

# Charter of the Department of Commerce Labor-Management Forum

April 21, 2010

## Preamble

As the President declared in Executive Order 13522, *Creating Labor-Management Forums to Improve Delivery of Government Services* (December 2009), Federal employees and their union representatives are an essential source of front-line ideas and information about the realities of delivering Government services to the American people. A non-adversarial forum for managers, employees, and employees' union representatives to discuss Government operations will promote satisfactory labor relations and improve the productivity and effectiveness of the Federal Government. Labor-management forums, as complements to the existing collective bargaining process, will allow managers, employees, and employees' union representatives to collaborate in continuing to deliver the highest quality services to the American people.

Before proposing to union representatives a management-developed solution to a workplace challenge or problem so that labor may engage in bargaining, management will utilize the Forum to discuss with labor workplace challenges and problems to endeavor to develop solutions jointly.

## Details of the Department of Commerce Labor-Management Forum Charter Agreement

The management of the Department of Commerce and the exclusive representatives of its employees embrace these ideas and adopt the following charter for the Department of Commerce Labor-Management Forum.

1. We agree that there will be established a Department of Commerce Labor-Management Forum (hereinafter Forum), which will discuss and propose solutions upon matters of a Department-wide significance. To the extent permitted by law, the Forum will:
  - a. support the creation of new as well as the maintenance of existing labor-management councils and promote labor-management partnership efforts at all organized levels of the Department of Commerce;
  - b. develop suggested measurements and metrics for the evaluation of the effectiveness of the Forum and all departmental labor-management councils in order to promote consistent, appropriate, and administratively efficient measurement and evaluation;
  - c. collect and disseminate information about, and provide guidance on, labor-management relations improvement efforts in the department, including the results achieved;
  - d. utilize the expertise of individuals both within and outside the Federal Government to foster successful labor-management relations, including the use of facilitators and

- training of department personnel and union representatives in methods of dispute resolution and cooperative methods of labor-management relations;
- e. develop recommendations for innovative ways to improve the delivery of services and products to the public while cutting costs and advancing employee interests; and
  - f. serve as a venue for addressing systemic failures of labor-management councils in the department.
2. We agree that the Forum will make all decisions by consensus as represented by each co-chair. Consensus decisions are made using a partnership process of information sharing, discussion, and decision making that results in discovering a mutually agreeable solution to an organizational problem. Consensus decision making includes the following characteristics: a high level of acceptance by the members; total commitment by the members to the solutions; and any member in disagreement must search for an alternative solution.
  3. We agree that labor and management, at the levels of recognition and other appropriate levels, will establish labor-management councils (or adapt existing councils or committees where such groups exist) to discuss matters of local significance and to consider and comment upon matters that the Forum refers to these councils. The councils will identify problems at the local level and propose solutions to better serve the public and departmental missions. These councils will be created by the bureau and union representatives in that particular organization, who will determine the composition of their councils.
  4. We agree that employees and their union representatives will have pre-decisional involvement in all workplace matters, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. 7106. Nothing in this charter shall be construed to impair or otherwise affect the authority granted by law to the management of the Department of Commerce.
  5. We agree that management will provide adequate information on such matters expeditiously to union representatives, in order for the Forum to collectively arrive at a solution, where not prohibited by law. The members agree that discussion will be held in abeyance and not placed on any agenda until all members have had at least 14 days to review the requested information.
  6. We agree to make a good-faith attempt to resolve issues concerning proposed changes in conditions of employment, including those involving the subjects set forth in 5 U.S.C. 7106(b)(1), through discussions in the Forum. The goal is to minimize the need for bargaining, thereby lessening the time and costs of implementation. Any agreements made at the Forum will not replace traditional bargaining at the appropriate level.
  7. We agree to evaluate and document, consistent with the purposes of the Executive Order 13522 (Order) and any further guidance provided by the National Council on Federal Labor-Management Relations, changes in employee satisfaction, manager satisfaction, and organizational performance resulting from the Forum.

8. We agree to produce the written implementation plan required by Section 3(b) of the Order within the agreed time limits.
9. The National Council on Federal Labor-Management Relations may consider DOC and its bureaus as candidate(s) for pilot projects as specified in Section 4(a) of E.O. 13522. The Forum may consider pilot projects as a means to improve productivity or effectiveness of the DOC or to reduce costs subject to the restrictions specified below:
  - a. Bureaus and union representatives are encouraged at all levels to bring to the Forum suitable subject matter suggestions for bargaining over permissive subjects. The Forum agrees to forward those suggestions it finds consistent with the goals of Executive Order 13522 to the National Council on Federal Labor-Management Relations as candidates for pilot projects.
  - b. DOC and its bureaus agree to bargain with appropriate union representatives over the subjects set forth in 5 USC 7106(b)(1) and waive any objection to participating in any impasse procedures set forth in 5 USC 7119 that is based on the subjects being permissive, but only to the extent that any proposal for negotiation on these subjects meets the following criteria:
    - i. The proposal explains how its adoption will improve productivity or the effectiveness of the Federal Government or reduce costs, and
    - ii. The proposal provides suggested methods for evaluation that meet the criteria specified in Section 4(a) (i or ii) of E.O. 13522.
  - c. In good faith, management will determine whether the proposal meets these criteria although adverse determinations may be appealed to the Forum or other body designated by the Forum, subject to guidelines set by the Forum.
  - d. The Forum will create a Labor-Management Innovation Working Group to initially screen and evaluate proposed pilot projects and make recommendations to the Forum regarding the Department of Commerce Labor-Management Innovation Program.
10. We agree that Forum members and alternates will, as needed, receive joint training of labor and management and will jointly select the trainer or facilitator. Such training will include effective communication and meeting skills, problem solving, alternative dispute resolution methods, work analysis and improvement tools, strategic planning, budget issues, policy matters, and any other subjects that will enable them to effectively do their Forum work.
11. We agree that the Forum will be comprised of twenty-three (23) members as well as an equal number of alternates, all of whom must be Federal employees unless the White House, OPM, GSA or the National Council on Federal Labor-Management Relations issues a written opinion that the Federal Advisory Committee Act (FACA) is not applicable to the Forum, and that the parties may at their choice change the makeup of their respective teams after two years and annually thereafter. The Forum members are as follows:
  - a. Chief Financial Officer/Assistant Secretary for Administration [co-chair]
  - b. Deputy Chief of Staff to the Secretary

- c. Deputy Chief Human Capital Officer/Director for Human Resources Management
- d. Director of External Affairs, NOAA
- e. Deputy Commissioner of Patents, USPTO
- f. Chief, Human Resources Division, Bureau of the Census
- g. Chief of Staff, EDA
- h. Chief Financial Officer, NIST
- i. Chief of Staff to the Deputy Secretary
- j. Four (4) union representatives from AFGE
- k. Four (4) union representatives from POPA
- l. Three (3) union representatives from NWSEO
- m. One (1) union representative from NTEU
- n. One (1) union representative from IFPTE
- o. One (1) union representative who will rotate from among the unions not already designated as standing Forum members above- (SIU, MEBA, MMP, IBEW, MTC, AFSA, NFFE, FOP, NAGE, NAIL, IAM, IAFF, Washington Printing and Graphic Communications Unions, and Graphic Communication Conference of the International Brotherhood of Teamsters). The union co-chair will notify the management co-chair at least two weeks in advance of a Forum meeting who will be attending the Forum Meeting in this chair.

We also agree that observers shall be permitted at all meetings, including from each Commerce local or bargaining council as well as from the Office of Human Resources Management and from the Office of General Counsel. Observers will not be permitted to speak during a meeting unless one of the co-chairs invites that observer to speak.

- 12. We agree that a representative for labor and a representative from management will serve as co-chairs of the Forum. Each co-chair may designate an alternate from among the members who will serve in the absence of the respective co-chair.
- 13. We agree that the Forum will initially hold regularly scheduled face to face meetings once a month, normally on the third Wednesday of the month and normally scheduled for three hours. Teleconferencing will be available for those members not able to be present at any meeting held.
- 14. We agree that the Forum members may change the frequency, location, and length of the Forum meetings. Meetings may be extended by consensus of the members.
- 15. We agree that the Forum will invite the Secretary and the Deputy Secretary to attend all meetings as ex-officio members.
- 16. If a Forum member is unable to attend, their alternate may attend in their place.
- 17. We agree that the Forum will, as needed, appoint working groups to gather facts and study and analyze information in order to make knowledgeable recommendations to the Forum.
- 18. We agree that the Forum will not hold meetings in the absence of a quorum. A quorum consists of at least fourteen (14) members or alternates (eight (8) labor and six (6) management).

19. We agree that, on days of Forum meetings, days of working group meetings, and at other times, if needed, with the approval of the management co-chair, management will provide Forum members with personnel and support services, such as a meeting room, use of Government computers, copiers, fax machines, presentation equipment, and telephones.
20. We agree that attendees of the Forum (members and their respective alternates, as well as one observer from each of the bargaining units not having a seat at the table) will be in duty status while participating in Forum business, including meetings of the Forum, reasonable preparation in advance of Forum meetings, attendance at working group meetings, and travel time to and from all Forum meetings, including working group meetings. Forum activities beyond or outside normal duty hours of those involved will be considered as official duty and compensated in accordance with law. Additional individuals may be permitted to participate in Forum business while in duty status with the agreement of the co-chairs.
21. We agree that the Forum members or their respective alternates will have all travel treated as official government business and remunerated accordingly, with travel and per diem expenses paid.
22. We agree that the Forum members (including alternates acting as members) will select a "secretary" who will perform duties as prescribed by this Charter and the Forum.
23. We agree that the Forum secretary will provide a written summary of the meeting to the Forum members for their review, including proposed agenda items for the next meeting within two weeks of the previous meeting.
24. Meeting rooms will be large enough to accommodate a large number of attendees, including all observers. In order to ensure appropriate accommodations can be made for their attendance, observers (Federal and non-Federal employees) must first register their intent to attend by contacting the Forum secretary at least three days before each scheduled meeting. The co-chairs agree to waive this rule in exceptional circumstances.
25. Nothing in this agreement shall abrogate any collective bargaining agreements in effect on the date of this order.
26. This Charter is a living document and will be reviewed periodically to evaluate the effectiveness of the Forum, but no later than once a year, unless the parties agree otherwise.
27. Nothing in this Charter shall be deemed to limit any DOC bureau from agreeing to pursue additional labor-management initiatives or procedures for improving labor-management relations at that bureau.

For Labor:

Co-Chair

*[Handwritten signatures for Labor side]*  
James B. Davis Jr.  
Janatha Maubley  
B. L. L.  
Robert Henderson  
Russell P. Myers  
W. Schramm  
Dennis R. Thomas  
Howard H. Lake  
Henry G. Stueben  
D. Chinn

For Department of Commerce:

Co-Chair

*[Handwritten signatures for Department of Commerce side]*  
Lana A. Jaxon  
President Smith  
Cheryl Cantor  
B. L. L.  
Gregory Fogarty  
G. Reich  
A. L.  
A. L. W.