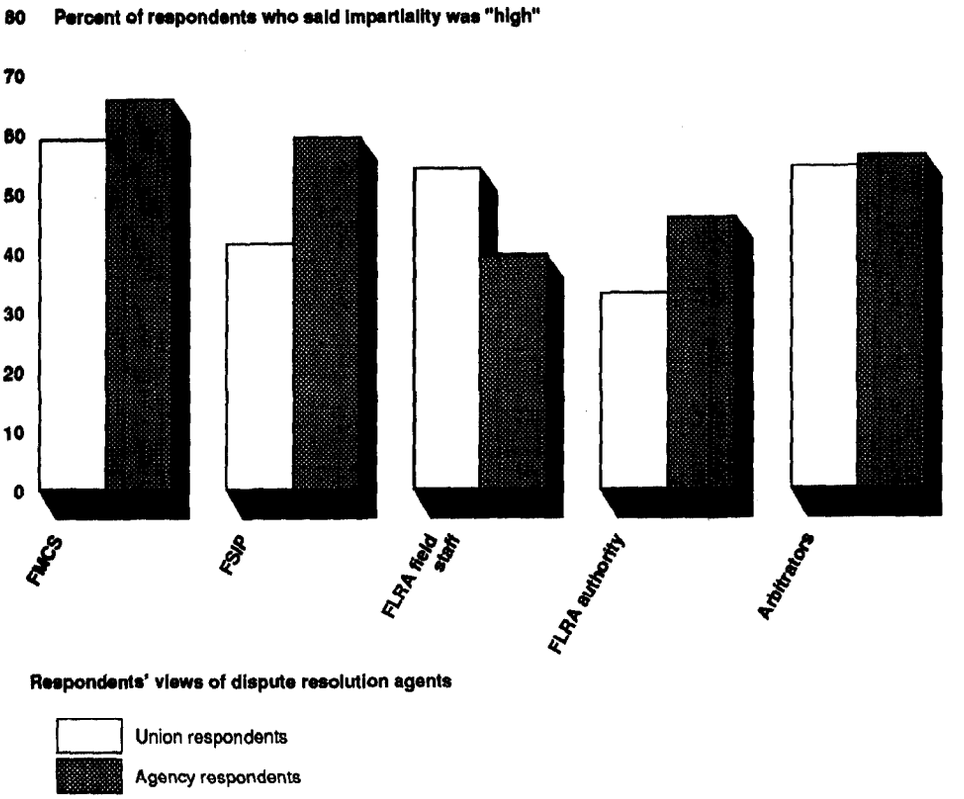


Figure 3.6: Agency and Union Respondents' Views of Efficiency of Third-Party Dispute Resolution Agencies

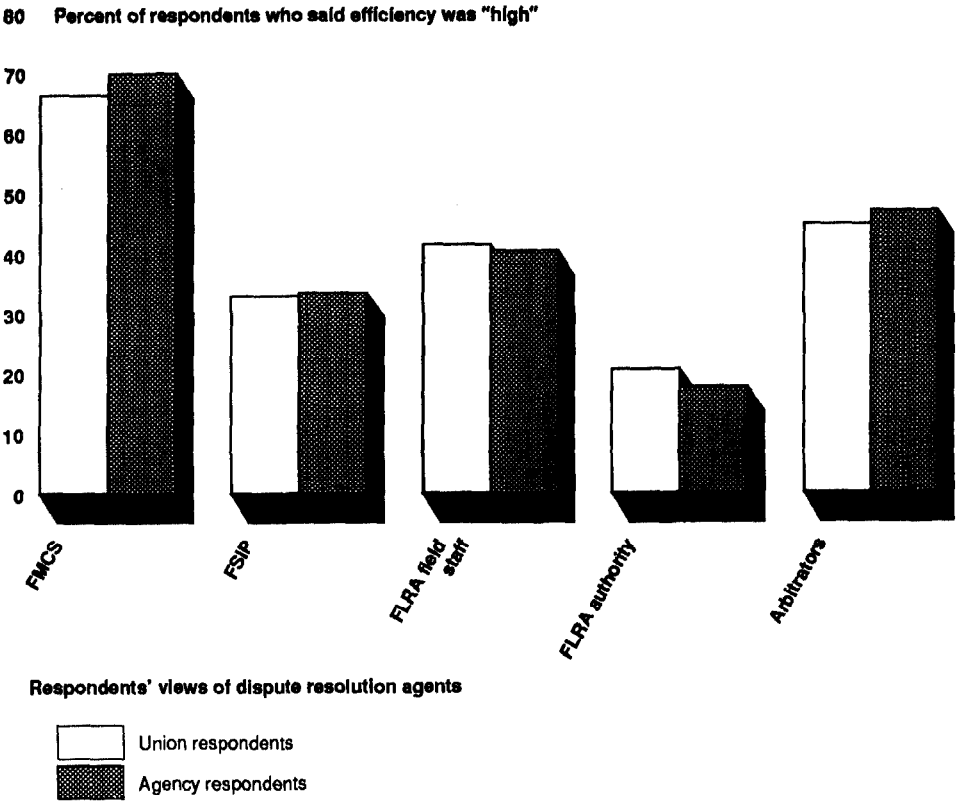


Figure 3.7: Agency and Union Respondents' Views of Competency of Third-Party Dispute Resolution Agencies

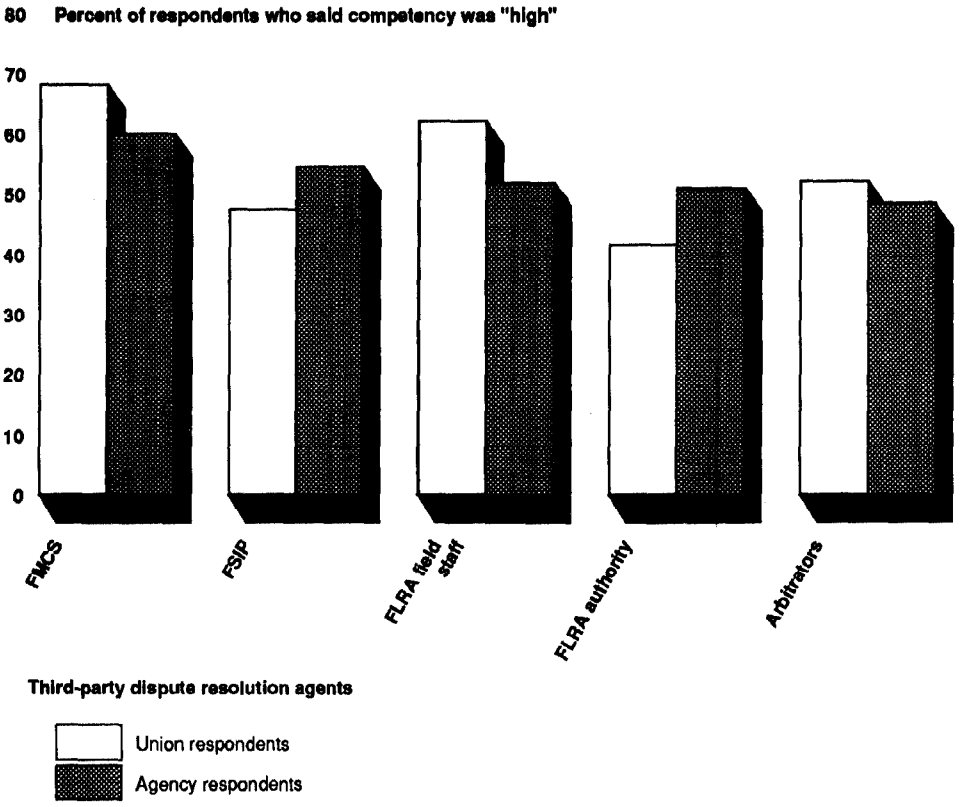
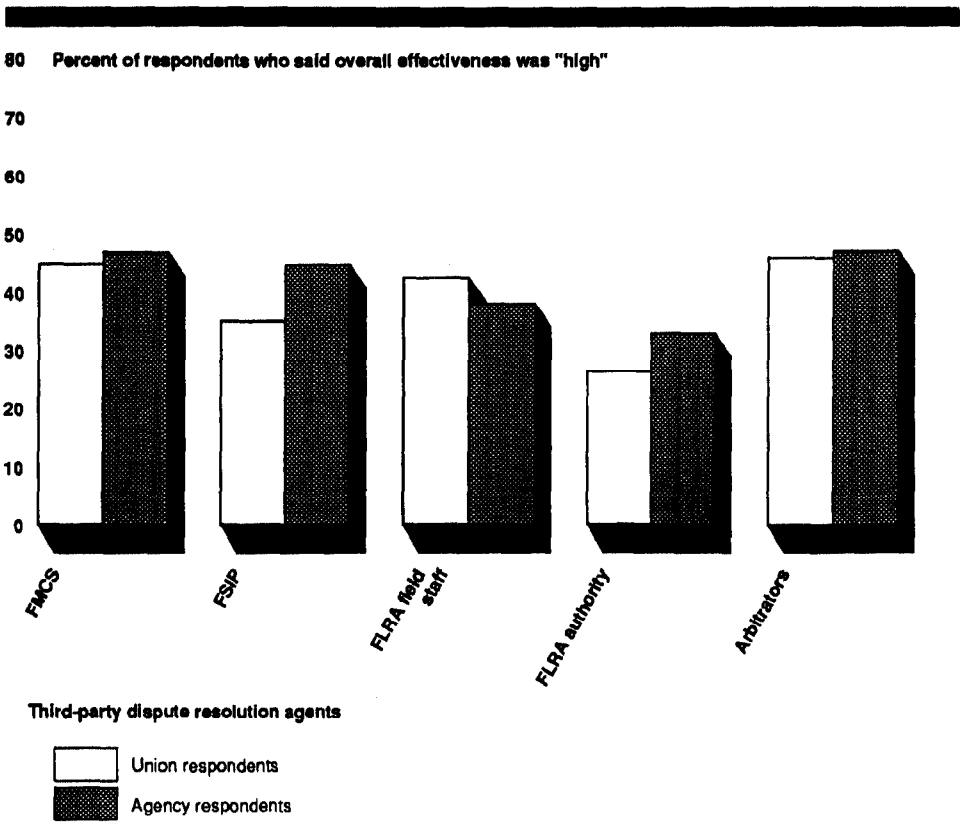


Figure 3.8: Agency and Union Respondents' Views of Overall Effectiveness of Third-Party Dispute Resolution Agencies



Agency and union respondents had opposite views about the impartiality of the two entities of FLRA. A greater percentage of union respondents than agency respondents reported that the FLRA field staff was more impartial than the Authority. In contrast, a greater percentage of agency respondents than union respondents said the Authority was more impartial than the field staff. (See fig. 3.5.)

Mediation

Mediation is the informal involvement of a third party to assist labor and management in reaching voluntary settlement of a dispute. It is widely used to resolve labor disputes in the private sector and in state and local governments and is also an integral part of the federal impasse resolution process. If negotiations between labor and management become deadlocked, the parties may request the services of the Federal Mediation and Conciliation Service (FMCS). The rules and regulations of FSIP specifically make FMCS assistance or other third-party mediation a precondition to requesting assistance from FSIP.

Interviewees' Perceptions of the Mediation Process

The majority of the experts we interviewed who had a view expressed concern about mediation in the federal sector. They said the parties frequently "go through the motions" with the mediator because they know FMCS cannot impose a settlement on them or influence a settlement by FSIP. They also thought that unions and management were not interested in getting down to their "bottom lines" during FMCS mediation because often FSIP will also mediate the dispute. They observed that the program provides few incentives to the parties to reach an agreement during mediation since there are no strike deadlines or penalties for procrastinating or adopting unrealistic, rigid, and uncompromising positions.

Some agency and union officials said the mediators often lack knowledge and interest in federal labor-management relations matters and are unfamiliar with the array of legal constraints in federal sector bargaining.

Because of these difficulties, half of the union, neutral, and agency officials favored merging FSIP and that part of FMCS that deals with federal matters. The Chairman of FSIP and the Director of the FMCS Federal Program did not support a merger. They and other opponents cited two main considerations: (1) FSIP does not have a field staff and, (2) federal mediators who work on federal matters also practice in the private sector and can aid the parties in putting minor issues in perspective.

Agency and Union Field Representatives' Views

Unlike the interviewees, by a ratio of greater than 2 to 1, more respondents to the questionnaire were satisfied than dissatisfied with the mediation process. (See fig. 3.1.) Similarly, both agency and union respondents (over 58 percent) gave FMCS higher ratings in impartiality, efficiency, and competency than other third-party agencies involved in the process. (See figs. 3.5 to 3.7.) About 47 percent of agency and 45 percent of union respondents gave FMCS high marks in overall effectiveness. (See fig. 3.8.)

Impasse Procedures

If mediation by FMCS cannot resolve a negotiations impasse between the parties, either party may request assistance from FSIP. FSIP has broad statutory authority to take whatever action is necessary to resolve the impasse. It also can decline jurisdiction and order the parties to continue bargaining or to pursue further mediation. Various dispute resolution techniques employed by FSIP include mediation, fact-finding, written submissions, binding arbitration, and mediation-arbitration (med-arb) by FSIP members and staff as well as by outside arbitrators.

FSIP lacks jurisdiction over issues where questions of negotiability or the agency's obligation to bargain exist. Disputes of this nature must first be resolved by FLRA under the negotiability appeal process. In fiscal year 1989, 51 percent of FSIP cases were withdrawn, often because the parties had filed negotiability appeals or unfair labor practice charges. FSIP declined to assert jurisdiction in about 8 percent of its cases because questions concerning the obligation to bargain were involved.

The statute provides that FSIP decisions are final and binding. However, FLRA and court decisions have diminished that authority by holding that:

- FSIP decisions are subject to "agency head review," whereby the head of the agency involved in the impasse may declare contract provisions ordered by FSIP to be nonnegotiable or null and void unless FLRA determines they are negotiable. This holding also applies to arbitrators' decisions when the FSIP orders the parties to binding arbitration by an outside arbitrator.[3]
- If the parties voluntarily agree to the use of binding arbitration to resolve their impasse, the arbitrator's decision is not subject to agency head review. However, it is subject to review by FLRA if one of the parties files an exception to the decision.[4]

Interviewees' Perceptions of Impasse Resolution Procedures

The majority of those we interviewed (16 of 28) said that impasse resolution procedures would be improved with greater use of the med-arb process. For example, they said that med-arb helps the parties work out their own agreements without formal litigation, and many negotiability disputes are eliminated as a result.

All union officials and 11 of the 13 neutrals with views on the subject had suggestions for strengthening the powers of FSIP. Three changes proposed by a majority of both of these groups included (1) eliminating the agency head review; (2) giving FSIP authority to assert jurisdiction on issues, notwithstanding ULPs or negotiability disputes; and (3) enabling FLRA to enforce FSIP orders rather than requiring the parties to file ULPs to resolve noncompliance. As discussed on page 44, the majority of

[3]See e.g. Panama Canal Commission v. FLRA, 867 F.2d 905 (5th Cir. 1989); Department of Defense Dependents Schools v. FLRA, 852 F.2d 779 (4th Cir.1988).

[4]See, Department of Agriculture, Food and Nutrition Service, Western Region v. FLRA, 879 F.2d 655 (9th Cir. 1989).

agency officials favored granting more authority to FSIP to assert jurisdiction on issues, as long as FSIP decisions remain subject to agency head review.

Some of the union officials and neutrals also believed the FLRA and court decisions diminishing FSIP's power served to encourage agencies to raise negotiability issues and thereby avoid impasse resolution procedures and leave FSIP with no leverage to induce voluntary agreement.

Despite the problems, the majority of agency and neutral officials we interviewed thought FSIP was doing a good job with its available resources.

Agency and Union Field Representatives' Views

Of the questionnaire respondents who said they had a basis to judge, 35 percent said they were satisfied with the impasse procedures compared to 23 percent who were not. (See fig. 3.1.) The remaining respondents were neither satisfied nor dissatisfied.

More agency than union respondents viewed FSIP as impartial (59 percent to 41 percent); however, 51 percent of both groups gave FSIP high marks for "competency" (14 percent gave it low ratings and 31 percent rated it neither high nor low). Ratings for "efficiency" were generally evenly divided between high, low, and neither high nor low. By a ratio of nearly 3 to 1, more agency respondents gave FSIP high ratings for "overall effectiveness" compared to those who gave it low ratings. Union ratings in this category were generally evenly divided among high, low, and neither high nor low. (See figs. 3.5 to 3.8.)

Negotiated Grievance Procedures and Arbitration

Under the statute, all collective bargaining agreements must include mechanisms for settling grievances. A grievance is broadly defined in the statute as any complaint about employment, or the interpretation and application of the negotiated agreement or any law, rule, or regulation affecting employees' working conditions.[5] Thus, even matters for which a statutory appeal procedure exists are subject to the negotiated grievance procedures unless the parties mutually agree to exclude them. All negotiated procedures must include binding arbitration for matters not settled through the grievance procedure. When arbitration is

[5]The statute provides that the negotiated grievance procedure does not apply with respect to grievances concerning Hatch Act violations relating to political activities; retirement, life insurance or health insurance; any examination, certification, or appointment; or certain classification appeals.

invoked, arbitrators are selected from lists provided by FMCS or the American Arbitration Association under the terms of the parties' agreements. The arbitrator's fee is usually split evenly between the union and the agency.

Interviewees' Perceptions of Negotiated Grievance Procedures and Arbitration

The union, agency, and neutral officials we interviewed were generally satisfied with the negotiated grievance procedures and the arbitration process. However, most union officials complained that management has no incentive to resolve disputes short of arbitration because it knows that unions sometimes can not afford to invoke arbitration. The majority of agency officials rated arbitrators high in fairness, efficiency, and competency. The majority of union officials rated arbitrators neither high nor low in these categories.

Views of Agency and Union Field Representatives

Among respondents with a basis to judge, agency respondents were more satisfied with the negotiated grievance procedures and arbitration than were the union respondents. The majority of agency respondents were clearly satisfied with both processes (73 percent and 59 percent, respectively), and fewer than 13 percent were dissatisfied with either process. Fewer than half of the union respondents were satisfied with either process. However, there was a higher degree of dissatisfaction among union respondents with the negotiated grievance procedures than with arbitration. (See fig. 3.1.)

Over 45 percent of both agency and union respondents gave arbitrators high ratings in all categories. Fewer than 25 percent gave them low ratings in any category. (See figs. 3.5 to 3.8.)

Other Dispute Resolution Processes

Under the statute, employees have the option of using the negotiated grievance procedures or a statutory procedure to appeal certain actions:

- Complaints of discrimination may be appealed to the Equal Employment Opportunity Commission (EEOC).
- Allegations of prohibited personnel practices or "whistle-blower" complaints may be raised with the Office of Special Counsel (OSC).
- Adverse actions, such as removals, long-term suspensions, and demotions, may be appealed to the Merit Systems Protection Board (MSPB).

Interviewees' Perceptions of Other Dispute Resolution Procedures

The majority of agency and union officials we interviewed who said they had a basis to judge were generally critical of EEOC and OSC procedures. They had some of the same criticisms about EEOC that they had about FLRA—decisions were unclear and took too long to be issued, and EEOC had not shown sufficient leadership to make the EEO process work. Some of the complaints about OSC were that it did not adequately protect employees, was inefficient, and had not shown effective leadership of its program responsibilities. They disagreed, however, in their views of MSPB. The agency officials were satisfied with the MSPB procedures and said MSPB administers its responsibilities well. The union officials said MSPB was biased in favor of management.

Most of the neutrals said they did not have a basis to judge these processes and agencies.

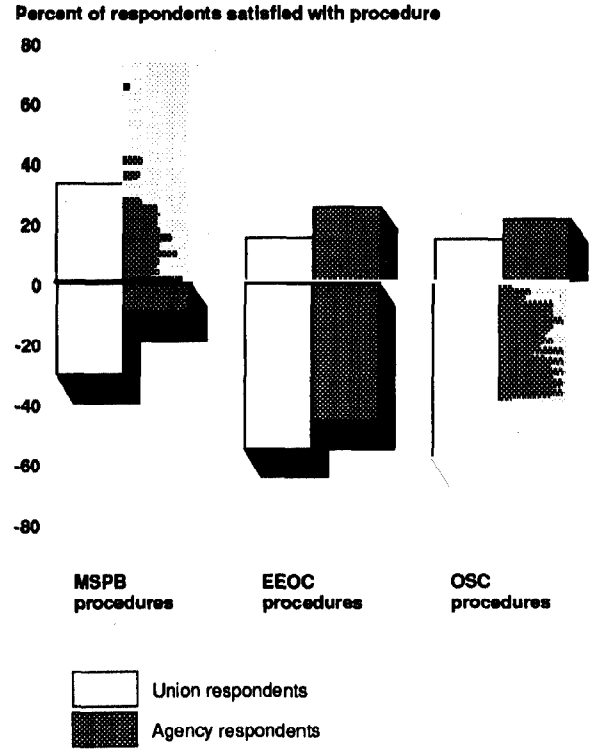
Views of Agency and Union Field Representatives

The agency and union respondents to the questionnaire generally mirrored the views of their headquarters officials. Both groups were more dissatisfied with EEOC and OSC procedures than any of the other dispute resolution processes, and they rated EEOC lower as an agency than other third-party agencies. (Respondents were not asked to rate OSC as it had been newly reorganized as an independent body and it was deemed too soon to judge the revamped operation.)

Also, like their respective headquarters officials, agency and union respondents with a basis to judge had differing views about MSPB. About 75 percent of agency respondents were satisfied with MSPB procedures. Union respondents were not as negative about MSPB procedures as officials at their headquarters, and their responses were more evenly divided among those who were satisfied, dissatisfied, and neither satisfied or dissatisfied. Twenty-nine percent said they had no basis to judge. Figure 3.9 shows agency and union views of MSPB, EEOC, and OSC procedures.[6]

[6]The percentages shown in this figure were calculated using the views of respondents with a basis to judge. Also, the figure does not show the percentages of respondents who were neither satisfied nor dissatisfied. Those data are shown in appendix III.

Figure 3.9: Agency and Union Respondents' Satisfaction/ Dissatisfaction With MSPB, EEOC, and OSC Procedures



Judicial Review

The Federal Service Labor-Management Relations Statute provides that most final orders or decisions of FLRA are subject to judicial review in the U.S. circuit courts of appeals. Because most government agencies and federal employee unions have operations in all 11 circuits, the same issues can and have been litigated in several of the courts. For example, the issue of the union's right to obtain the home addresses of employees in its bargaining units was the subject of approximately 300 cases in most of the 11 circuits, often with differing results.

We asked the experts we interviewed if they thought that changes were needed in the judicial review provisions of the statute. The majority of the agency officials supported a revision of the statute to provide that all federal labor-management cases be heard in one circuit. The majority of neutrals, including the chairman of the FLRA, did not support such a change. Union officials were evenly divided, with half believing all cases

should be heard in one circuit court of appeals and the other half favoring maintaining the status quo.

Labor-Management Cooperation

It is well established that cooperation between employers and labor organizations can be an essential ingredient in improving the quality of products and services rendered and reducing operating costs. Successful labor-management cooperative programs in the private sector reflect the growing view that an "us versus them" approach is outdated and unworkable. Through union and management partnerships, employees have a greater voice in decisionmaking, and all parties can work together to improve productivity, quality, and organizational effectiveness.

Efforts are under way in many federal agencies to implement quality improvement initiatives, such as the Total Quality Management (TQM) process, which emphasizes employee involvement and teambuilding. Guidance from the Federal Quality Institute states that cooperation between agency management and unions is an important element in successful TQM programs.

With few exceptions, federal labor-management cooperative efforts have been limited in scope and primarily local in nature. The majority of our agency, union, and neutral interviewees, however, emphasized that more attention to labor-management cooperation could hold great promise for reversing what they perceived as the adversarial and legalistic nature of the federal labor-management relations program. Similarly, the agency and union field representatives expressed a strong willingness to enter into labor-management cooperative efforts to improve agency operations.

Interviewees' Perceptions of Federal Labor-Management Cooperation

We asked the agency and union officials to characterize the nature of labor-management relationships involving their agencies and unions. The neutrals were also asked their views. Most interviewees said the working relationships ran the gamut from very cooperative to very hostile. Some mentioned that relationships often changed when agency or union leadership changed. However, the majority of agency officials said the relationships tended to be cooperative, while the union officials and most of the neutrals with a basis to judge felt the relationships were hostile as often as they were cooperative.

The interviewees frequently cited two federal labor-management cooperative efforts that they felt operated successfully as joint partnerships.[1] One was the Joint Quality Improvement Process between the Internal Revenue Service (IRS) and the National Treasury Employees Union (NTEU)—an IRS-wide program involving the union in improving organizational effectiveness at all levels. The other was the PACER SHARE productivity enhancement program between the Sacramento Air Logistics Center and the American Federation of Government Employees (AFGE)—a 5-year "gainsharing" demonstration project in which the agency and employees share cost savings generated by productivity improvements. Both of these cooperative efforts are based on the TQM concept and have won Quality Improvement Prototype Awards because of the cost savings and enhanced productivity they effected. Moreover, in both instances, the amount of litigation between the parties was greatly reduced. These programs are more fully discussed on pages 71 to 74.

At the time of our review, agreements for other cooperative ventures had been signed by the Department of Labor and AFGE, the Department of Health and Human Services and NTEU, and the Defense Logistics Agency and AFGE, but implementation was in the early stages. Other agency officials said initial efforts have been made to implement or explore the TQM concept at installations in their agencies, but they did not know whether and to what extent the union was involved in these efforts.

According to the interviewees, most other federal cooperative efforts have been at the local level with a minimum of headquarters involvement. These local efforts consisted primarily of labor-management committees and "quality circle" programs. They said that some other experiments, such as quality of work life (QWL) and relationship by objective (RBO) programs had also been attempted to improve labor-management relationships. Appendix II gives general descriptions of these types of programs. The interviewees were not familiar with the details of the local initiatives but believed that most were limited in scope, and some were short lived and only marginally successful. The following examples were cited:

[1]Two interviewees also mentioned the cooperative effort between NASA's Lewis Research Center and AFGE Local 2182 as an example of a successful joint labor-management committee.

- An agency official described the meetings of the labor-management committee at his agency as information sharing sessions outside the collective bargaining arena where, for example, union representatives could discuss management initiatives with agency representatives.
- Another agency official said he believed that the quality circle programs in the agency had produced good results but that only a small percentage of the agency's employees had participated in the circles.
- A union official complained that federal sector employee involvement programs did not include unions as equal partners. He described a program that management had organized, but did not invite union participation until the program had been in place for a year.
- Another union official described his agency's quality circles as meetings that most times were to discuss minor issues, such as where to put a microwave oven. At other times, he said, the meetings disintegrated into complaint sessions.

Some interviewees also said that cooperative initiatives often were started as the result of a crisis. One management official recounted a relationship that had been hostile for years—contracts took forever to be negotiated, and there were repeated ULPs and numerous grievances. But when the installation appeared on a proposed base closure list, the parties initiated a productive cooperative effort.

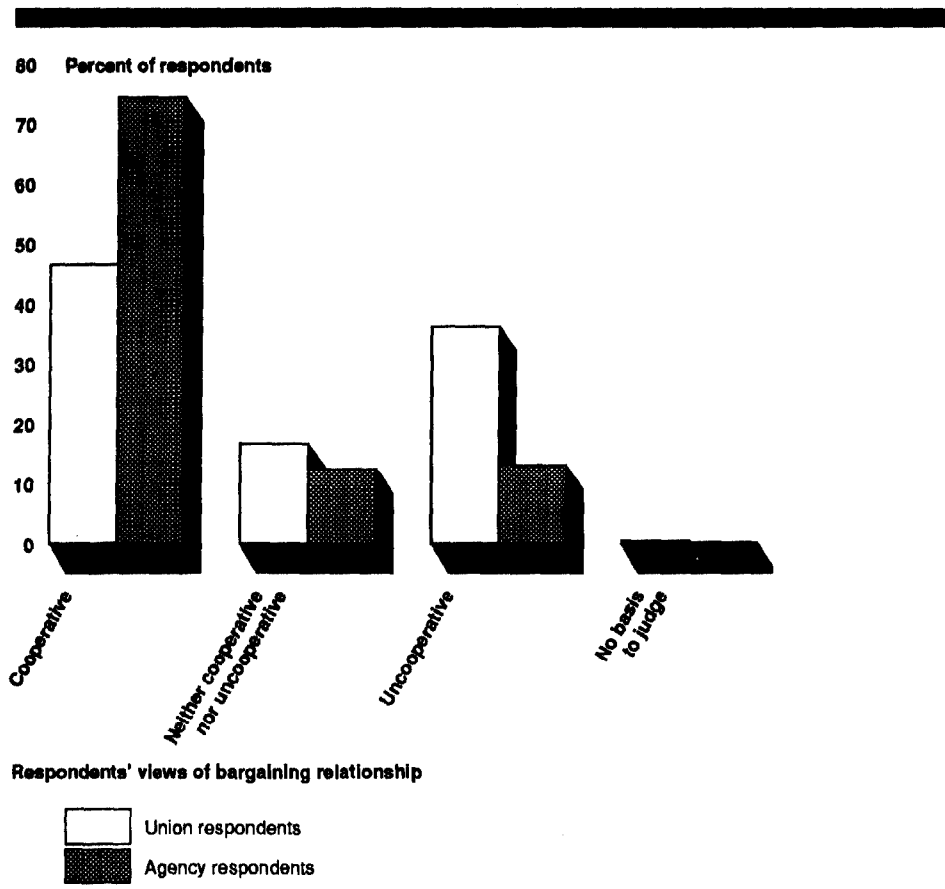
Agency and Union Field Representatives' Views on Federal Labor-Management Cooperation

Our questionnaire asked the agency and union field representatives a number of questions about their day-to-day relationships with each other. Their responses showed very different views between agency and union respondents on their working relationships.

- Sixty-four percent of agency respondents said they were able to work out disputes with union representatives informally. By nearly a 2 to 1 ratio, the union representatives disagreed with this assessment. The majority said that formal dispute resolution procedures (grievances, ULPs, or other formal actions) were usually required to settle their differences with agency management or that disputes were not worked out at all. (See fig. 2.4.)
- Eighty percent of agency respondents said union representatives were generally consulted about workplace changes before they were implemented. Only 25 percent of union respondents said they received sufficient advance notice of workplace changes most or all of the time. (See fig. 2.10.)
- Seventy-four percent of agency respondents said their relationships with union representatives were generally cooperative. However, union

respondents saw the relationships quite differently—only 47 percent said relations with agency management were generally cooperative; 36 percent said relationships were generally uncooperative; and the remaining 17 percent said relationships were neither cooperative nor uncooperative or had no basis to judge. Figure 4.1 shows the contrasting views of agency and union respondents.

Figure 4.1: Agency and Union Respondents Differ on Working Relationships



The large majority of agency (80 percent) and union (65 percent) respondents said they had been involved in at least one type of labor-management cooperation program. Three types of cooperative programs were most often mentioned—labor-management committees (40 percent), participative management/employee involvement programs (42 percent), and quality circles (36 percent). Less frequently tried labor-

management cooperative efforts included QWLs (25 percent), gainsharing or other incentive programs (9 percent), and RBO (5 percent).

Agency and union respondents had greatly contrasting views about the success of these cooperative efforts. Most agency respondents (70 percent) thought the results were positive. However, 53 percent of union respondents said the results were negative or neither positive nor negative. (See fig. 4.2.) Nevertheless, a greater number of union (92 percent) than agency respondents (68 percent) expressed interest in participating in labor-management cooperative efforts in the future. (See fig. 4.3.)

Figure 4.2: Agency and Union Respondents Have Different Views of Cooperative Efforts

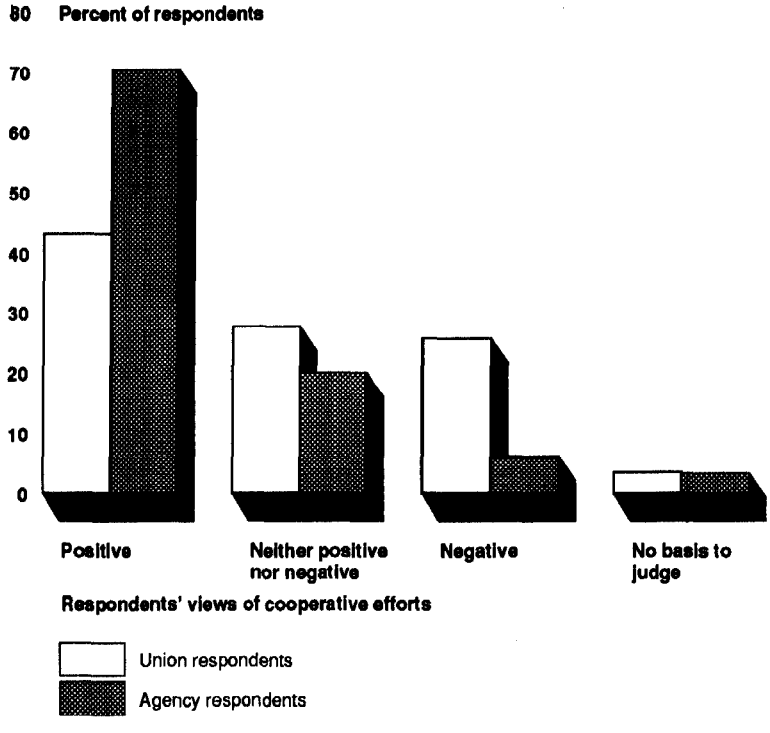
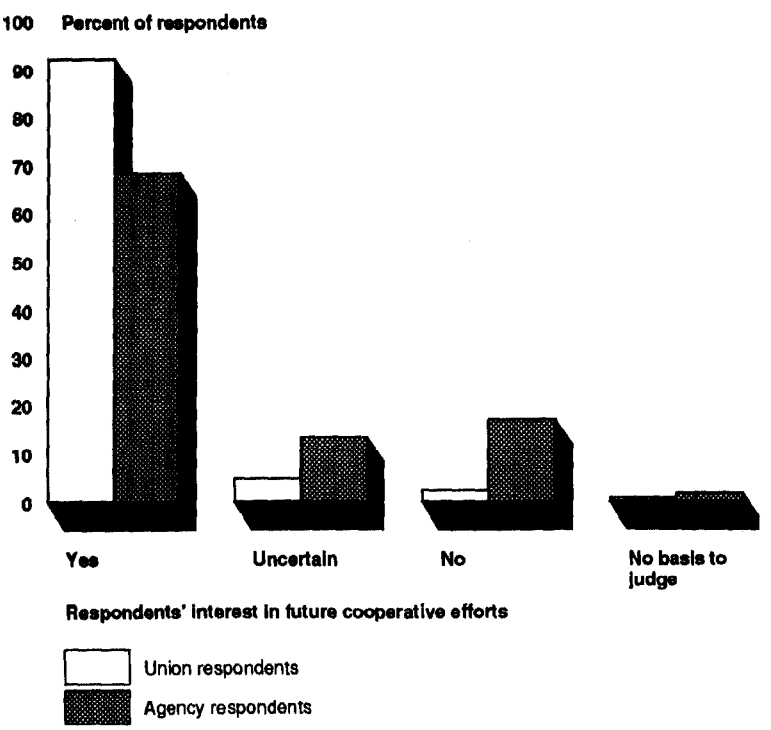


Figure 4.3: Agency and Union Respondents Differ on Interest in Future Cooperative Efforts



Union respondents from IRS, which has an agencywide labor-management cooperation effort, perceived the same shortcomings about the federal labor relations program as other union respondents. However, they were much more positive about their relationships with agency management than other union respondents in general. About 68 percent of union representatives from NTEU bargaining units in IRS viewed their relationships with management as cooperative compared with 45 percent of union respondents at other agencies. Similarly, 55 percent viewed their cooperative efforts as generally positive compared with 42 percent of other union respondents. Figures 4.4 and 4.5 compare the views of IRS union respondents with other union respondents on their relationships and cooperative efforts. IRS agency responses did not vary significantly from IRS union respondents or other agency respondents.

Figure 4.4: IRS Union Respondents View Their Relationships as More Cooperative Than Union Respondents at Other Agencies

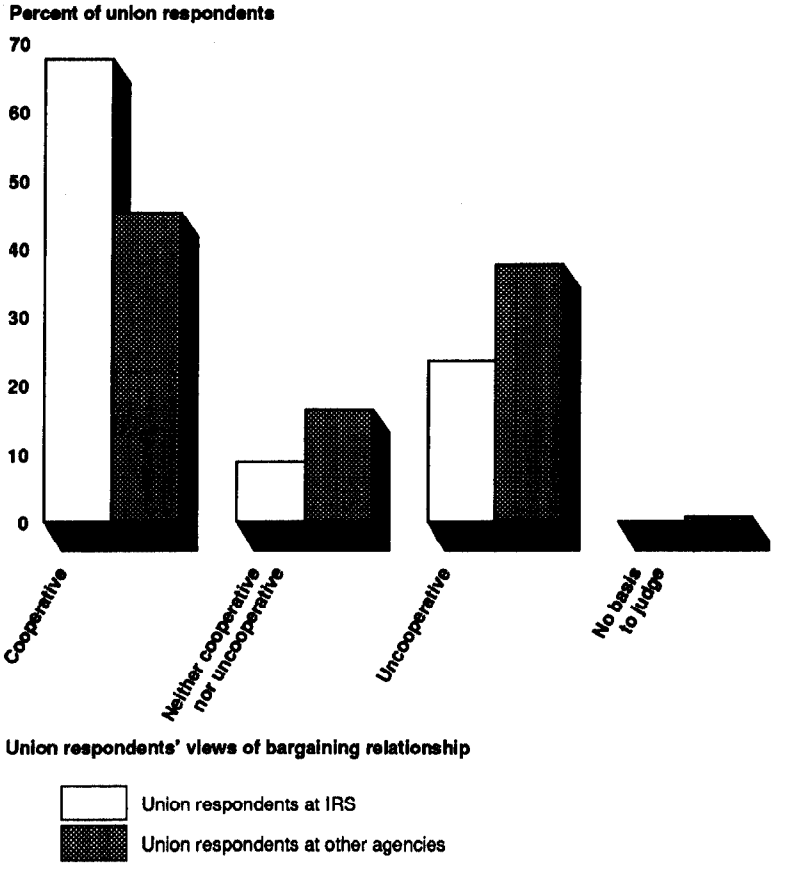
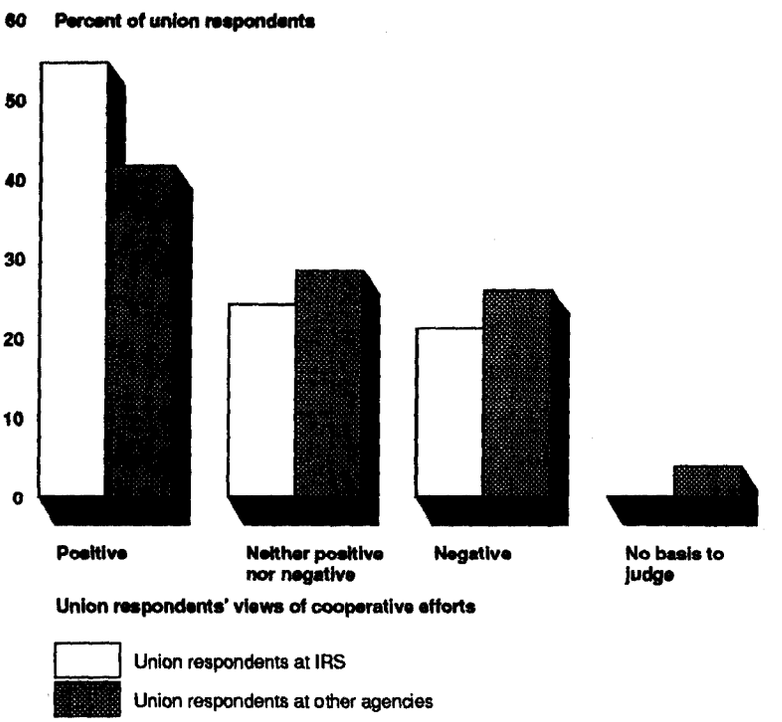


Figure 4.5: IRS Union Respondents View Cooperative Efforts More Positively Than Union Respondents at Other Agencies



Union and agency representatives involved in the PACER SHARE gainsharing eperiment at Sacramento Air Logistics Center, McClellan Air Force Base, California, reported similar positive results at the National Academy of Public Administration's symposium, Managers and Labor Unions: Issues for the 1990s, held on November 15, 1990. One of the examples of the cooperative relationship cited by the union official was:

"When we began, we looked at labor and management 'retained rights.' We changed these to responsibilities. We could wallpaper our offices with FLRA decisions. These decisions don't matter other than the legality of FLRA saying so. All of this leads to more ULPs. You need to decide how to stop these. We turned the FLRA [investigation] into an information sharing process through which labor or management will file informal ULPs and give them to the deputy director of PACER SHARE. Labor and management go out together to review the problem. It changes the process from one of conflict to education."

Agency and Union Field Representatives' Views About Factors That Enhance Labor-Management Cooperation

The questionnaire listed a number of factors that, according to the literature, are conducive to successful labor-management cooperation and asked the agency and union respondents to indicate whether they were present in cooperative efforts at their locations. The factors included (1) respect and trust between labor and management; (2) adequate resources for training and facilitators; (3) commitment, leadership, and support from top management and union officials; (4) incentives for labor and management to cooperate; (5) mutual objectives; and (6) management's willingness to share decisionmaking with employees.

The questionnaire respondents confirmed that the chances for successful labor-management cooperation were more likely when the factors were present. For example, 70 percent of the union respondents who felt that respect and trust between labor and management existed at their locations also reported that the cooperative efforts had been positive. Only 9 percent of the union respondents who said respect and trust were present reported negative experiences with labor-management cooperation efforts. Put another way, a union respondent who reported that respect and trust existed was about nine times as likely to have had a positive than a negative experience. Similar patterns were evident for all of the other contributory factors. Where a factor was present, respondents were much more likely to report positive than negative experiences. However, there was not the same marked pattern of association between the absence of factors and negative experiences with the cooperation efforts. Union respondents were more likely to report negative experiences if contributory factors were absent. Agency respondents, on the other hand, generally reported positive experiences with the efforts even when they said the factors were absent.

Successful Labor-Management Cooperative Initiatives

As previously discussed, two labor-management cooperative initiatives were frequently cited in our interviews as good examples of how cooperation can improve the working relationships between agencies and their employees and, in turn, improve agency operations: the PACER SHARE gainsharing demonstration project and the IRS Joint Quality Improvement Process.

PACER SHARE Gainsharing Demonstration Project

The PACER SHARE project was approved by OPM in November 1987 as a 5-year demonstration project under Title VI of the Civil Service Reform Act. Title VI allows OPM to waive particular civil service laws and regulations in order to test alternative approaches. The objective of the project was to see whether productivity could be improved through a more

flexible personnel system and the sharing of savings from productivity gains by an agency and its employees. The concept was approved for testing in the Directorate of Distribution at the Sacramento Air Logistics Center, where most of the approximately 1,900 employees involved were represented by AFGE. PACER SHARE was the first demonstration project to be attempted in a highly unionized environment.

In addition to changes in the classification, performance appraisal, and hiring systems, the project established a gainsharing program whereby 50 percent of productivity savings would be retained by the agency and 50 percent distributed equally among all participating employees.

In consonance with the cooperative nature of the project, AFGE participated fully with agency management in all phases of project development and implementation. Examples of this participation follow:

- The AFGE local president is a member of the project steering committee, which provided leadership and commitment to the achievement of project goals and quality of work life visions.
- The chief union steward is a full-time member of the project staff.
- A labor-management council consisting of all division chiefs, the comptroller, and union representatives meets weekly to formulate planning strategies, discuss project issues, assist in the development of regulations and procedures, and resolve implementation difficulties. The council disavows the traditional negotiation posture and operates by a consensual approach.
- An informal ULP investigation process was adopted whereby ULPs are jointly investigated by labor and management in attempts to resolve the issues at dispute without filing formal charges with FLRA. The objective is to change the ULP process from one of conflict to one of education.

The project reportedly resulted in measurable productivity improvements, including a more than 15-percent reduction in staffing levels and direct savings of over $1.6 million in the first 3 years after the project was implemented. As of March 1991, employee shares of gainsharing payments were over $1,140 each.

Agency and union officials involved in the project stressed the merits of labor-management cooperation in accomplishing operating improvements. For example, an Air Force official made the following remarks in a November 1990 labor relations conference on how union involvement in PACER SHARE had changed the way the union was perceived by employees at the facility:

"It used to be that the service the union provided to the bargaining unit dealt with the size of the break area or where the microwave was. Now that we deal with meaningful issues, we have the rank and file interested in what the union is doing. Union membership has gone up by two-thirds at Sacramento."

Similarly, a union representative's remarks at the conference explained how the union was more effective than management in promoting productivity improvements in certain areas. He said:

"In some areas, [sick leave usage] was 6.7 percent. The union talked to employees about this saying 'sick leave' is not yours, it is earned. You can use or abuse it, and if you abuse it, that's wrong. It did not go over well with all employees but at least we made sure employees knew what they were doing to gainsharing. Sick leave dropped, and saved $162,000. Management could not have talked to employees about this."

IRS Joint Quality Improvement Process

Historically, the working relationships between NTEU and IRS were characterized by conflict and litigation. In addition, IRS's attempts to improve the quality of its operations were pursued as management initiatives with little employee involvement. In 1987, IRS approached NTEU about a nationwide cooperative initiative focusing on quality improvement. The Commissioner of IRS and the national president of NTEU subsequently signed an agreement initiating the Joint Quality Improvement Process.

The improvement process is administered by a Joint National Quality Council whose members include a number of IRS headquarters and field officials and NTEU's national president, national executive vice president, and a field representative. The council's responsibilities include strategic planning, setting the improvement process's goals and visions, assessing results, providing support and assistance, and distributing training materials to local councils. A position of Assistant to the Commissioner for Quality was established to serve as liaison between IRS's executive committee, the council, and the union. Similarly, NTEU established a director of cooperative programs to coordinate the union's responsibilities in the cooperative efforts.

Joint quality councils were also established in subordinate IRS facilities—approximately 100 separate councils in total. The local councils assign specific tasks to quality improvement teams, each with its own facilitator. Over 1,000 quality improvement teams exist throughout IRS.

As of November 15, 1990, the quality improvement teams had completed 386 successful projects (231 were unsuccessful), and 774 more

projects were in process. The IRS/NTEU cooperative quality improvement efforts reportedly have had good results with notable cost savings. For example, IRS estimates $1.2 million was saved by a program change in the San Francisco District office; $7 million was saved from case handling improvements recommended by the Houston District Office; and $7 million in processing costs was saved from a change recommended by the Atlanta Service Center.

As with PACER SHARE, agency and union representatives said that labor-management relations also improved at IRS. They said that after the cooperative program was in place, more grievances were settled informally, negotiations were often completed without third-party intervention, and less bargaining over management initiatives was required because of NTEU involvement in the decisionmaking processes.

Other cooperative efforts between IRS and NTEU include a national incentive pay system where local committees set performance and quality thresholds for eligibility for incentive payments; development of guidelines to deal with relocations required from staffing imbalances; a quality circle program; guidelines for day care centers; a joint health improvement program, and joint guidance on dealing with AIDS in the workplace. Both management and union officials said any future quality improvement initiatives will also be joint ventures, because they did not believe the initiatives could work otherwise.

Bureau of National Affairs Study

A 1990 report by the Bureau of National Affairs (BNA) on labor-management cooperation in the government presented brief accounts or studies of 21 federal cooperative efforts.[2] Nineteen of the efforts involved bargaining units that were certified under the Federal Labor-Management Relations Statute. These 19 efforts included eight quality circle programs (five of these were subsequently made part of an agency employee involvement or TQM program), nine TQM programs, four joint labor-management committees, one QWL experiment, one joint quality improvement program, one gainsharing program, one RBO, and one labor-management relations training program.[3]

According to the BNA report, a number of the efforts were unsuccessful. For example, the unions either dropped out or were not involved in

[2]Bureau of National Affairs, Employee-Management Cooperation in the Federal Government, Government Employee Relations Report Vol. 28 (Nov. 19, 1990).

[3]Some installations had more than one type of cooperative effort.

three efforts, and budget restraints, workforce cutbacks, and other external problems contributed to another seven efforts not meeting expectations. The report made a number of observations about cooperative efforts in the government:

- The study said the greatest resistance to federal labor-management cooperation was among mid-level managers, because they are responsible for seeing that the organizations's work is done while also helping the organization convert to a participatory culture.
- The more successful cooperative efforts focus on improving work processes. Projects that concentrate on relatively minor, "creature comfort" issues are usually unsuccessful.
- Cooperative efforts can be overwhelmed by external events, such as budget cuts, changes imposed by agency headquarters, and opposition from union headquarters.
- Parties entering into cooperative efforts must give them time to work. An organization's culture may have endured for years or decades, and immediate payoffs from greater employee cooperation should not be expected.

Conclusions and Recommendation

The numerous concerns raised by the experts we interviewed and union and agency questionnaire respondents throughout the country indicated that the federal labor-management relations program has fallen short of achieving its statutory objectives. On the basis of these views, it is apparent that the program does not satisfactorily meet its expectations of contributing to the effective conduct of the public's business, involving employees in decisions affecting their working conditions, and facilitating the amicable settlement of disputes between employees and their employers.

A comment by one of the experts we interviewed succinctly summarizes the general perceptions of the state of the program:

> "We have never had so many people and agencies spend so much time, blood, sweat, and tears on so little. In other words, I am saying I think it is an awful waste of time and money on very little [results]."

In our opinion, an effective labor-management relations program would enhance the chances for success of the quality improvement initiatives being sought by federal agencies, which emphasize employee involvement and teambuilding. It makes little sense to try and implement a new employee involvement program in which cooperation between agency management and unions is essential when the ongoing labor-management relations program suffers from excessive litigation and adversarial proceedings. Accordingly, we believe the policies and processes governing federal labor-management relations need a major overhaul to provide a new framework that

- motivates labor and management to form productive relationships to improve the public service;
- makes collective bargaining meaningful;
- improves the dispute resolution processes; and
- is compatible with innovative human resource management practices that emphasize employee involvement, teambuilding, and labor-management cooperation.

Although their reasons vary, agency management, labor, and neutrals are not pleased with the program as it now exists. Yet the willingness expressed by agency and union representatives alike to work together can serve as a good foundation on which to build a consensus for program reform.

Recommendation

Because the perceived problems are systemic and widespread, we believe a piecemeal approach of technical revisions to the statute would not be the best means to bring about the necessary changes. A system is needed that all participants can agree with and support. Accordingly, we are not making any specific recommendations for changes to the program. Rather, we recommend that the appropriate committees of Congress hold hearings on the state of the program as a first step toward establishing a panel of nationally recognized experts in labor-management relations matters and participants in the federal program to develop a proposal for comprehensive program reform.

Participants on the panel should include representatives of executive branch agencies, including OPM and the Department of Labor; officials of federal employee unions, representatives of the third party agencies that administer the statute (FLRA, FMCS, and FSIP), and experts in labor relations and public administration in general.

Experts' Comments

We discussed our findings with the experts who participated in the study. Officials from FLRA said they were endeavoring to make their decisions clearer and more timely. They also said they were undertaking programs to promote cooperative efforts. Some agency and union officials agreed there had been improvements. However, there was consensus that the systemic problems with the program discussed in the report remained unresolved.

Questionnaire Survey Methodology

The objective of our questionnaire was to obtain opinions about the federal labor-management relations program from agency and union representatives who were involved in day-to-day program operations at federal facilities throughout the country. Using mail questionnaires, we asked union and agency representatives about various components of the program, such as collective bargaining, dispute resolution procedures, and labor-management cooperative efforts. Some of the questions required knowledge or experience with specialized procedures.

Selection of Bargaining Units and Agencies for Survey Universe

We selected bargaining units in the same departments and agencies at which we interviewed headquarters officials.[1] We added three additional agencies so that our survey universe would include at least 80 percent of the total federal workforce represented by unions. (See ch. 1.) The organizations selected were the Department of the Air Force, the Department of the Army, the Department of the Navy, the Department of Health and Human Services, the Department of Labor, the Department of Transportation, the Department of Veterans Affairs, the Bureau of Prisons, the Defense Logistics Agency, the General Services Administration, the Government Printing Office, the Internal Revenue Service, and the Immigration and Naturalization Service.

The universe covered a diverse range of agencies, including large and small agencies, defense and nondefense agencies, agencies with white- and blue-collar employees, agencies with professional and nonprofessional employee bargaining units, and agencies with nationwide and local–level bargaining units.

We used the latest available data, OPM's January 1989 edition of "Union Recognition in the Federal Government," to identify the active bargaining units in each of the 13 departments and agencies. Where bargaining units had been consolidated into larger or agencywide units, we obtained listings of the federal facilities within the consolidated units from the individual agencies. In total, we identified 2,400 bargaining units or facilities from the two sources. We eliminated 918 of them from further consideration because of their small size (fewer than 10 employees) or because of duplication—the same union local represented more than one bargaining unit at some agency facilities—leaving 1,482 bargaining units or facilities in our adjusted universe.

[1] As discussed in ch. 1 we did not include the Department of Defense in the survey universe because of the large representation of Defense organizations already included in the universe.

Sampling and Survey Methodology

We selected random samples in the agencies that had 80 or more bargaining units or facilities. In the remainding agencies, we included all bargaining units or facilities.

The agencies and unions identified the individuals who had responsibility for labor-management relations for the bargaining units or facilities that made up our sample. Where representatives had responsibility for more than one bargaining unit or facility, we deleted these "duplicate" representatives. We also deleted units that were defunct, that had union locals or chapters in trusteeship, or no officers. After we made these adjustments, the sample consisted of 510 agency representatives and 664 union representatives.

We pretested the questionnaire with five union and five agency representatives before mailing. This assured us that our questions were interpreted correctly and that respondents could provide the information.

We mailed the questionnaires to the 1,174 agency and union representatives on October 31, 1990, and sent follow-up mailings on December 7, 1990, and January 11, 1991. Eleven union representatives and one agency representative had to be deleted from the survey because of information we received after the mailing. We received 966 usable replies, an 83-percent completion rate (usable returns as a percentage of total returns mailed minus undeliverable, ineligible, and unidentifiable returns). The completion rate for agency representatives was 94 percent; for union representatives it was 75 percent. Table I.1 summarizes the questionnaire returns.

Table I.1: Analysis of Questionnaire Returns

	Agency	Union	Total
Total questionnaires mailed	**510**	**664**	**1174**
Questionnaires subsequently deleted from the survey:			
Undeliverable	0	5	**5**
Ineligible recipients	1	6	**7**
Total	**1**	**11**	**12**
Questionnaires not returned	28	154	**182**
Respondents deleted questionnaire identification numbers[a]	5	9	**14**
Usable questionnaires received	476	490	**966**

[a]Each questionnaire was numbered for our use in following up with nonrespondents. In 14 cases, the respondents removed the identification numbers. Since we had no way of knowing if completed questionnaires were again received from these respondents after follow-up mailings, the 14 questionnaires were treated as nonresponses.

Analysis of Data

We reviewed and edited the completed questionnaires and made consistency checks on the data. The percentages we reported in the text and in figures were weighted to represent the final adjusted universe and are combined categories of the responses to questions in the questionnaire. In a few cases in chapter 3, concerning satisfaction with the various dispute resolution processes, we calculated the percentages discussed in the text and in figures by using only the responses of the respondents who said they had a basis to judge.

Because the survey used random sampling, the results we obtained are subject to some uncertainty or sampling error. The sampling error consists of two parts: confidence levels and ranges. The confidence level indicates the degree of confidence that can be placed in the estimates derived from the sample. The range is the upper and lower limits between which the actual universe estimate may be found. Our sample was designed so that the sampling error would not be greater than 5 percent at the 95-percent confidence level. Thus, if all agency and union representatives had been surveyed, the chances were 95 out of 100 that the results obtained would not differ from our sample estimates by more than 5 percent. When the responses were analyzed, however, the sampling error ranges were larger than plus or minus 5 percent in 12 instances because of low response rates to particular questions. Table I.2 shows the 12 instances in which the ranges exceeded plus or minus 5 percent. The ranges for all other percentages presented in the report are plus or minus 5 percent or less.

Table I.2: Questionnaire Responses With Sampling Errors Greater Than 5 Percent

Page number	Responses presented	Sampling error percentage range	
		Min.	Max.
5	43 percent of union respondents said their cooperative ventures with agency management were positive.	37.7	48.5
56	47 percent of agency respondents gave FMCS high ratings in overall effectiveness.	40.5	53.1
56	45 percent of union respondents gave FMCS high ratings in overall effectiveness.	38.8	50.7
58	59 percent of agency respondents viewed FSIP as impartial.	51.1	67.5
58	41 percent of union respondents viewed FSIP as impartial.	33.9	48.9
58	51 percent of all agency and union respondents gave FSIP high marks for competency.	45.1	56.3
58	31 percent of all agency and union respondents rated FSIP's efficiency as neither high nor low.	25.9	36.3
67	53 percent of union respondents said the results of their cooperative efforts with agency management were negative or neither positive nor negative.	47.8	58.7
68	68 percent of IRS union respondents viewed their relationships with agency management as cooperative.	51.9	83.4
68	55 percent of IRS union respondents viewed their cooperative efforts with agency management as generally positive.	37.6	71.5
68	42 percent of non-IRS union respondents viewed their cooperative efforts with agency managment as generally positive.	36.3	47.7
71	70 percent of union respondents who felt that respect and trust between management and labor existed at their locations also reported that cooperative efforts with agency management had been positive.	64.5	74.6

We can make observations about the agencies we studied, but we cannot generalize beyond that universe (which contains 80 percent of all federal employees covered by bargaining units).

Types of Labor-Management Cooperation Initiatives

Labor-Management Committees are formal groups of union and management representatives that deal with workplace issues. These committees often are authorized by collective bargaining agreements but usually deal with matters not covered by the agreements.

Gainsharing Programs involve a formal incentive mechanism for distributing a portion of the savings from improved organizational performance to members of the workforce who contributed to generating the savings.

Quality of Worklife Programs build labor-management relations and communication by involving employees, union representatives, and managers in decisions related to their work tasks, work environment, and work improvements.

Quality Circles are groups of employees that meet voluntarily in a structured environment to identify work-related problems and recommend improvements. The groups have no decisionmaking authority but suggest changes to appropriate managers and/or steering committees. Union representatives sometimes sit on the committees.

Participative Management/Employee Involvement Programs involve managers and employees working together on issues traditionally left to management, such as improving work processes. In the labor-management context, union representatives often sit on steering committees.

Total Quality Management (TQM) is a type of employee involvement program and a strategic management approach that involves all managers and employees. The focus is on improving an organization's work processes and on customer satisfaction. TQM is not considered a labor-management cooperative effort in and of itself, but, where employees are represented by unions, labor-management cooperation is important to TQM's success.

Relationship by Objective (RBO) is an FMCS program to help union and management representatives identify stumbling blocks to harmonious relationships and develop plans of action to remove them.

Survey of Labor-Management Relations in the Federal Government

NOTE: Percentages are based on the weighted responses of 476 agency representatives and 490 union representatives who responded to the questionnaire. Percentages of agency (A) and union (U) representatives' responses are shown at the end of each question option or in the corresponding boxes. (For example, 61% A / 41% U denotes that 61% of agency represenatives and 41% of union representatives checked this response.)

United States General Accounting Office

Survey of Labor-Management Relations in the Federal Government

Introduction

The U.S. General Accounting Office (GAO), an agency of Congress responsible for evaluating federal programs, is examining how well the Federal Labor Management Relations Program is working after 10 years of experience under the Federal Service Labor Management Relations Statute. We are sending this questionnaire to a random sample of union and agency representatives who are involved in the day-to-day operations at the local installation/office/regional level.

Most of the questions can be easily answered by checking boxes. Space has been provided for any additional comments at the end of the questionnaire. If necessary, additional pages may be attached.

The questionnaire should take about 20 minutes to complete. If you have any questions, please call Mr. Bob Shelton at (202) 275-6038 or Ms. Janet Duke at (202) 275-8105.

Your responses will be treated **confidentially** and will not be used in any way that will identify you or your organization. The questionnaire is numbered only to aid us in our follow-up efforts. Please return the completed questionnaire in the pre-addressed envelope within 10 days of receipt. In the event the envelope is misplaced, the return address is:

U.S. General Accounting Office
Ms. Janet Duke
Room 3820
441 G Street, N.W.
Washington, D.C. 20548

Thank you for your help.

* * * * *

Abbreviations

EEOC	Equal Employment Opportunity Commission
FLRA	Federal Labor Relations Authority
FMCS	Federal Mediation and Conciliation Service
FSIP	Federal Service Impasses Panel
LMR	Labor Management Relations
MSPB	Merit Systems Protection Board
OPM	Office of Personnel Management
OSC	Office of Special Counsel
ULP	Unfair Labor Practice

A. Background

1. Please provide the following information based on your union or management affiliation. *(Enter information.)*

   For Union Representatives only:

   Number of bargaining unit employees that your local/chapter represents (if you are a regional official of the union, indicate the number of bargaining unit employees in your region): _____

   For Management Representatives only:

   Number of bargaining units for which you are responsible: _____

   Total number of employees in these bargaining units: _____

2. How many years of experience do you have in the Federal Labor Management Relations (LMR) program? *(Check one.)*

   1. [ ] Less than 1 year — 2%A / 3%U
   2. [ ] 1 year but less than 5 years — 16%A / 25%U
   3. [ ] 5 years but less than 10 years — 21%A / 31%U
   4. [ ] 10 years or more — 61%A / 41%U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

B. Collective Bargaining

In answering Questions 3 through 7, please consider the Federal Labor Relations Program overall, not just your experience at your installation/office/region.

3. Overall, how satisfied or dissatisfied are you with the federal LMR program? *(Check one.)*

1. [ ]	Very satisfied	4%A / 2%U
2. [ ]	Generally satisfied	56%A / 31%U
3. [ ]	Neither satisfied nor dissatisfied	15%A / 17%U
4. [ ]	Generally dissatisfied	23%A / 33%U
5. [ ]	Very dissatisfied	1%A / 16%U
6. [ ]	No basis to judge	1%A / 1%U

4. Scope of bargaining defines what is negotiable and what is nonnegotiable under the federal LMR statute.

Do you think the current scope of collective bargaining in the federal sector is too narrow, too broad, or about right? *(Check one.)*

1. [ ]	Much too narrow	3%A / 45%U
2. [ ]	Too narrow	15%A / 45%U
3. [ ]	About right	47%A / 6%U
4. [ ]	Too broad	29%A / 3%U
5. [ ]	Much too broad	6%A / *U
6. [ ]	No basis to judge	*A / 1%U

5. In the future, do you think the scope of bargaining should increase, decrease, or remain about the same? *(Check one.)*

1. [ ]	Greatly increase	5%A / 68%U
2. [ ]	Somewhat increase	16%A / 28%U
3. [ ]	Remain about the same	39%A / 2%U
4. [ ]	Somewhat decrease	32%A / *U
5. [ ]	Greatly decrease	8%A / 1%U
6. [ ]	No basis to judge	*A / 1%U

6. In the future, in your opinion, could collective bargaining for pay be a viable approach in the federal government? *(Check one.)*

1. [ ]	Definitely yes	8%A / 66%U
2. [ ]	Probably yes	20%A / 21%U
3. [ ]	Uncertain	6%A / 7%U
4. [ ]	Probably no	28%A / 5%U
5. [ ]	Definitely no	38%A / 1%U
6. [ ]	No basis to judge	*A / *U

7. In the future, in your opinion, could collective bargaining for benefits, such as health insurance and retirement, be a viable approach in the federal government? *(Check one.)*

1. [ ]	Definitely yes	10%A / 73%U
2. [ ]	Probably yes	25%A / 20%U
3. [ ]	Uncertain	8%A / 4%U
4. [ ]	Probably no	27%A / 2%U
5. [ ]	Definitely no	30%A / 1%U
6. [ ]	No basis to judge	*A / *U

Please answer Questions 8 through 15 based on your experience at your installation/office/region.

8. Have you bargained a contract, memorandum of understanding, or been involved in mid-term bargaining in the federal LMR program in the last 5 years? *(Check one.)*

1. [ ]	Yes *(Continue to Question 9.)*	88% A / 88% U
2. [ ]	No *(Skip to Question 10.)*	12% A / 12% U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

9. How often, if ever, are negotiations in which you are involved hindered (frustrated) by negotiability issues? *(Check one.)*

1. [ ]	Never, or almost never	14%A / 5%U
2. [ ]	Some of the time	53%A / 36%U
3. [ ]	About half of the time	15%A / 18%U
4. [ ]	Most of the time	16%A / 27%U
5. [ ]	Always, or almost always	2%A / 14%U

10. In your opinion, is it easy or difficult to understand what is negotiable or nonnegotiable under the federal LMR statute? *(Check one.)*

1. [ ]	Very easy	2%A / 3%U
2. [ ]	Generally easy	27%A / 26%U
3. [ ]	Neither easy nor difficult	23%A / 21%U
4. [ ]	Generally difficult	39%A / 41%U
5. [ ]	Very difficult	8%A / 8%U
6. [ ]	No basis to judge	1%A / 1%U

11. How would you describe the length of the following types of negotiations under the federal LMR program that involve your installation/office/region? *(Check one box in each row.)*

	Much too long (1)	Too long (2)	About right (3)	Too short (4)	Much too short (5)	No basis to judge (6)
1. Contract negotiations	20%A / 24%U	32%A / 25%U	36%A / 32%U	1%A / 7%U	*A / 2%U	11%A / 10%U
2. Mid-term or impact and implementation bargaining	11%A / 15%U	29%A / 26%U	53%A / 33%U	1%A / 11%U	*A / 4%U	6%A / 11%U

12. How often, if at all, are labor and employee relations concerns considered in the operational decisions in your installation/office/region? *(Check one.)*

1. [ ]	Always, or almost always	24%A / 9%U
2. [ ]	Most of the time	49%A / 17%U
3. [ ]	About half of the time	9%A / 17%U
4. [ ]	Some of the time	16%A / 36%U
5. [ ]	Never, or almost never	1%A / 20%U
6. [ ]	No basis to judge	1%A / 1%U

13. How often, if ever, are union representatives at your installation/office/region consulted sufficiently in advance of changes in matters that affect working conditions? *(Check one.)*

1. [ ]	Always, or almost always	24%A / 7%U
2. [ ]	Most of the time	56%A / 18%U
3. [ ]	About half of the time	11%A / 16%U
4. [ ]	Some of the time	9%A / 38%U
5. [ ]	Never, or almost never	*A / 21%U
6. [ ]	No basis to judge	*A / *U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

14. To what extent, if any, have the following received adequate training on the LMR program? *(Check one box in each row.)*

	Very great extent (1)	Great extent (2)	Moderate extent (3)	Some extent (4)	Little or no extent (5)	No basis to judge (6)
1. Agency line managers and supervisors	2%A/ 2%U	16%A/ 4%U	45%A/12%U	27%A/22%U	9%A/50%U	1%A/10%U
2. Agency labor relations officials	20%A/12%U	40%A/22%U	29%A/25%U	8%A/16%U	1%A/11%U	2%A/14%U
3. Union officials and stewards	2%A/ 3%U	10%A/11%U	26%A/28%U	32%A/26%U	18%A/32%U	12%A/ * U

15. Based on your experience, how much concern, if any, do federal employees in your installation/office have with each of the following issues? *(Check one box in each row.)*

ISSUES	Very great concern (1)	Great concern (2)	Moderate amount of concern (3)	Some concern (4)	Little or no concern (5)	No basis to judge (6)
1. Budget and staffing levels	25%A/26%U	34%A/26%U	21%A/17%U	12%A/16%U	6%A/12%U	2%A/ 3%U
2. Career advancement (promotion) opportunities	29%A/48%U	50%A/34%U	19%A/ 9%U	2%A/ 6%U	* A/ 3%U	* A/ * U
3. Child care	2%A/12%U	14%A/18%U	33%A/27%U	34%A/22%U	15%A/15%U	2%A/ 6%U
4. Elder care	1%A/ 5%U	2%A/ 7%U	14%A/18%U	27%A/27%U	44%A/31%U	12%A/12%U
5. Equal employment opportunity	11%A/27%U	29%A/23%U	42%A/30%U	16%A/14%U	2%A/ 6%U	* A/ * U
6. Flexible work schedules	15%A/33%U	29%A/30%U	34%A/18%U	15%A/11%U	7%A/ 7%U	* A/ 1%U
7. Health and safety in the workplace	13%A/36%U	32%A/35%U	40%A/18%U	13%A/ 9%U	2%A/ 2%U	* A/ * U
8. Health insurance	23%A/57%U	36%A/26%U	26%A/ 9%U	10%A/ 3%U	4%A/ 3%U	1%A/ 2%U
9. Impact of new technology	2%A/19%U	17%A/22%U	38%A/31%U	27%A/16%U	14%A/ 9%U	2%A/ 3%U
10. Job security	36%A/62%U	34%A/22%U	18%A/ 8%U	9%A/ 4%U	3%A/ 4%U	* A/ * U
11. Maintaining a quality workforce	9%A/28%U	23%A/30%U	36%A/24%U	22%A/10%U	9%A/ 7%U	1%A/ 1%U
12. Pay	57%A/77%U	31%A/16%U	8%A/ 3%U	2%A/ 2%U	2%A/ 2%U	* A/ * U
13. Performance evaluation	23%A/56%U	41%A/26%U	28%A/11%U	6%A/ 5%U	2%A/ 2%U	* A/ * U
14. Physical and/or psychological work environment	6%A/24%U	24%A/34%U	42%A/26%U	21%A/11%U	6%A/ 4%U	1%A/ 1%U
15. Public image of federal employees	7%A/21%U	21%A/26%U	34%A/27%U	26%A/16%U	11%A/ 9%U	1%A/ 1%U
16. Retirement benefits	33%A/54%U	38%A/26%U	19%A/13%U	6%A/ 3%U	3%A/ 3%U	1%A/ 1%U
17. Training and career development	8%A/32%U	31%A/34%U	49%A/24%U	9%A/ 6%U	3%A/ 4%U	* A/ * U
18. Other *(Specify.)* _____						

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

C. Dispute Resolution

16. Overall, do you think the amount of litigation or formal disputes in the federal LMR program is too much, too little, or about right? *(Litigation includes court proceedings, ULPs, negotiability appeals, arbitration, review of arbitration awards, impasse proceedings, and other third-party appeals.) (Check one.)*

1. [ ]	Far too little	* A / 8% U
2. [ ]	Too little	1% A / 18% U
3. [ ]	About the right amount	22% A / 24% U
4. [ ]	Too much	47% A / 25% U
5. [ ]	Far too much	26% A / 16% U
6. [ ]	No basis to judge	4% A / 9% U

Mediation and Impasse Proceedings

17. During the last 5 years, have you used the assistance of the Federal Mediation and Conciliation Service (FMCS) to reach agreement or attempt to reach agreement? *(Check one.)*

1. [ ]	Yes *(Continue to Question 18.)*	54% A / 55% U
2. [ ]	No *(Skip to Question 19.)*	46% A / 45% U

18. Based on your experience, how high or low a rating would you give the FMCS on impartiality, efficiency, competency, and overall effectiveness? *(Check one box in each row.)*

RATING OF FMCS	Very high (1)	Generally high (2)	Neither high nor low (3)	Generally low (4)	Very low (5)	No basis to judge (6)
1. Impartiality	20%A/23%U	46%A/36%U	24%A/25%U	6%A/ 8%U	4%A/ 6%U	* A/ 2%U
2. Efficiency (or timeliness in responding to requests for assistance)	22%A/25%U	48%A/41%U	17%A/19%U	9%A/ 7%U	4%A/ 6%U	* A/ 2%U
3. Competency (knowledge or skills)	15%A/23%U	45%A/46%U	29%A/20%U	9%A/ 5%U	2%A/ 3%U	* A/ 3%U
4. Overall effectiveness	13%A/12%U	34%A/33%U	31%A/30%U	15%A/12%U	7%A/10%U	* A/ 3%U

19. In the last 5 years, were the services of the Federal Service Impasses Panel (FSIP) used to resolve an impasse in any negotiations in which you were involved? *(Check one.)*

1. [ ]	Yes *(Continue to Question 20.)*	33% A / 35% U
2. [ ]	No *(Skip to Question 21.)*	67% A / 65% U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

20. Based on your experience, how high or low a rating would you give the FSIP on fairness, efficiency, competency, and overall effectiveness? *(Check one box in each row.)*

RATING OF FSIP	Very high (1)	Generally high (2)	Neither high nor low (3)	Generally low (4)	Very low (5)	No basis to judge (6)
1. Fairness (or impartiality)	13%A/13%U	46%A/28%U	27%A/26%U	9%A/19%U	3%A/10%U	2%A/ 4%U
2. Efficiency (or timeliness in processing cases, issuing decisions)	9%A/14%U	25%A/19%U	37%A/26%U	21%A/20%U	6%A/18%U	2%A/ 3%U
3. Competency (knowledge or skills)	15%A/14%U	39%A/33%U	33%A/30%U	5%A/12%U	6%A/ 5%U	2%A/ 6%U
4. Overall effectiveness	11%A/ 9%U	34%A/26%U	39%A/33%U	10%A/13%U	4%A/15%U	2%A/ 4%U

Unfair Labor Practice Procedures

21. During the last 5 years, have you been involved in an unfair labor practice (ULP) procedure involving the FLRA? *(Check one.)*

1. [ ] Yes *(Continue to Question 22.)* 85% A / 79% U

2. [ ] No *(Skip to Question 23.)* 15% A / 21% U

22. ULPs are investigated and prosecuted by the FLRA's regional staff.

Based on your experience, how high or low a rating would you give the FLRA field staff on fairness, efficiency, competency, and overall effectiveness? *(Check one box in each row.)*

RATING OF FLRA FIELD STAFF	Very high (1)	Generally high (2)	Neither high nor low (3)	Generally low (4)	Very low (5)	No basis to judge (6)
1. Fairness (or impartiality)	8%A/16%U	32%A/38%U	19%A/24%U	26%A/12%U	13%A/ 8%U	2%A/ 2%U
2. Efficiency (or timeliness in processing cases, issuing decisions)	7%A/12%U	34%A/30%U	30%A/23%U	18%A/20%U	9%A/14%U	2%A/ 1%U
3. Competency (knowledge or skills)	10%A/22%U	42%A/41%U	32%A/22%U	8%A/ 9%U	5%A/ 4%U	3%A/ 2%U
4. Overall effectiveness	6%A/14%U	32%A/28%U	33%A/25%U	18%A/17%U	9%A/13%U	2%A/ 3%U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

23. Appeals of ULPs, questions of negotiability, and reviews of arbitration awards are decided by the three-member FLRA panel.

How familiar or unfamiliar are you with their decisions on these matters? *(Check one.)*

1. [ ] Very familiar		24% A / 16% U
2. [ ] Generally familiar	*(Continue to Question 24.)*	52% A / 39% U
3. [ ] Neither familiar nor unfamiliar		6% A / 12% U
4. [ ] Generally unfamiliar		10% A / 14% U
5. [ ] Very unfamiliar	*(Skip to Question 25.)*	3% A / 9% U
6. [ ] No basis to judge		5% A / 10% U

24. Based on your review of FLRA cases, how high or low a rating would you give the FLRA panel on fairness, efficiency, competency, and overall effectiveness? *(Check one box in each row.)*

RATING OF THREE-MEMBER FLRA PANEL	Very high (1)	Generally high (2)	Neither high nor low (3)	Generally low (4)	Very low (5)	No basis to judge (6)
1. Fairness (or impartiality)	4%A/ 4%U	42%A/29%U	34%A/34%U	14%A/22%U	4%A/ 9%U	2%A/ 2%U
2. Efficiency (or timeliness in processing cases, issuing decisions)	3%A/ 4%U	15%A/16%U	31%A/24%U	32%A/28%U	15%A/26%U	4%A/ 2%U
3. Competency (knowledge or skills)	8%A/ 6%U	43%A/36%U	36%A/35%U	8%A/14%U	3%A/ 4%U	2%A/ 5%U
4. Overall effectiveness	4%A/ 5%U	29%A/21%U	43%A/36%U	17%A/22%U	5%A/14%U	2%A/ 2%U

25. In your opinion, has the FLRA shown sufficient leadership to make the LMR program work? *(Check one.)*

1. [ ] Definitely yes	5% A / 8% U
2. [ ] Probably yes	35% A / 21% U
3. [ ] Uncertain	23% A / 24% U
4. [ ] Probably no	25% A / 23% U
5. [ ] Definitely no	10% A / 16% U
6. [ ] No basis to judge	2% A / 8% U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

26. In your opinion, are the remedies ordered by the FLRA against unions and against agencies too lenient, too severe, or about right? *(Check one box in each row.)*

	Much too lenient (1)	Too lenient (2)	About right (3)	Too severe (4)	Much too severe (5)	No basis to judge (6)
1. Remedies and/or penalties against unions	10%A/ 1%U	32%A/ 5%U	40%A/45%U	1%A/19%U	* A/ 6%U	17%A/24%U
2. Remedies and/or penalties against agencies	* A/33%U	9%A/34%U	61%A/21%U	20%A/ 1%U	3%A/ * U	7%A/11%U

Grievance Arbitration

27. During the last 5 years, have you handled or been involved in an arbitration case? *(Check one.)*

1. [ ] Yes *(Continue to Question 28.)* 79% A / 68% U
2. [ ] No *(Skip to Question 29.)* 21% A / 32% U

28. Based on your experience, how high or low a rating would you give arbitrators in grievance arbitrations on fairness, efficiency, competency, and overall effectiveness? *(Check one box in each row.)*

RATING OF ARBITRATORS	Very high (1)	Generally high (2)	Neither high nor low (3)	Generally low (4)	Very low (5)	No basis to judge (6)
1. Fairness (or impartiality)	6%A/11%U	50%A/43%U	28%A/29%U	14%A/11%U	2%A/ 6%U	* A/ * U
2. Efficiency (or timeliness in issuing decisions)	6%A/ 8%U	41%A/37%U	30%A/31%U	20%A/15%U	3%A/ 9%U	* A/ * U
3. Competency (knowledge or skills)	7%A/10%U	41%A/42%U	31%A/29%U	15%A/12%U	6%A/ 6%U	* A/ 1%U
4. Overall effectiveness	6%A/ 9%U	41%A/37%U	33%A/32%U	15%A/16%U	5%A/ 6%U	* A/ * U

Other Dispute Resolution Processes

29. During the last 5 years, have you handled or been involved in a case before the Equal Employment Opportunity Commission (EEOC)? *(Check one.)*

1. [ ] Yes *(Continue to Question 30.)* 58% A / 39% U
2. [ ] No *(Skip to Question 31.)* 42% A / 61% U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

30. Based on your experience, how high or low a rating would you give the EEOC on fairness, efficiency, competency, and overall effectiveness? *(Check one box in each row.)*

RATING OF EEOC	Very high (1)	Generally high (2)	Neither high nor low (3)	Generally low (4)	Very low (5)	No basis to judge (6)
1. Fairness (or impartiality)	3%A/ 5%U	22%A/19%U	30%A/24%U	31%A/25%U	14%A/26%U	* A/ 1%U
2. Efficiency (or timeliness in processing cases, issuing decisions)	1%A/ 4%U	11%A/11%U	27%A/16%U	31%A/19%U	29%A/49%U	1%A/ 1%U
3. Competency (knowledge or skills)	5%A/ 6%U	22%A/21%U	37%A/33%U	23%A/17%U	13%A/21%U	* A/ 2%U
4. Overall effectiveness	1%A/ 5%U	18%A/12%U	34%A/20%U	27%A/24%U	19%A/37%U	1%A/ 2%U

31. During the last 5 years, have you handled or been involved in a case before the Merit Systems Protection Board (MSPB)? *(Check one.)*

1. [ ] Yes *(Continue to Question 32.)* 82% A / 46% U
2. [ ] No *(Skip to Question 33.)* 18% A / 54% U

32. Based on your experience, how high or low a rating would you give the MSPB on fairness, efficiency, competency, and overall effectiveness? *(Check one box in each row.)*

RATING OF MSPB	Very high (1)	Generally high (2)	Neither high nor low (3)	Generally low (4)	Very low (5)	No basis to judge (6)
1. Fairness (or impartiality)	15%A/ 7%U	53%A/26%U	20%A/29%U	10%A/21%U	2%A/16%U	* A/ 1%U
2. Efficiency (or timeliness in processing cases, issuing decisions)	19%A/ 9%U	55%A/38%U	17%A/26%U	7%A/15%U	1%A/11%U	1%A/ 1%U
3. Competency (knowledge or skills)	21%A/11%U	56%A/38%U	17%A/27%U	5%A/14%U	1%A/ 7%U	* A/ 3%U
4. Overall effectiveness	18%A/ 7%U	54%A/30%U	19%A/29%U	8%A/16%U	1%A/16%U	* A/ 2%U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

33. Overall, how satisfied or dissatisfied are you with the following dispute resolution processes? *(Check one box in each row.)*

PROCESS	Very satisfied (1)	Satisfied (2)	Neither satisfied nor dissatisfied (3)	Dissatisfied (4)	Very dissatisfied (5)	No basis to judge (6)
1. Unfair Labor Practice (ULP) procedures	3%A/ 5%U	30%A/30%U	24%A/21%U	26%A/23%U	10%A/11%U	7%A/10%U
2. Negotiated grievance procedures	8%A/ 5%U	64%A/35%U	18%A/18%U	7%A/24%U	1%A/14%U	2%A/ 4%U
3. Arbitration	6%A/ 7%U	48%A/35%U	25%A/26%U	10%A/13%U	2%A/ 4%U	9%A/15%U
4. Review of arbitration award	2%A/ 3%U	24%A/18%U	26%A/29%U	12%A/12%U	2%A/ 7%U	34%A/31%U
5. Negotiability appeal	2%A/ 1%U	20%A/16%U	25%A/24%U	17%A/21%U	4%A/11%U	32%A/27%U
6. Mediation	7%A/ 4%U	30%A/29%U	26%A/28%U	9%A/ 9%U	1%A/ 4%U	27%A/26%U
7. Impasse procedures	2%A/ 2%U	24%A/19%U	27%A/27%U	8%A/14%U	2%A/ 6%U	37%A/32%U
8. Representation (election & unit questions)	5%A/ 5%U	33%A/38%U	27%A/27%U	5%A/10%U	2%A/ 4%U	28%A/16%U
9. MSPB procedures	18%A/ 4%U	52%A/20%U	15%A/26%U	8%A/10%U	1%A/11%U	6%A/29%U
10. EEOC procedures	2%A/ 2%U	18%A/ 9%U	22%A/20%U	21%A/18%U	15%A/19%U	22%A/32%U
11. Office of Special Counsel (OSC) "whistle-blower" protection procedures	* A/ 2%U	11%A/ 6%U	20%A/16%U	12%A/12%U	8%A/22%U	49%A/42%U

34. Overall, how would you describe the length of time it takes to resolve disputes under the federal LMR program that involve your installation/office/region? *(Check one.)*

1. [ ] Much too long — 16% A / 33% U
2. [ ] Too long — 50% A / 41% U
3. [ ] About right — 29% A / 16% U
4. [ ] Too short — * A / 1% U
5. [ ] Much too short — * A / * U

- - - - - - - - - - - - - -

6. [ ] No basis to judge — 5% A / 9% U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

D. Labor-Management Relations

35. Which of the following best describes how disputes are generally worked out at your installation/office/region? *(Check one.)*

1. [ ]	Informally	64% A / 35% U
2. [ ]	Formally (by filling a grievance, ULP, etc.)	32% A / 51% U
3. [ ]	Disputes are not generally worked out	1% A / 8% U
4. [ ]	Other *(Specify.)*_____	3% A / 6% U

36. How cooperative or uncooperative is the bargaining relationship between labor and management in your installation/office/region? *(Check one.)*

1. [ ]	Very cooperative	17% A / 7% U
2. [ ]	Generally cooperative	57% A / 39% U
3. [ ]	Neither cooperative nor uncooperative	13% A / 17% U
4. [ ]	Generally uncooperative	10% A / 24% U
5. [ ]	Very uncooperative	3% A / 13% U
6. [ ]	No basis to judge	* A / * U

37. Has your union or agency participated in any of the following joint labor-management cooperative initiatives involving your installation/office/region? *(Check one box in each row.)*

INITIATIVES	Yes (1)	No (2)	Don't know (3)
1. Gainsharing	10%A 8%U	82%A 75%U	8%A 17%U
2. Joint Labor-Management Committee/Council	44%A 37%U	53%A 56%U	3%A 7%U
3. Participative management/employee involvement	53%A 32%U	42%A 60%U	5%A 8%U
4. Quality circles	40%A 33%U	56%A 59%U	4%A 8%U
5. Quality of work life programs (QWL)	31%A 20%U	61%A 68%U	8%A 12%U
6. Relationships by objective (RBO)	3%A 6%U	81%A 76%U	16%A 18%U
7. Other *(Specify.)*_____			

If "no" to every item in Question 37, skip to Question 40.

38. In general, were those cooperative effort(s) positive or negative experiences? *(Check one.)*

1. [ ]	Very positive	9% A / 5% U
2. [ ]	Generally positive	62% A / 38% U
3. [ ]	Neither positive nor negative	20% A / 28% U
4. [ ]	Generally negative	6% A / 23% U
5. [ ]	Very negative	* A / 3% U
6. [ ]	No basis to judge	3% A / 3% U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

39. How often, if at all, were the following factors present/absent in the labor-management initiative(s) *(see Question 37)* in your installation/office/region? *(Check one box in each row.)*

FACTORS	Always or almost always present (1)	Generally present (2)	Undecided (3)	Generally absent (4)	Always or almost always absent (5)	No basis to judge (6)
1. Respect and trust between labor and management	7%A/ 8%U	60%A/38%U	9%A/15%U	20%A/30%U	2%A/ 8%U	2%A/ 1%U
2. Adequate resources for training and facilitators	6%A/ 5%U	58%A/29%U	15%A/14%U	13%A/31%U	1%A/16%U	7%A/ 5%U
3. Commitment, leadership, and support from top management	20%A/ 8%U	61%A/30%U	11%A/13%U	6%A/29%U	* A/18%U	2%A/ 2%U
4. Commitment, leadership, and support from union officials	8%A/25%U	44%A/60%U	18%A/ 8%U	21%A/ 4%U	6%A/ 1%U	3%A/ 2%U
5. Incentives for labor and management to cooperate	6%A/ 6%U	45%A/30%U	22%A/16%U	21%A/28%U	3%A/17%U	3%A/ 3%U
6. Mutual objectives	5%A/ 8%U	47%A/35%U	23%A/25%U	21%A/21%U	1%A/10%U	3%A/ 1%U
7. Management willingness to share decisionmaking with employees	6%A/ 4%U	40%A/15%U	25%A/13%U	25%A/32%U	2%A/35%U	2%A/ 1%U
8. Other *(Specify.)* _____ _____						

40. *Would you like your union or agency to be involved in a joint labor-management cooperative effort in the future? (Check one.)*

1. [ ] Definitely yes	29% A / 73% U
2. [ ] Probably yes	39% A / 19% U
3. [ ] Undecided	13% A / 5% U
4. [ ] Probably no	14% A / 1% U
5. [ ] Definitely no	3% A / 1% U
6. [ ] No basis to judge	2% A / 1% U

E. Other

41. Would you rate the Office of Personnel Management's (OPM) leadership in furthering the goals of the federal LMR program as effective or ineffective? *(Check one.)*

1. [ ] Very effective	4% A / 3% U
2. [ ] Generally effective	35% A / 14% U
3. [ ] Neither effective nor ineffective	31% A / 21% U
4. [ ] Generally ineffective	20% A / 28% U
5. [ ] Very ineffective	6% A / 24% U
6. [ ] No basis to judge	4% A / 10% U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

42. Under the statute, unions are required to represent all bargaining unit employees whether or not they are members of the union.

Do you support or oppose some type of arrangement where unions could charge nonmembers for representation (e.g., "agency shop" or "user fee")? *(Check one.)*

1. [ ]	Strongly support	10% A / 82% U
2. [ ]	Generally support	21% A / 11% U
3. [ ]	Neither support nor oppose	14% A / 5% U
4. [ ]	Generally oppose	21% A / 1% U
5. [ ]	Strongly oppose	33% A / 1% U
6. [ ]	No basis to judge	1% A / * U

43. Under federal law, it is illegal for federal employees to engage in a work stoppage or strike.

Would you support or oppose changing the law so that federal employees would have the right to strike?

1. [ ]	Strongly support	2% A / 39% U
2. [ ]	Generally support	7% A / 16% U
3. [ ]	Neither support nor oppose	5% A / 16% U
4. [ ]	Generally oppose	16% A / 16% U
5. [ ]	Strongly oppose	70% A / 12% U
6. [ ]	No basis to judge	* A / 1% U

44. Under the LMR statute, negotiated agreements are subject to approval by the head of the agency.

Do you think these "agency head review" provisions should be eliminated, modified, or stay the same? *(Check one.)*

1. [ ]	Be eliminated	15% A / 54% U
2. [ ]	Be modified	15% A / 31% U
3. [ ]	Stay the same	68% A / 11% U
4. [ ]	No basis to judge	2% A / 4% U

45. Would you rate unions as effective or ineffective in representing employees at <u>your installation/office/region</u> under the labor relations statute? *(Check one.)*

1. [ ]	Very effective	6% A / 31% U
2. [ ]	Generally effective	39% A / 51% U
3. [ ]	Neither effective nor ineffective	18% A / 7% U
4. [ ]	Generally ineffective	30% A / 8% U
5. [ ]	Very ineffective	7% A / 2% U
6. [ ]	No basis to judge	* A / 1% U

46. Would you rate unions as effective or ineffective in representing employees in <u>the federal government in general</u> under the labor relations statute? *(Check one.)*

1. [ ]	Very effective	2% A / 17% U
2. [ ]	Generally effective	39% A / 53% U
3. [ ]	Neither effective nor ineffective	25% A / 12% U
4. [ ]	Generally ineffective	26% A / 14% U
5. [ ]	Very ineffective	5% A / 3% U
6. [ ]	No basis to judge	3% A / 1% U

47. Would you rate management at <u>your installation/office/region</u> as effective or ineffective in carrying out its responsibilities under the labor relations statute? *(Check one.)*

1. [ ]	Very effective	12% A / 4% U
2. [ ]	Generally effective	63% A / 26% U
3. [ ]	Neither effective nor ineffective	15% A / 19% U
4. [ ]	Generally ineffective	9% A / 32% U
5. [ ]	Very ineffective	1% A / 18% U
6. [ ]	No basis to judge	* A / 1% U

NOTE: A = Agency responses. U = Union responses. * = Less than .5 percent.

48. Would you rate agencies in the federal government in general as effective or ineffective in carrying out their responsibilities under the labor relations statute? *(Check one.)*

1. [ ]	Very effective	2% A / 2% U
2. [ ]	Generally effective	54% A / 23% U
3. [ ]	Neither effective nor ineffective	22% A / 17% U
4. [ ]	Generally ineffective	12% A / 36% U
5. [ ]	Very ineffective	1% A / 16% U
6. [ ]	No basis to judge	9% A / 6% U

GGD/MS - 10/90

F. Comments

49. If you have any comments on this survey, or on questions we should have asked but did not, please enter them in the space provided below. Also, if there are any other areas of the federal LMR program on which you would like to comment, or if you have any suggestions for changes in the program, please use the space below.

Thank you for your assistance.

Major Contributors to This Report

General Government Division, Washington, D.C.

Robert E. Shelton, Assistant Director, Federal Workforce Future Issues
Janet W. Duke, Project Manager
Margaret Schauer, Senior Social Science Analyst
Martin DeAlteriis, Social Science Analyst
Bonnie Steller, Statistician

Glossary

Agency Head Review	Under the Federal Service Labor Management Relations Statute, collective bargaining agreements are subject to approval by the head of an agency. After agreements are signed by the parties, the head of an agency has 30 days to approve the agreement or notify the union of which provisions are alleged to be inconsistent with applicable laws, rules, and regulations.
Agency Shop	A requirement that all employees in a bargaining unit who do not join the exclusively recognized union pay a fixed amount, usually the equivalent of the union's dues, as a condition of employment. The agency shop is not legal in the federal government.
Arbitration	A procedure whereby parties unable to agree on a solution to a problem agree to be bound by the decision of a third party. Under the Federal Service Labor Management Relations Statute, arbitration is the final step in negotiated grievance procedures.
Arbitration Award	The final and binding decision of an arbitrator. Under the Federal Service Labor Management Relations Statute, most arbitration awards are subject to appeal to FLRA on very limited grounds.
Arbitrator	The individual who has been designated by the parties to make a final and binding decision based on the evidence the parties presented.
Bargaining Unit	A group of employees certified by FLRA as appropriate for exclusive representation by a labor organization for purposes of collective bargaining (i.e., a group that has a clear and identifiable community of interest and promotes effective dealing and efficiency of agency operations).
Collective Bargaining	The mutual obligation of agency and union representatives to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement about conditions of employment and to execute a written agreement if it is requested by either party.

Collective Bargaining Agreement	A contract or mutual understanding between a union and an agency setting forth the terms and conditions of employment, usually for a specific period of time. The scope and coverage depend on the parties and the Federal Service Labor-Management Relations Statute.
Conditions of Employment	Personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, that affect working conditions.
Decertification	The procedure for removing a union as the certified bargaining representative of employees in a bargaining unit.
Fact-Finding	A procedure used by FSIP to review the positions of the union and agency in a contract dispute, with a view to focusing attention on the major issues and to resolving differences about facts.
Grievance	Any complaint by an employee, union, or agency about any aspect of the employment relationship.
Impasse	A situation in the negotiating process in which the parties have become deadlocked over one or more issues.
Injunction	A prohibitory writ issued by a court to restrain a party from committing an act that is regarded as inequitable so far as the rights of some other party is concerned.
Labor Organization	An organization composed of dues-paying employees that has dealings with an agency concerning grievances and conditions of employment.
Litigation	Legal actions or processes that include court proceedings, ULPs, negotiability appeals, arbitration, review of arbitration awards, impasse proceedings, and other third-party appeals.

Management Rights	Those aspects of an employer's operations that are reserved to management and are not subject to collective bargaining. Under the Federal Service Labor-Management Relations Statute, these aspects include the mission, budget, organization, number of employees, and internal security practices of the agency; its right to hire, assign direct, lay off, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against employees; to assign work, to contract out, and to determine the personnel by which agency operations shall be conducted; to make selections from properly ranked candidates for promotion or any other appropriate source; and to take whatever action is necessary to carry out the agency's mission during emergencies.
Mediation	A form of impasse resolution in which a neutral third party tries to facilitate a voluntary agreement between parties on issues over which they are deadlocked.
Negotiability Appeal	An appeal filed with FLRA by a union challenging an agency's declaration that a union proposal(s) is nonnegotiable.
Negotiated Agreement	See collective bargaining agreement.
Negotiated Grievance Procedure	The provisions set up in the collective bargaining agreement to resolve problems that arise in the application and interpretation of the agreement or other problems relating to the employment relationship.
Negotiation	The process whereby the representatives of employees (the union) and the agency meet for the purpose of reaching agreement on conditions of employment for employees in the bargaining unit.
Neutral	One who is impartial or takes no side in a dispute.
Official Time	Paid time off from regular government jobs that is authorized for employees who represent the union. This enables these employees to negotiate agreements and accomplish other labor-management purposes.

Representation Election	The procedures followed under the Federal Service Labor-Management Relations Statute to determine whether a particular union will represent employees for collective bargaining purposes.
Representation Fee	See agency shop.
Representation Petition	A petition filed with FLRA before a representation election that contains the signatures of at least 30 percent of the employees who have indicated that they wish to be represented for purposes of collective bargaining, or in the case where there already is a certified union, of 30 percent of employees who no longer want to be represented by that union.
Scope of Bargaining	The subject matter that unions and agencies are permitted or required to discuss in collective bargaining.
Third Party	An agency or person who is not one of the principals in a dispute but is authorized to resolve or assist in the resolution of disputes.
Unfair Labor Practices	Actions of agencies or unions that are prohibited under the Federal Labor-Management Relations Statute. The unfair labor practices of agencies are (1) interfering with employees' rights under the statute; (2) encouraging or discouraging membership in any labor organization by discriminating in connection with hiring, tenure, promotion, etc.; (3) domination of labor organizations; (4) discriminating against employees for union activities; (5) refusing to bargain in good faith with labor organizations; (6) failing to cooperate in impasse procedures and decisions; (7) enforcing rules or regulations that are in conflict with the collective bargaining agreement, if the agreement was in effect before the date of the rule or regulation; and (8) refusing to comply with other provisions of the statute. The unfair labor practices of unions are (1) interfering with or coercing employees in the exercise of their rights; (2) causing an agency to discriminate against employees in the exercise of their rights; (3) coercing, disciplining or fining union members for the purpose of hindering the member's work performance or productivity; (4) discriminating against employees with regard to union membership on the basis

	of race, color, creed, national origin, sex, age, etc.; (5) refusing to negotiate in good faith with the agency; (6) failing to cooperate in impasse procedures and decisions; and (7) calling or participating in a strike, work stoppage, or slowdown; and (8) refusing to comply with other provisions of the statute.
Union	See labor organization.
Union Security	Provisions in collective bargaining agreements that aim to secure the union against the agency, nonunion employees, or competing unions. Agency shop and representation fees, which are not legal in the federal government, are forms of union security.

Ordering Information

The first five copies of each GAO report are free. Additional copies are $2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20877

Orders may also be placed by calling (202) 275-6241.

United States
General Accounting Office
Washington, D.C. 20548

Official Business
Penalty for Private Use $300

First-Class Mail
Postage & Fees Paid
GAO
Permit No. G100