



UNITED STATES  
OFFICE OF PERSONNEL MANAGEMENT

OFFICE OF MANAGEMENT  
AND BUDGET



JAN 19 2011

## MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS/AGENCIES and LABOR-MANAGEMENT FORUMS

**SUBJECT:** Executive Order 13522 – Establishing Labor Management Forums and  
Pre-decisional Involvement

On December 9, 2009, the President signed Executive Order 13522, “Creating Labor-Management Forums to Improve Delivery of Government Services,” affirming his commitment to cooperation between labor and management in order to improve the productivity and effectiveness of the Federal Government. We are pleased with the progress to date, particularly the work that agencies and their union partners have done together to develop their plans for implementing the Executive Order. However, our work is far from complete. We have just started the process of working together to establish cooperative and productive labor-management relations throughout the executive branch.

As a reminder, agencies should be moving forward in establishing labor-management forums at all appropriate levels. The Executive Order requires forums to be established at the level of recognition and other appropriate levels agreed to by labor and management. A level of recognition is where a union has been certified as a bargaining unit’s exclusive representative for collective bargaining and other purposes under Chapter 71 of Title 5, United States Code.

Further, as the Executive Order expressly requires, agencies should also allow pre-decisional involvement with unions in all workplace matters to the fullest extent practicable, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. 7106. As stated in the Executive Order, “Management should discuss workplace challenges and problems with labor and endeavor to develop solutions jointly, rather than advise union representatives of predetermined solutions to problems and then engage in bargaining over the impact and implementation of the predetermined solutions.” Therefore, it is imperative that management immediately engage unions on an ongoing basis consistent with the spirit and intent of the Executive Order.

Agencies should develop a shared understanding with employee representatives on how the pre-decisional process can best be utilized for their workplace. Generally, agencies

should begin the pre-decisional process as soon as possible after they determine that some decision or action is needed to address a particular issue or problem. Pre-decisional discussions, by their nature, should be conducted confidentially among the parties to the discussions. This confidentiality is an essential ingredient in building the environment of mutual trust and respect necessary for the honest exchange of views and collaboration. Ultimately, the goal is to allow employees, through their elected labor representatives, to have meaningful input which results in better quality decision-making, more support for decisions, and timelier implementation.

One example of an opportunity for pre-decisional involvement is the annual budget process. The Executive Order explicitly provides that nothing in the order affects the functions of the OMB Director related to budgetary proposals. Additionally, there are restrictions on the release of the nature, amounts, and underlying budget materials prior to the budget being submitted to Congress. However, recognizing that this memorandum should not be construed to override any OMB or agency-specific policies on the budget process, employee representatives can still play a role in this process, when practicable.

During the budget development phase, before the President submits the Budget to Congress, management develops proposed funding levels and draft programmatic narratives to be included in the budget document. At this stage, management has the option to solicit input from employee representatives. If management chooses to solicit such input, it should be limited to high-level discussions of goals and strategies. Moreover, to the extent that anyone receives confidential pre-decisional, deliberative information during this budget-development period, such information remains subject to the long-standing OMB policies on preserving the confidentiality of the deliberations that lead to the President's budget decisions.

During the period when Congress is considering the President's Budget proposal, pre-decisional involvement can take the form of employee representatives providing input to management on possible ways of implementing the President's proposals. Additionally, when the agency's appropriations have been enacted into law, employee representatives may provide input to management on the use of budgetary resources to carry out its mission.

While pre-decisional input does not bind or obligate an agency to reach a specific decision or take a specific action, opportunities for pre-decisional involvement are valuable sources of input from employees through their representatives. This supplement to the bargaining process can be beneficial to both parties as it may identify and address unexplored ideas, or expedite any bargaining that may be required as a result of budget execution initiatives.

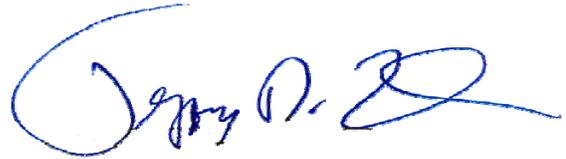
Members of the National Council on Federal Labor-Management Relations support activities that advance the goals and objectives of the Executive Order. This includes, with the concurrence of the parties involved, attending labor-management training

sessions and forum meetings, as well as participating in discussions between the parties' representatives and employees on organizational performance improvement, problem/issue resolution, and ways to effectively accomplish the agency's mission. Requests for support may be made to [LMRCouncil@opm.gov](mailto:LMRCouncil@opm.gov).

Thank you for the work you have already done to improve labor-management relations at your agency. We know we can count on you to continue to work collaboratively with employee representatives of your organization to ensure we deliver the highest quality services to the American people.



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