

**DEPARTMENT OF JUSTICE IMPLEMENTATION PLAN FOR  
EXECUTIVE ORDER 13522**

In accordance with Section 3(b) of Executive Order 13522, “Creating Labor-Management Forums to Improve Delivery of Government Services,” issued on December 9, 2009, the Department of Justice submits this Implementation Plan to the National Council on Federal Labor-Management Relations. Section 3(b) requires each Department or Agency implementation plan to:

- i. describe how the Department or Agency will conduct a baseline assessment of the current state of labor relations within the Department or Agency;
- ii. report the extent to which the Department or Agency has established labor-management forums, as set forth in subsection (a)(i) of this section, or may participate in the pilot projects described in section 4 of this order;
- iii. address how the Department or Agency will work with the exclusive representatives of its employees through its labor-management forums to develop Department-, Agency-, or bargaining unit-specific metrics to monitor improvements in areas such as labor-management satisfaction, productivity gains, cost savings, and other areas as identified by the relevant labor-management forum's participants; and,
- iv. explain the Department's or Agency's plan for devoting sufficient resources to the implementation of the plan.

The Implementation Plan set forth below addresses each of the subject-matter areas required by the Executive Order, and the Department has assigned implementation oversight responsibilities to the Justice Management Division, Human Resources Staff, Labor and Employment Law Office (LEL), as part of the LEL’s role in developing and maintaining a consistent Department-wide approach to labor-law issues.

**BASELINE ASSESSMENT OF CURRENT LABOR RELATIONS [3(b)(1)]**

The Department is currently developing a survey instrument for use at the component level to obtain the views of career Department employees, Department management, and union leadership on the current status of labor relations in their individual components. The Justice Management Division, Human Resources Staff, Human Capital Information Technology and Accountability Office (HC-ITA), has previously developed surveys for Department use and has assisted the Office of Personnel Management in implementing government-wide surveys. The Department has asked HC-ITA to work with LEL to develop such a survey to measure the current state of labor relations within the Department. The Department intends to work extensively at the component level (the level of recognition), in consultation with management and with union representatives, to develop and refine survey questions that accurately and thoroughly address labor relations within each component.

Generally, some of the topics covered in the survey will include employee views on whether management and union leadership work collaboratively to resolve workplace issues; the degree of satisfaction with the current negotiation process and the problems or challenges raised by that process; and the level of satisfaction with the overall relationship between management and union leadership. The surveys would also attempt to solicit employee views on how the current state of labor relations in each component affects their productivity, job satisfaction, and ability to achieve mission-related goals and requirements, and they would also seek employee views and suggestions on improving the labor relations process in each component. Although the survey has not yet been finalized because labor-management consultations on the issue are still continuing, the Department has attached a preliminary draft survey to advise the Council on the kinds of issues that the survey will cover. (Attachment A).

After the surveys are conducted at each component with the assistance of HC-ITA and the Department's Office of the Chief Information Officer (OCIO), the results will be compiled and analyzed by component to develop statistically meaningful conclusions about the current state of labor relations. These results will also be shared with component management and union leadership and will provide direction for further discussions at the labor-management forums on improving their relationship, with the goal of establishing a "cooperative and productive form of labor-management relations" throughout the Department, as the Executive Order seeks to accomplish.

### **LABOR-MANAGEMENT FORUMS/PILOT PROJECTS [3(b)(ii)]**

During early 2010, the LEL has met with representatives of the Department components that have recognized collective bargaining units: the Bureau of Prisons (BOP), the U.S. Marshals Service (USMS), the Justice Management Division (JMD), the Office of Justice Programs (OJP), the Department's litigating divisions and Solicitor General's Office (LIT-SG), the Office on Violence Against Women (OVW), the U.S. Parole Commission (USPC), and the Executive Office for Immigration Review (EOIR). All have agreed to work with their respective unions to develop appropriate labor-management forums to identify problems and propose solutions in order to better serve the public and accomplish the Department's missions. All components have already begun discussions with the unions on these forums and on the following practical questions of how to make them as effective as possible – frequency; duration; nature of representation by union and management; and meeting methods (in-person, telephone conferences, video conferences, etc.). The preliminary results of these discussions are summarized below by Department component.

In accordance with Section 3(a)(ii) of the Executive Order, the LEL has also emphasized to the components the importance of allowing employees and their union representatives to have pre-decisional involvement (PDI) in workplace matters to the fullest extent practicable; to provide adequate information on such matters to union representatives; and, to make good-faith attempts to resolve issues concerning proposed changes in conditions of employment in their labor-

management forums. The components have acknowledged these obligations under the Executive Order and have affirmed their good-faith commitment to satisfying them.

The Department has also considered whether it would choose any of its components to participate in the pilot projects described in Section 4 of the Executive Order, under which management would elect to bargain over some or all of the subjects set forth in 5 U.S.C. § 7106(b)(1) and waive any objection to participation in impasse procedures over those subjects. In weighing this option, the Department has had to consider its imperative law-enforcement and national-security missions and the probable burdens and costs of difficult, time-consuming negotiations on a broad array of issues under Section 7106(b)(1). After careful consideration, therefore, the Department does not believe that participation in the pilot projects would serve the best interests of the Department or the public interest. We believe that the use of labor-management forums and pre-decisional involvement will help realize many of the potential gains in efficiency and collaboration that are possible through formal bargaining under Section 7106(b)(1), but without many of the burdens and costs imposed by that statutory process.

### **Labor-Management Forum Efforts by Department Component**

#### **BOP**

Section 3(a)(i) of the Executive Order allows agencies to adapt existing councils or committees to become labor-management forums. BOP and the exclusive representative of BOP employees, the American Federation of Government Employees (AFGE), Council of Prison Locals, have previously established quarterly meetings to discuss labor-management issues, and such meetings usually last several days. BOP and AFGE have recently discussed the issue of the labor-management forums under the Executive Order and have tentatively agreed to add an extra day to the existing quarterly meetings so that these issues may be discussed. The parties will continue to discuss the forums and will make changes and alter the plan as necessary.

#### **LIT-SG/JMD/OVW/USPC**

The bargaining units in these components are represented by different locals of the American Federation of State, County and Municipal Employees (AFSCME). The Department has labor-management contacts with these AFSCME locals through the Justice Management Division, Human Resources Staff, Labor/Employee Relations and Performance Office (LER). JMD LER has recently had discussions with AFSCME representatives of these locals about the appropriate format for labor-management forums. In 2009, the LER had two meetings with the AFSCME locals where the parties discussed issues of mutual concern, and the LER reports the preference of the AFSCME locals to institutionalize these bi-annual meetings as the labor-management forums called for by the Executive Order. Management and union representatives also talk and meet on a routine basis to discuss issues of importance and plan to continue this practice.

## **OJP**

OJP and the AFSCME local representing its bargaining-unit employees intend to have a one-day, off-site discussion by May 31, 2010, to build a common understanding of how the labor-management relationship will develop to further goals and provide positive results for OJP and its employees. They intend to develop a charter for the composition and functioning of the labor-management forum which will enable them to address labor-management concerns and positively influence the performance of OJP. The parties have already identified some immediate issues on which they might collaborate successfully, including planning work groups for new or ongoing projects that would forestall the need for formal bargaining when a consensus is reached on these projects. These efforts are expected to generate positive collective bargaining experiences that may be applied on a broader scale to limit adversarial interactions and contribute to improved OJP performance. Other collaborative efforts could include a joint bi-annual, off-site conference for the purpose of conducting training and holding planning sessions on issues of mutual concern. OJP and AFSCME have also agreed on the necessity to conduct joint training on the Federal Sector Labor Management Relations Statute and on their current collective bargaining agreement.

## **USMS**

USMS has conducted discussions on this issue with the Union representing its bargaining-unit employees, the International Council of U.S. Marshals Service Locals. They have agreed to hold labor-management forum meetings on the second Wednesday of the second month of each quarter, or as needed. Their first meeting will be on May 12, 2010, and the USMS has agreed to bring union representatives to its headquarters in Washington, DC. After that, the meetings may occur telephonically unless the parties agree that another in-person meeting is needed. Initially, the forum teams are three persons for each party, and they will exchange agendas two weeks in advance of each forum meeting. The parties have also begun discussions on conducting the baseline assessment of labor relations for the USMS and on developing appropriate metrics to measure the effects of the forum meetings. The USMS has reported to the Department that the parties also intend to draft a charter reflecting their consensus on these matters, which should be approved and completed by mid-March.

## **EOIR**

EOIR has had preliminary discussions with its different bargaining units. Several of its collective bargaining agreements already provide a structure for a cooperative relationship as intended by the Executive Order.

Management and the AFGE local representing the Board of Immigration Appeals meet once every two weeks to discuss any issues either party has, including those affecting working

conditions. Management has already afforded the union pre-decisional involvement through these meetings. The parties have agreed to continue to use the existing structure to conduct their forums, and management will continue to expand pre-decisional involvement, in accordance with the Executive Order.

Similarly, under its contract, management and the National Association of Immigration Judges have arrangements to meet quarterly to generally discuss issues of importance to the parties. The parties plan to maintain this structure to conduct their forums. The parties' contract also provides for pre-decisional involvement because it calls for the Agency and the Association to establish a cooperative labor-management process for sharing information and considering changes to existing policies and procedures as well as new policies and procedures. Management intends to expand the union's pre-decisional involvement as a part of these routine discussions.

Management is also currently in discussions with its smaller, non-professional AFGE bargaining units regarding the best methods for implementing the Executive Order. For example, in the Miami Immigration Court, pursuant to the parties' contract, management and the union already meet monthly to discuss anticipated management-initiated changes to terms and conditions of employment for bargaining-unit employees and other issues affecting those employees. The parties intend to continue to use this structure to conduct their forums, and management will continue to expand pre-decisional involvement during these forums.

### **MEASURING THE RESULTS OF LABOR-MANAGEMENT FORUMS [3(b)(iii)]**

In its discussions with Department components early in 2010 regarding labor-management forums, the LEL has emphasized the importance of developing appropriate metrics to measure the effects of the forums on organizational performance, labor-management satisfaction, and cost savings. As the Executive Order directs, the Department's components will discuss with the exclusive representatives of their bargaining units the best methods for evaluating these effects and formulate valid measures after thorough consultation. HC-ITA will also assist the LEL and Department components, as it has and will continue to with the baseline assessment of labor-management relations, in developing survey instruments to address potential improvements in labor-management satisfaction. The Department anticipates that the forums will also be able to identify some possible means for describing improved organizational performance and cost savings. If the forums can assist the Department's components in satisfying their bargaining obligations more rapidly, and help them to implement necessary policy initiatives and accomplish operational priorities more efficiently, the components and their unions could evaluate that improvement through measures involving time, staffing, personnel costs, equipment, and similar metrics. The LEL will also work closely with the Justice Management Division's Budget Staff and Management and Planning Staff to review the measures that these staffs have previously developed for measuring organizational performance, costs, and productivity, and these measures should assist the Department in reporting on the effects of the labor-management forums.

### **RESOURCES FOR THE IMPLEMENTATION PLAN [3(b)(iv)]**

As discussed above, the LEL specifically and the Justice Management Division more generally are responsible for assisting the Department's components in implementing the Executive Order, but this responsibility is similar to other oversight responsibilities that the LEL and the Justice Management Division have for ensuring a consistent Department-wide approach to issues of labor and employment law. Each of the Department components discussed above also has independent personnel authority and Human Resources staff assigned to handle labor-law issues and has extensive experience in addressing bargaining-unit issues. The Department's components have also had considerable useful experience implementing the more collaborative labor-management relations model last adopted by the Clinton Administration. At this time, therefore, the Department does not anticipate that implementing the Executive Order will require additional staffing or other resources, but the Department will advise the Council if circumstances change and additional resources are needed.

## ATTACHMENT A

### Labor-Management Relations Survey Preliminary Draft

#### KEY

**VG-VP** = Very Good, Good, Neither Good nor Poor, Poor, Very Poor

**SA-SD** = Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree

**A, S, N, DK** = Always, Sometimes, Never, Don't Know

#### Potential Questions

In general, how would you describe workplace relations between managers and employees in your component? (VG-VP)

Management and the union work collaboratively to address workplace issues. (SA-SD)

Management and the union work together in implementing new policies that affect the working conditions of employees. (SA-SD)

Management abides by the terms of the collective bargaining agreement as it applies to: (SA-SD)

- Assigning work
- Assigning overtime
- Approving leave
- Rating performance
- Dealing with performance problems
- Taking disciplinary actions
- Approving training
- Promoting merit-based advancement

My supervisor is aware of the existence of a collective bargaining agreement that covers my position. (SA-SD)

Management promotes open communication with the leadership of the union. (SA-SD)

If I have a problem with something in my immediate workplace I would first talk to:

- My supervisor
- My union representative
- A colleague
- All of the above

The collective bargaining process in my component works effectively. (SA-SD)

Management in my workplace communicates necessary information to employees on a regular basis. (SA-SD)

To your knowledge, does Management consult with employee representatives or union officers on the following:

- Staffing levels (Always, Sometimes, Never, Don't Know) (A, S, N, DK)
- Health and safety issues (A, S, N, DK)
- Introduction of new technology (A, S, N, DK)
- Disciplinary actions (A, S, N, DK)
- Changes in working conditions (A, S, N, DK)
- Changes in job descriptions (A, S, N, DK)
- Changes in performance evaluation process (A, S, N, DK)

Management and the union meet routinely to discuss employee issues and concerns. (SA-SD)

The negotiated grievance process between the parties fairly and effectively deals with employee issues and concerns (SA-SD)

Negotiations occur fast and efficiently in my component. (SA-SD)

Management normally negotiates with union representatives/employee representatives on issues related to the following: (SA-SD)

- Disciplinary procedures
- Grievance procedures
- Employee training
- Workplace safety
- Employee recruitment
- Workforce planning
- Facilities management
- Flexible work schedules
- Telework options

Management is supportive of the role played by (union /employee) representatives. (SA-SD)

Management includes the union and its bargaining-unit employees in early or pre-decisional discussion on topics of mutual concern. (SA-SD)

Overall, I am satisfied with my union representation. (SA-SD)

Overall, I am satisfied with the senior-level management of my component. (SA-SD)

### **Demographics**

Are you a member of a bargaining unit?

Are you a supervisor?

Are you a “dues paying member” of a union?

GS level

Gender

Age

Component (**Mandatory field**)