

REPORT TO CONGRESS REGARDING THE RECOMMENDATIONS FOUND IN THE NATIONAL  
COUNCIL ON FEDERAL LABOR-MANAGEMENT RELATIONS 2012 REPORT TO THE PRESIDENT ON  
NEGOTIATION OVER PERMISSIVE SUBJECTS OF BARGAINING: PILOT PROJECTS

In 2009, the President established, through Executive Order (E.O.) 13522, the National Council on Federal Labor-Management Relations (Council). Section 4 of the E.O. called for the Council to develop recommendations for establishing pilot projects to evaluate the impact of collective bargaining over permissive subjects set forth in 5 U.S.C. § 7106(b)(1)<sup>1</sup>. Twelve pilot projects covering approximately 14,000 bargaining unit employees were established in nine agencies across the Federal Government. In May 2012, the Council presented its *2012 Report to the President on Negotiation over Permissive Subjects of Bargaining: Pilot Projects*, which can be accessed at <http://lmrcouncil.gov/meetings/handouts/President.pdf>.

At the time the report was submitted to the President, the Council noted that there was insufficient information to make recommendations to the President with respect to (b)(1) bargaining as the pilot projects were then in various stages of implementation. Accordingly, in order to obtain the necessary information and evidence to develop recommendations, the report recommended: (1) continuation of the existing pilot projects; (2) solicitation of additional pilot projects in order to gather additional data; (3) ensuring appropriate training and support are provided to all pilot projects; (4) encouraging all pilots to select (b)(1) issues based upon their agencies' strategic or operational plans to better assess impact on mission accomplishment and cost-benefit; and (5) more robust oversight and assistance by the Council on all pilot projects.

The report found that many of the pilot projects struggled to develop adequate metrics and that many pilot participants did not have sufficient experience collectively bargaining on (b)(1) subjects. Despite these challenges, the pilot projects reported that use of pre-decisional involvement (PDI), open dialogue on work place matters, and collaborative problem solving generally resulted in faster and better resolution of issues.

The Council was prepared to move forward with the recommendations contained in the report, including extending the pilot projects for another two years and seeking new volunteers for additional pilot projects. However, after additional consideration, the participating agencies determined not to continue with the pilot projects and no new agencies volunteered to participate in the pilot projects. Because the pilot projects indicated considerable positive feedback with respect to the use of PDI, the Council has subsequently placed significant emphasis on PDI and PDI training.

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<sup>1</sup> 5 U.S.C. 7106. Management rights

(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—  
(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.

Since the report was submitted to the President in May 2012, the Council has developed numerous PDI resources which are available on the Council's website (<http://lmrcouncil.gov/>) including:

- Pre-decisional Involvement Checklists for both Management and Unions;
- Pre-decisional Involvement Outcomes Interactive Module;
- Pre-decisional Involvement Quick Tips Video Tutorial;
- Pre-decisional Involvement Frequently Asked Questions;
- Pre-decisional Involvement Guidance from the Council; and
- NASA's Best Practices in PDI<sup>2</sup>

Additionally, the Council has sought out "success stories" to illustrate the benefits of labor-management partnerships. One of the most recent success stories came from the Bureau of Engraving and Printing (BEP). The BEP has approximately 1,859 employees, about 65 percent of whom are union employees. They have a Joint Labor Council that meets monthly and have found that PDI helps tremendously. In part through the agency's partnership with the unions and the use of PDI, they were able to significantly improve employee engagement and take the agency from one of the lowest ranked agencies in the "Best Places to Work" rankings in 2010 (number 219), to one of the best in 2013 (number 47).

One of the earliest success stories came from NASA. Prior to E.O. 13522, NASA indicated that it had labor management councils or forums at several centers, but after the E.O., PDI significantly increased. Higher level and more complex topics are addressed through PDI. Labor and Management strive to have open dialogue on Agency matters that impact employees prior to decisions being made and involve labor in the process when possible. NASA unions often waive National Consultation Rights (NCR) on PDI topics, which shows the benefit to the Government that results from PDI. NASA's guidance on this topic was turned into the best practices guide described above.

Numerous additional success stories continue to be related from agencies including Naval Sea Systems Command, the Federal Aviation Administration, the District of Columbia National Guard, the Food and Nutrition Service, the Bureau of Prisons, and the Forest Service.

While the pilot projects themselves have ceased to be effective tools, the information gleaned from them has resulted in significant benefits across agencies. The Council continues to work toward improving the use of labor-management forums and PDI through subcommittees and working groups and creation of additional resources.

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<sup>2</sup> NASA created a Guide to Pre-Decisional Involvement (PDI) which is now used as a best practice and is made available on the Council's website.