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*"Rummaging in the government's attic"*

Description of document: Federal Labor Relations Authority (FLRA) Training Materials developed on collaborating and negotiating over space-related matters such as office layout, work space allocations per employee and equipment, 2015

Requested date: 21-August-2017

Released date: 22-September-2017

Posted date: 13-August-2018

Source of document: FOIA Request  
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Federal Labor Relations Authority  
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Washington, DC 20424  
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UNITED STATES OF AMERICA  
**FEDERAL LABOR RELATIONS AUTHORITY**  
WASHINGTON, D.C. 20424

**OFFICE OF THE SOLICITOR**

**VIA E-MAIL**

September 22, 2017

This refers to your request under the Freedom of Information Act dated August 21, 2017, and received on September 5, 2017, in the Solicitor's Office of the Federal Labor Relations Authority (FLRA). In your request, you seek "a digital copy of the Training Materials developed on collaborating and negotiating over space-related matters such as office layout, work space allocations per employee and equipment."

Pursuant to § 2411.7 of the FLRA's regulations, 5 C.F.R. § 2411.7, your request has been granted. Enclosed are training materials related to office moves and interest-based techniques to address space-related matters. You can also find additional information in FLRA's other negotiability training materials on FLRA's website: <https://www.flra.gov/resources-training/training/course-materials>.

There are no charges associated with processing your request pursuant to § 2411.13(b)(4) of the FLRA's regulations, 5 C.F.R. § 2411.13(b)(4).

Sincerely,

s/ Zachary R. Henige  
Zachary R. Henige  
Deputy Solicitor  
Federal Labor Relations Authority

# Space Acquisition, PDI and the GSA Leasing Process

J. Kenneth Schelbert, Director  
Lease Policy, Strategy and Delegation Division  
Office of Leasing

July 23, 2015

# Challenges in Space Acquisition

- ▶ Evolving Agency Missions, Changes in Technology, Work Practices
- ▶ Desirability of Federal Tenants
- ▶ Federally-owned versus Commercial Lease
- ▶ Constrained Agency Budgets – Cost Containment and Role of Space
- ▶ Procurement Challenges
- ▶ Requirements versus Desires
- ▶ Location Policies (EO 12072 and 13693)
- ▶ Freeze the Footprint/Reduce the Footprint



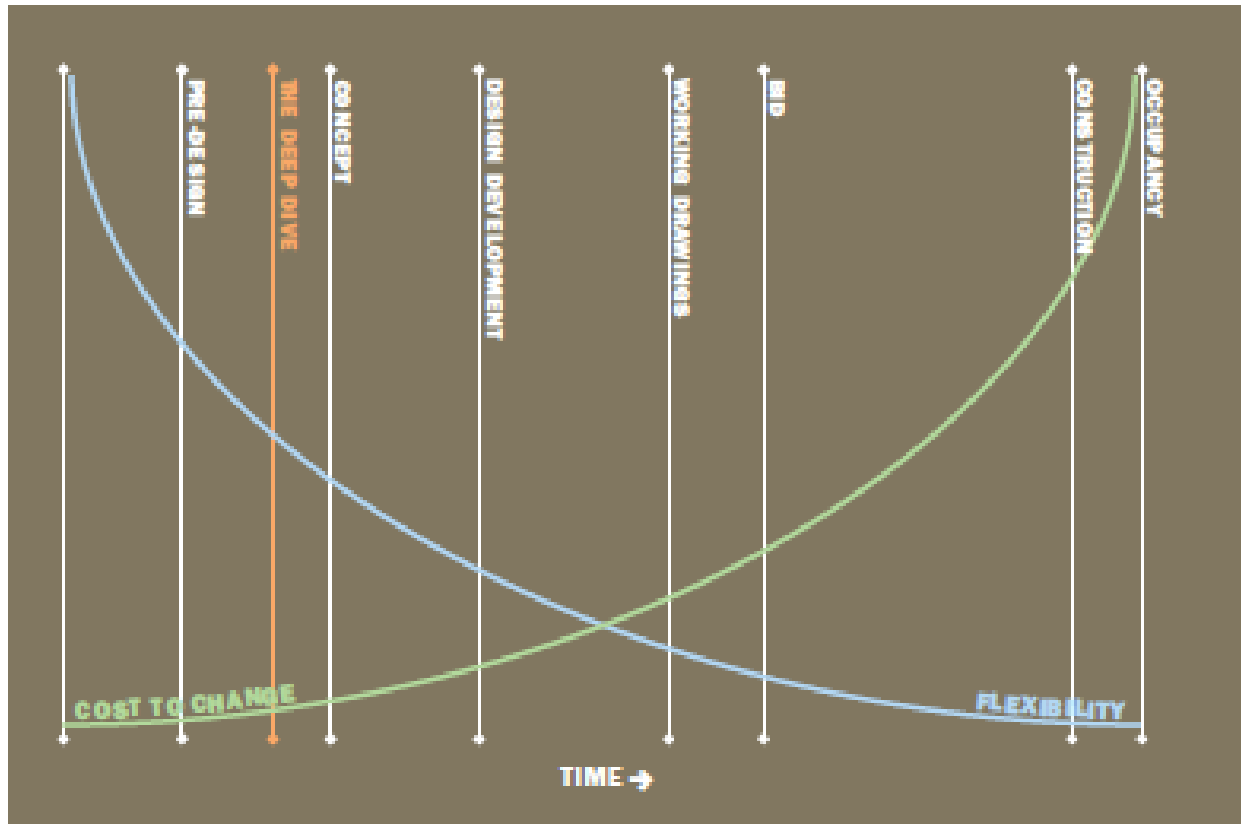
# Leasing Process

- ▶ Type of Space
  - Functional Requirement Based on Mission
  - How Much Space Based on Requirements
  - Focus on Increased Density in Utilization Ratios
- ▶ Location
  - Delineated Area – Larger Areas Often Required to Maximize Competition
  - Must Balance Mission Requirements with EO12072, 13693 & Rural Development Act
- ▶ Decision to Lease
  - After Determining No Federally-owned or Vacant Leased Space is Available

# Leasing Process (cont.)

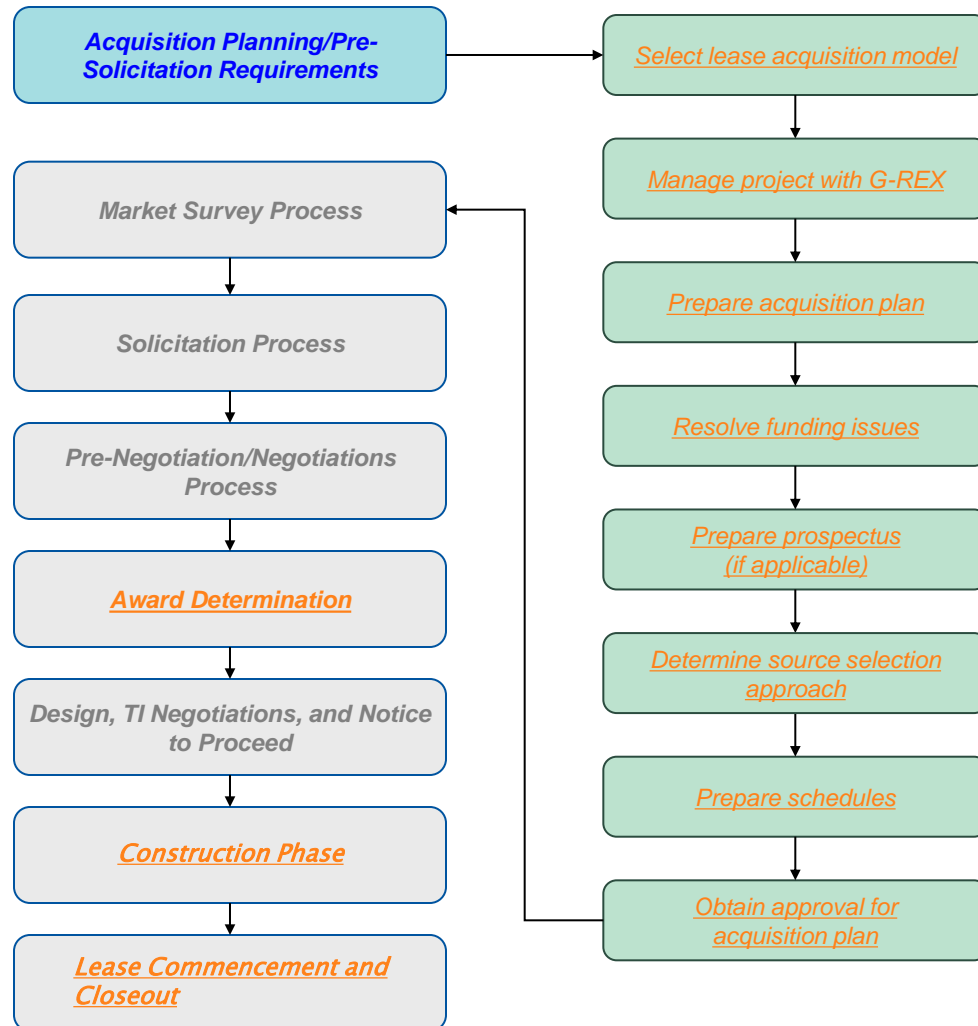
- ▶ Comprises Four Distinct Life Cycle Phases
  - Planning
  - Procurement
  - Execution
  - Occupancy
- ▶ Prime Opportunity to Engage PDI and Impact Outcomes During the Planning Phase
- ▶ Once the Procurement is Underway, Changes Become More Difficult/Costly, Although Some Flexibility Still Exists

# The Flexibility to Cost Dichotomy



Note: PDI should occur during the planning and pre-solicitation phase. Flexibility to make changes decrease and costs to make changes increase as the procurement progresses.

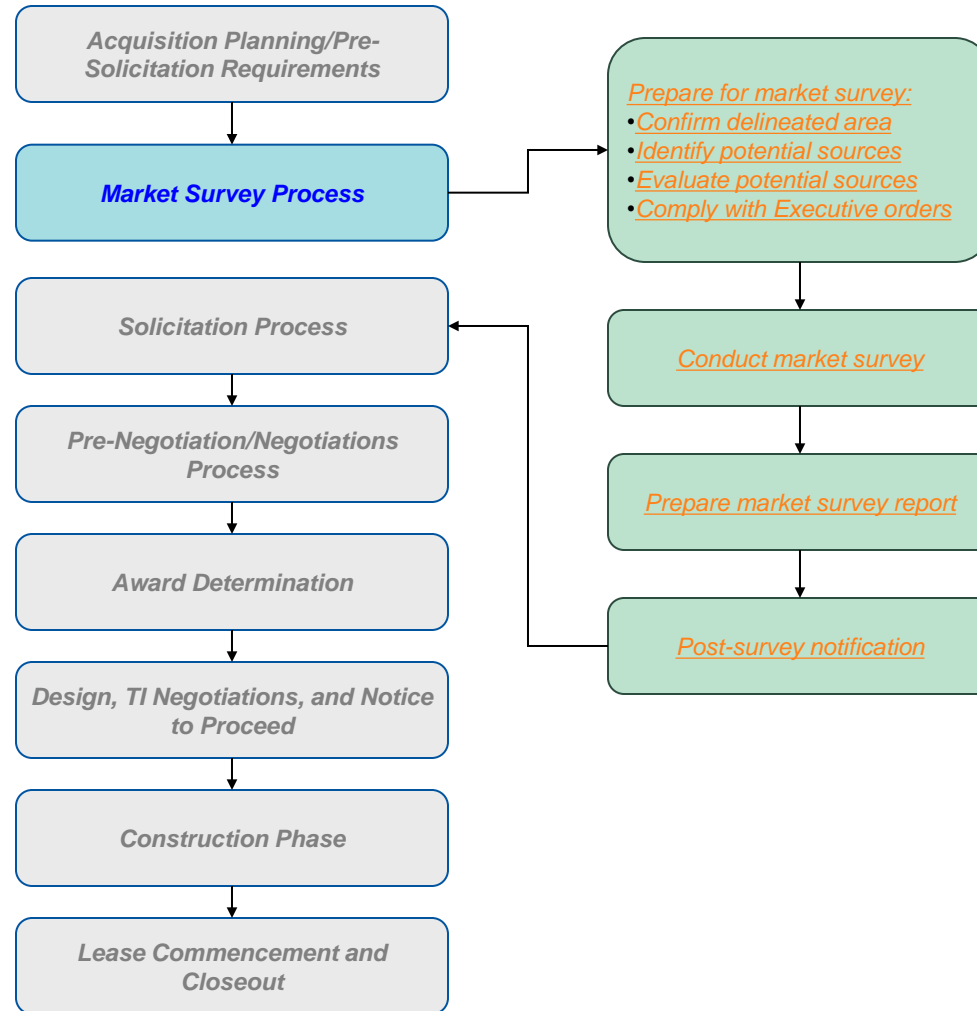
# Acquisition Planning/Pre-Solicitation Process



# Pre-Solicitation Process

- ▶ Acquisition Planning
- ▶ Advertisement
- ▶ Market Survey

# Market Survey Process

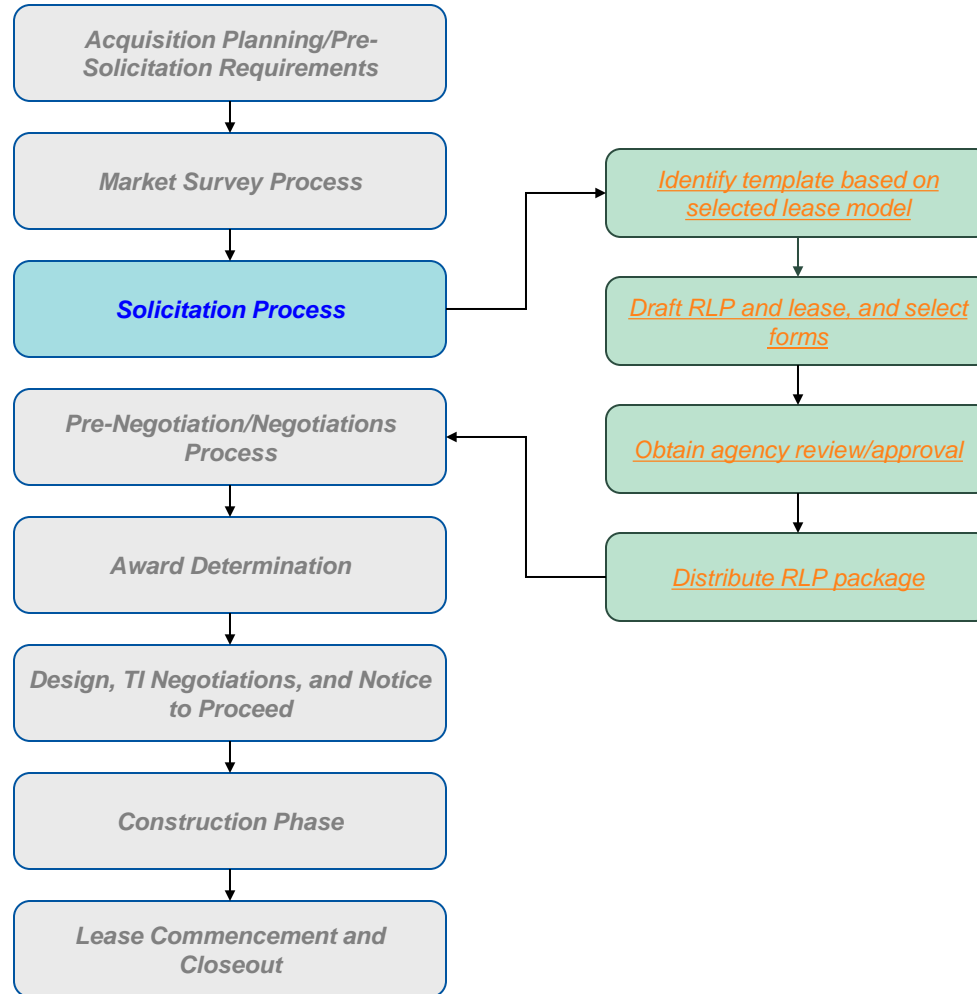




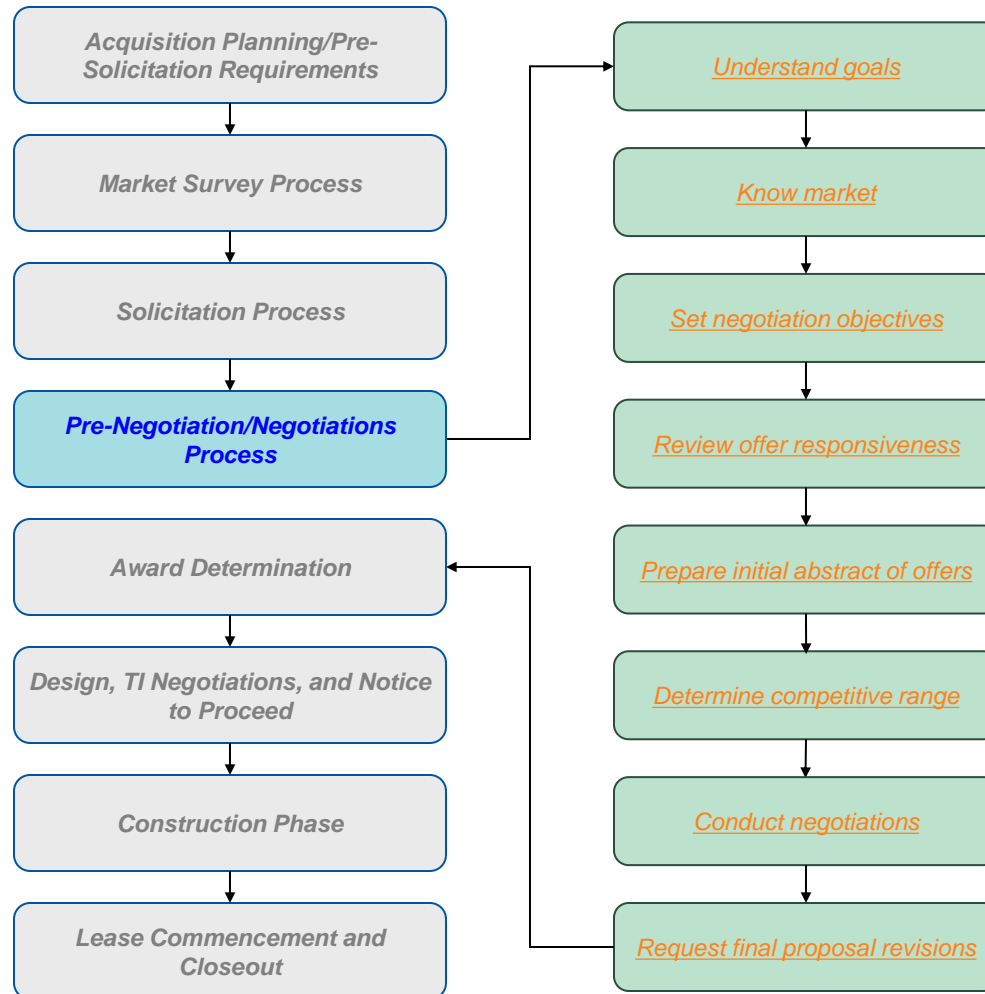
# Solicitation and Negotiations Process

- ▶ Draft Request for Lease Proposals (RLP)
- ▶ Issue RLP
- ▶ Evaluate Offers
- ▶ Negotiation Objectives
- ▶ Negotiations

# Solicitation Process



# Pre-Negotiations / Negotiations Process



# Final Evaluation and Award

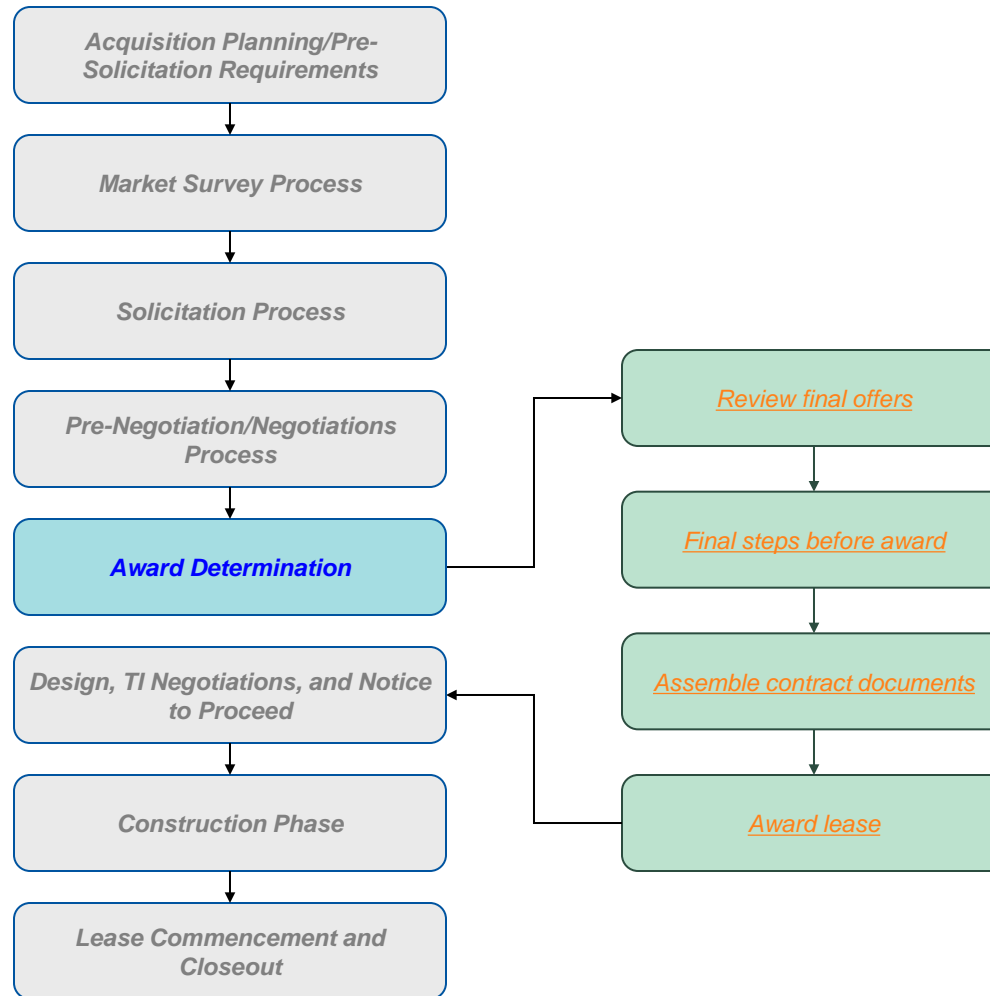
Request for Final Proposal Revisions

GSA Reviews and Evaluates Final Offers

GSA Identifies Apparent Successful Offeror  
and Sends Draft Lease Out for Signature

GSA Lease Contracting Officer Signs Lease

# Award Determination



**Build-out, Acceptance, and Move-In**

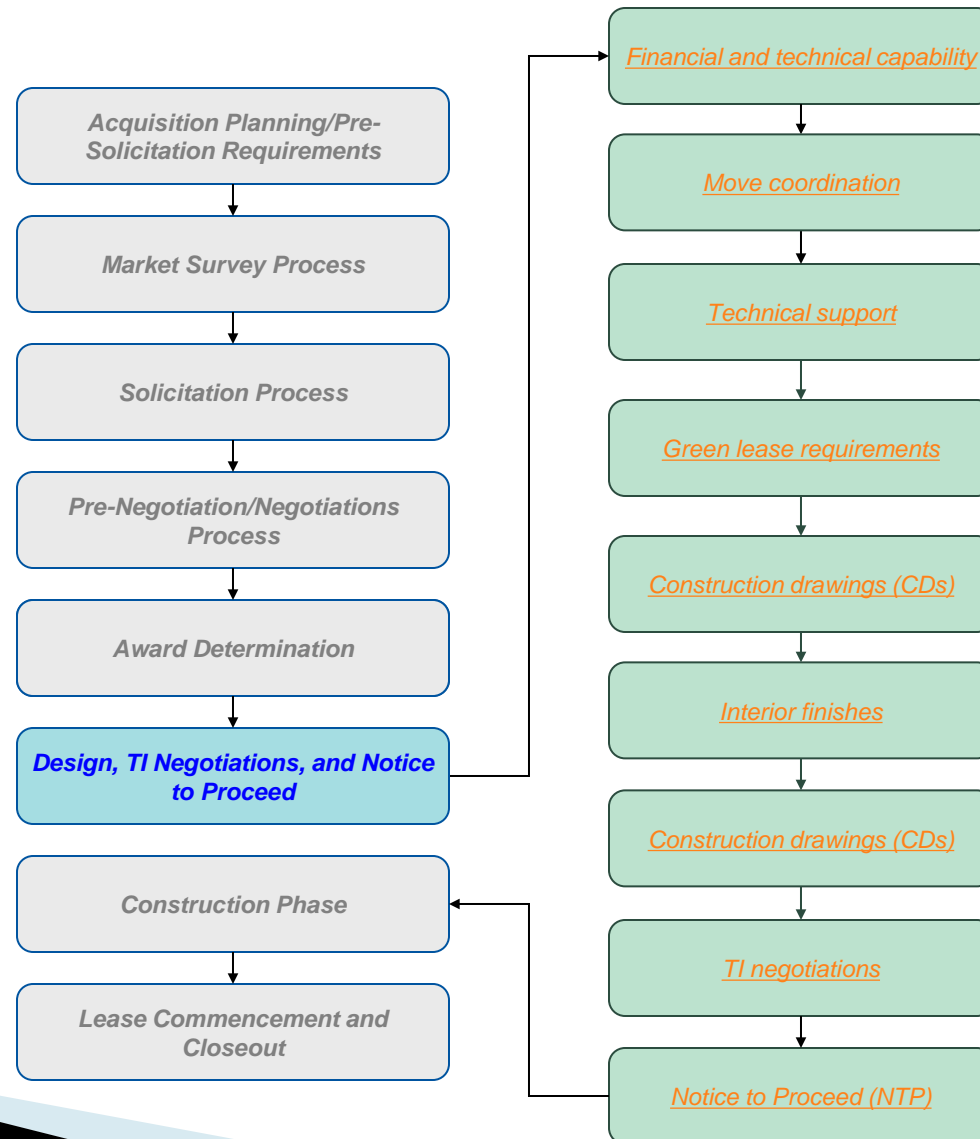
**Design, TI Negotiations, and Notice to Proceed**

**Construction Phase**

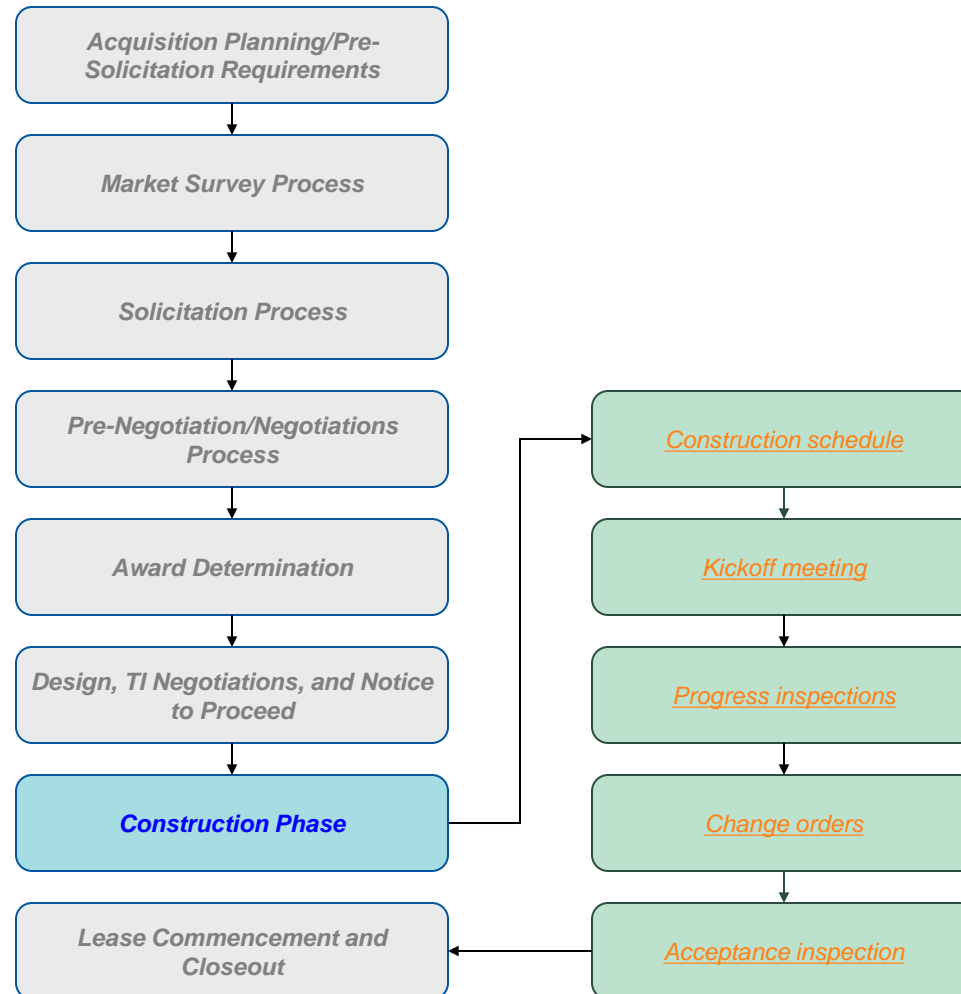
**Lease Commencement and Closeout**



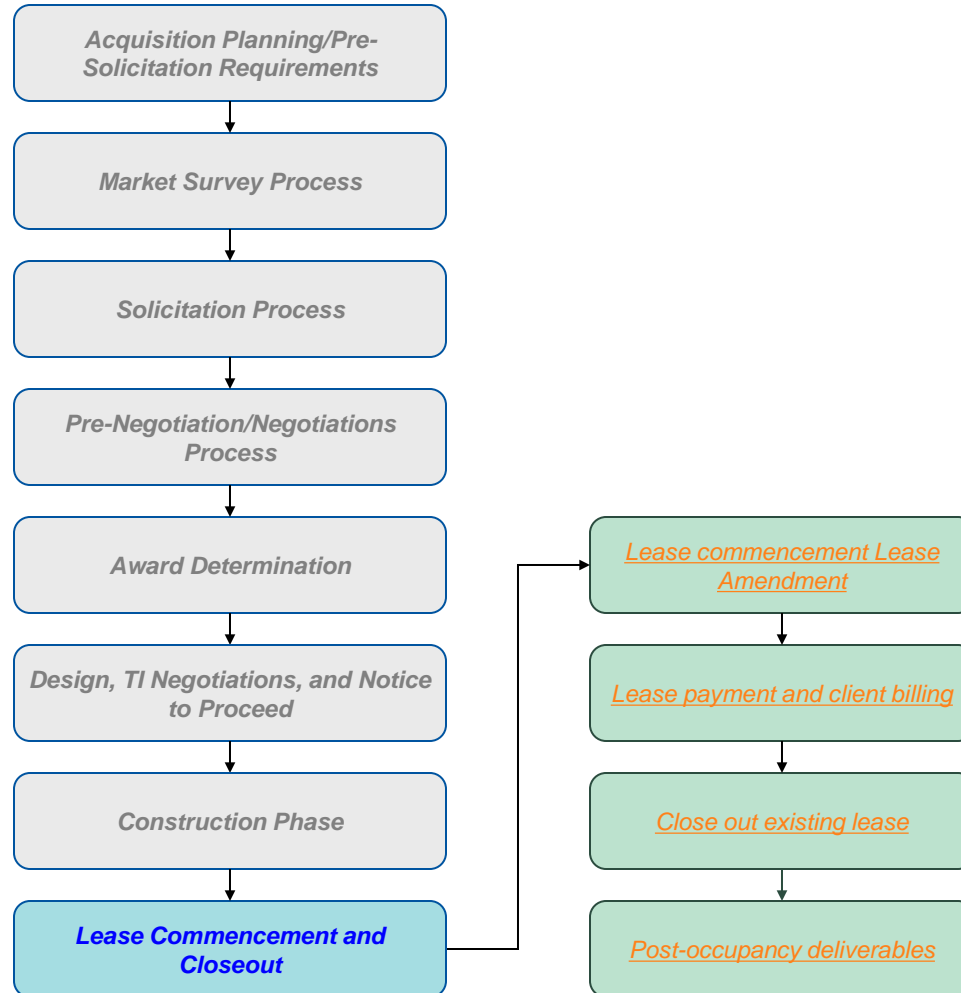
# Design, TI Negotiations, and Notice to Proceed



# Construction Phase



# Lease Commencement and Closeout



# PBS Milestone Report

	<i>Task</i>	<i>Est. Days for Phase Completion</i>
<b>Requirements Development</b>	Customer Request Requirements Finalized (90 Days) Acquisition Plan Finalized (15 Days) Initial Financial Assessment with Signed Customer Draft OA (15 Days)	120 days
<b>PreSolicitation</b>	Advertisement Placed & Responses Evaluated (30 Days) Market Survey Process (15 Days)	45 Days
<b>Solicitation</b>	Transmittal of Solicitation Package (21 Days) Receipt of Initial Offers (30 Days) Signed OA Document for Award (75 Days) Lease Award (14 Days)	140 Days
<b>Design and TI Negotiation</b>	Design Intent Drawings Complete (60 Days) Customer review and acceptance of Construction Drawings (60 Days) Initial TI Bids Received (30 Days) TI Costs Approved and NTP Provided (60 Days)	210 Days
<b>Construction &amp; Occupancy</b>	Substantial Completion Acceptance of Space (120 Days) Lease Term Commencement (0 Days) Occupancy (6 Days) Punch List Complete (14 Days)	140 Days

# Key Leasing Resources

- ▶ Publicly Available Policy and Portfolio Information
- ▶ General Services Acquisition Manual (GSAM) and Federal Acquisition Regulations  
<http://www.acquisition.gov/index.asp>
- ▶ Leasing Desk Guide:  
<http://www.gsa.gov/portal/content/163635>
- ▶ Lease Inventory:  
<http://www.gsa.gov/portal/content/101840>

# Questions?

Ken Schelbert

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(202) 501-1109







# Artificially Intelligent Computer Wins in 2011





How have/will these changes impact our workplace?

HAVE  
BIG,  
Hairy,  
AUDACIOUS  
GOALS.

[thingsweforget.blogspot.com](http://thingsweforget.blogspot.com)





# Perception



# Reality





**March 2013:** OMB issued its *Freeze the Footprint* guidance requiring:

- A Revised Real Property Cost Savings and Innovation Plan
- An Annual Agency Evaluation



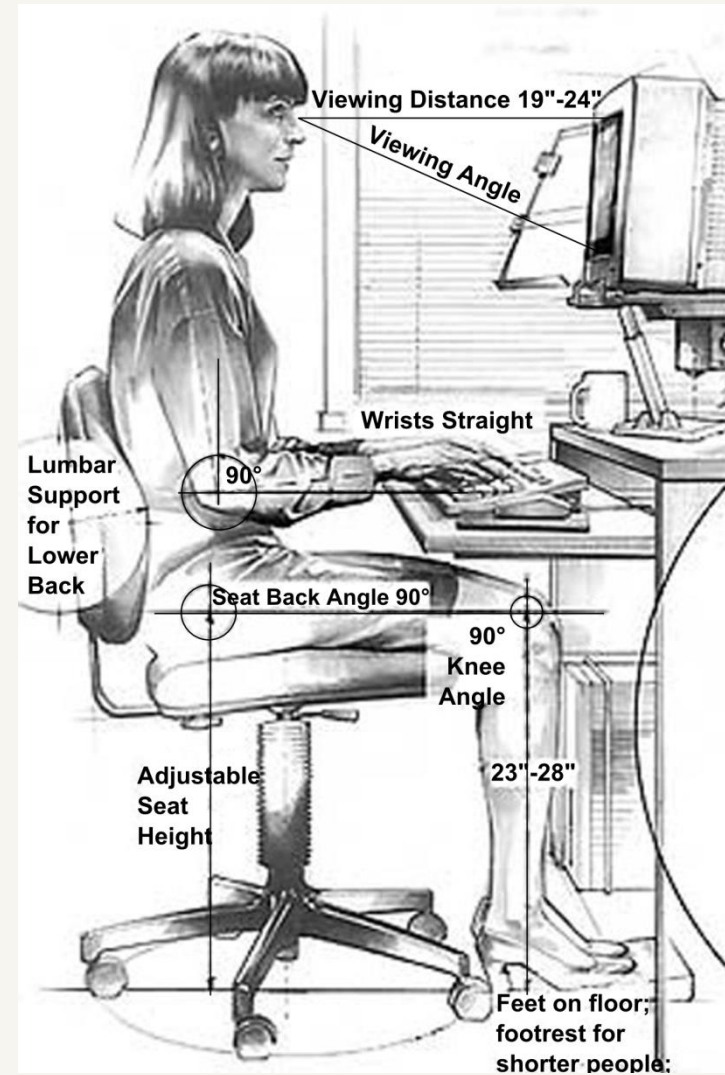
How will this work for me?



# Pre-Decisional Involvement

**GSA met with national representatives from AFGE & NFFE for 3 days in November 2013 with the following purpose and outcomes:**

- Present the initiative/problem statement
- Establish open and clear communication
- Exchange ideas that will be used in the development of a national space allocation/implementation policy
- Develop recommendations for best practices and suggestions for policy components
- Identify and respond to questions & concerns



## Acoustics | Privacy | Ergonomics

# Internal Space Allocation Policy

**GSA created an Internal Space Allocation Policy with Input its National Labor Unions, Regional Champions, Regional Commissioners, and Service and Staff Offices**

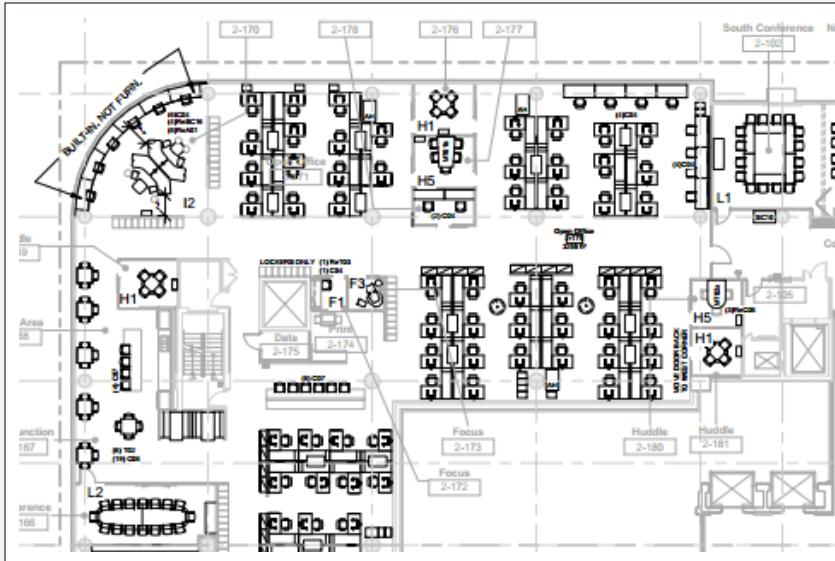
- Establishes clear roles and responsibilities
- Sets 136 usf/person allocation limit on all new projects
- Establishes a space utilization target of 70%
- Establishes workstations sizes
- Limits private offices
- Focuses on design quality, including privacy, acoustics and ergonomics

# Pre-Decisional Involvement

GSA conducted a survey to solicit feedback from the Unions on the 3-day PDI session

**100%** of participants' rated the following a 5 out of 5

- I felt engaged and my ideas/input valued.
- The discussion topics were helpful and relevant.
- The content and design of the agenda was effective.
- The working group was a really positive experience.



**Region 6 Kansas City, MO**  
**Regional Office (Lease)**  
**Two Pershing Square**  
 Anticipated Completion: Q2, 2015

**Before**

- 264,653 USF | 284 USF/Per
- 1:1 Desk-sharing ratio
- (42) Workplace Scorecard

**After**

- 132,072 USF | 131 USF/Per
- 1.19:1 Desk-sharing ratio
- (97) Workplace Scorecard

**\$12.7m**

Total Cost (Estimated)

**\$2m**

Annual Rent Savings

**8**

Yr(s) Simple  
Payback

**51%**

Reduction in  
Space Allocation

**103%**

Improvement in  
Design Quality





## More for Mission

- GSA's Headquarters consolidation eliminated approx. \$25 million in annual lease payments – equivalent to the cost of approx. 200 employees





**What are the challenges ahead?**



**March 2015:** OMB issued its *Reduce the Footprint* guidance requiring:

- A 5-year Real Property Efficiency Plan (Draft due July 10<sup>th</sup> | Final due Sept. 10<sup>th</sup>)
- A space design standard for office space
- Reduction targets for office and warehouse space







# Interest Based Bargaining

How Professional Negotiators  
Achieve Greater Success

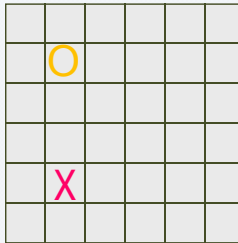
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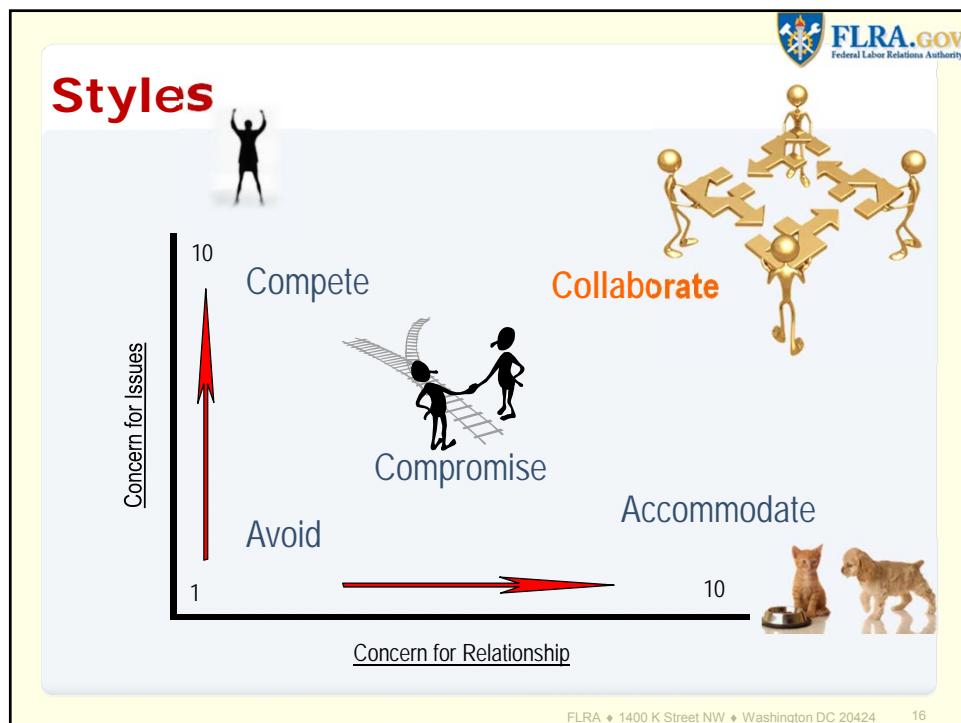
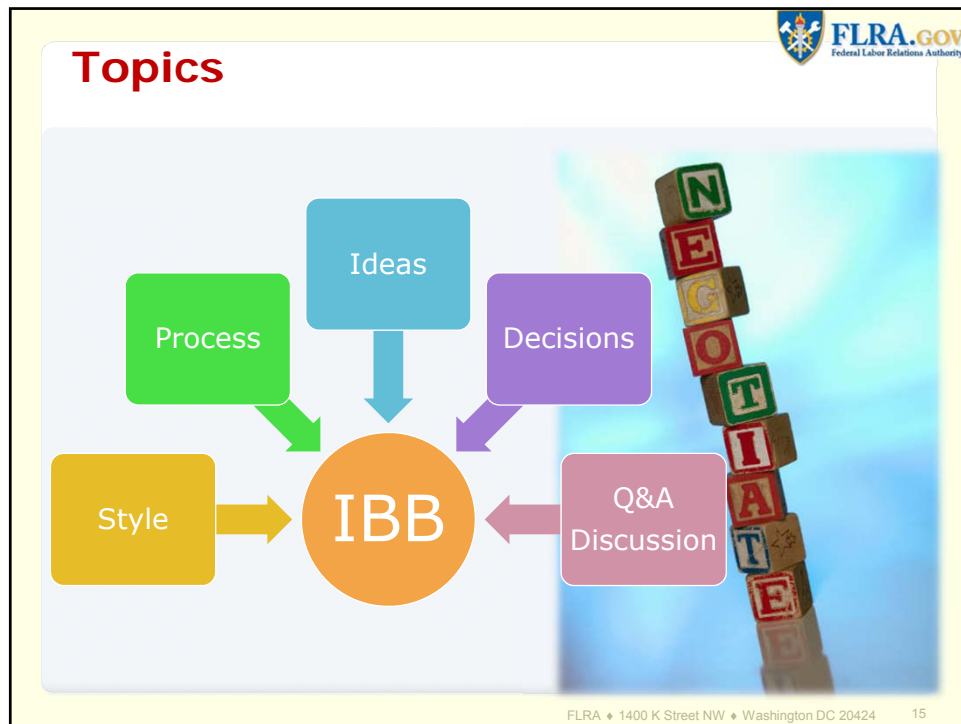
## How to Succeed

- Grid 6 across, 6 down
- X's and O's
  - Goal: 5 in a row, as many rows as possible horizontal, vertical, diagonal
  - 15 moves each
  - 15 sec. per move
  - 1 min. to prepare
  - No talking while preparing!



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# Interest Based Bargaining

## Tools for Successful Representatives

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### What Is IBB?

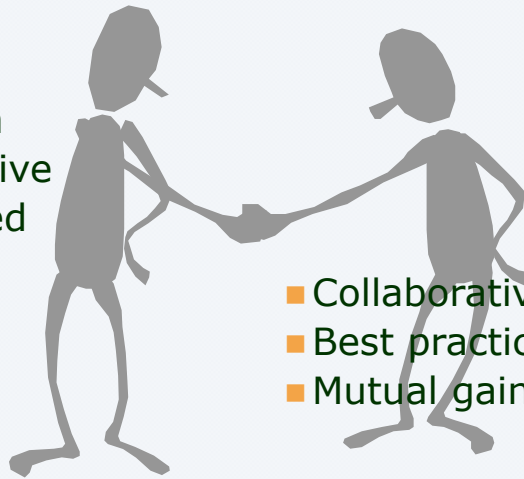
More than a dispute resolution tool

- "P.A.S.T."
  - **S**teps & **T**echniques: *AS NEEDED*
  - **P**inciples & **A**ssumptions: *ALWAYS*
- Foundation for a relationship defined by what you **both** win
- Add value to
  - Business **operations**
  - Quality of **work life**

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## IPBS Also Is Called ...

- Win-Win
- Integrative
- Principled
- IBN
- IBPS
- IBR
- Collaborative
- Best practice
- Mutual gain

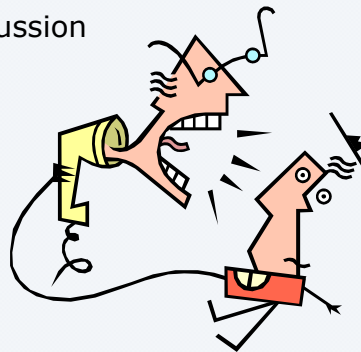


## Concepts

➤ **Issue** =

- Topic or subject of discussion
- Problem to solve

- ☐ Work rules
- ☒ Health care
- ☐ Job security
- ☐ Leave usage
- ☐ Wages



## Concepts

➤ Issue

➤ **Position** =  
one party's  
solution to the  
issue



**Position**

**Interests**

- = Legitimate concern
- = Why you care
- = Redefines meaning of SUCCESS!

- ☐ Issue
- ☐ Position
- ☐ Interest

☐ **Options =**  
Possible solutions that  
satisfy legitimate interests

## Concepts

- Issue
- Position
- Interest
- Option

➤ **Standards =**  
objective standard to  
compare/judge options





## “P.A.S.T.”

### ➤ Principles, Assumptions, Stages & Techniques

*Skilled* people use to achieve  
*Positive* results for *all* stakeholders.

## IPBS Principles

- Attack **ISSUES**, not
- Focus on **INTERESTS**, not
- Create **OPTIONS** to satisfy mutual and separate
- Evaluate options with **STANDARDS** --  
not -- when seeking **SOLUTIONS**

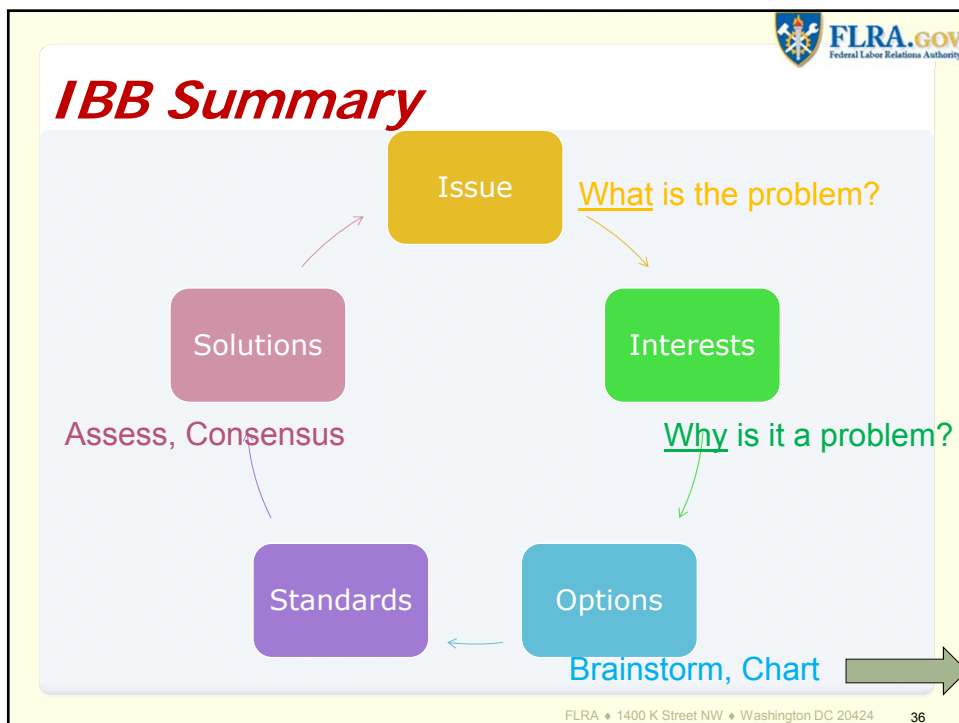
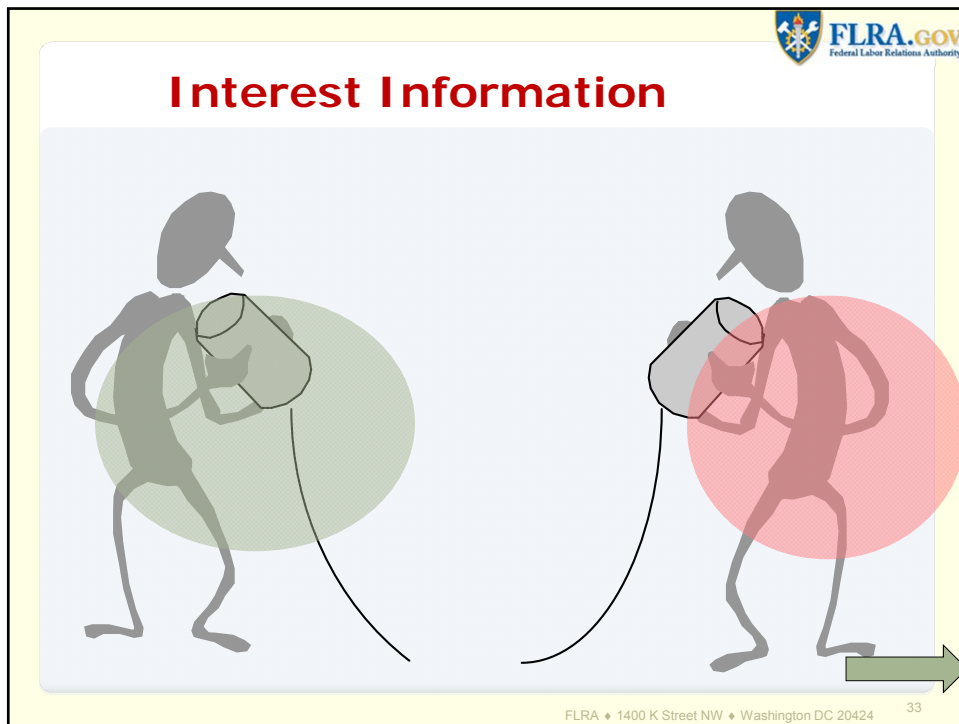
## Traditional Assumptions

- Limited pie in traditional bargaining
  - To get a bigger slice, I must make you take
- To win, I must make you



## IPBS Assumptions

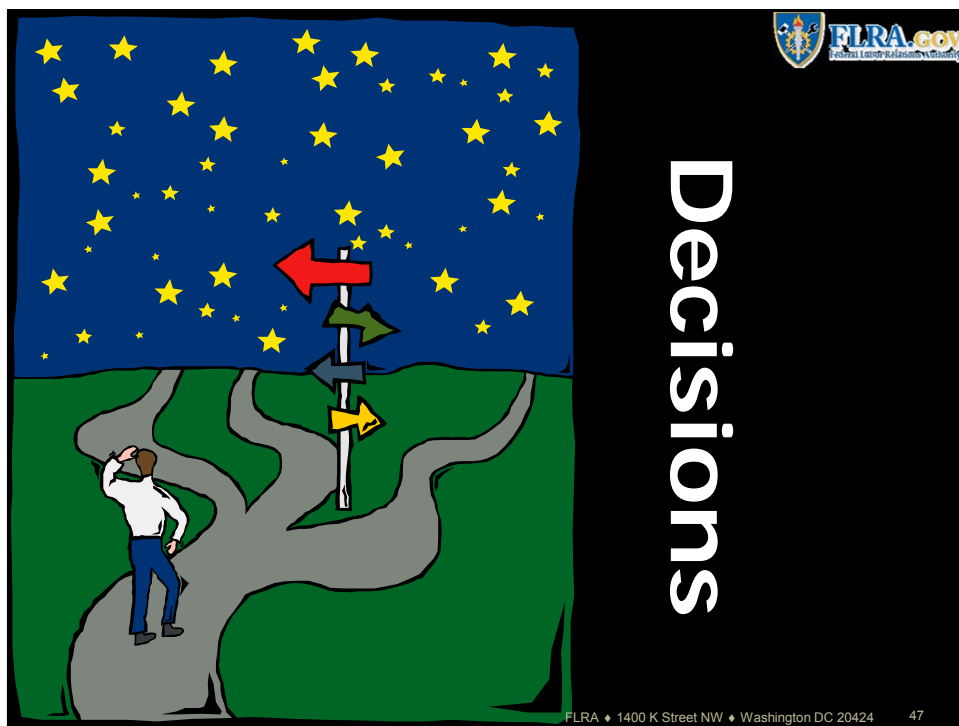
- Bargaining relationships
- Both parties must
- Parties must each other win
- must replace power when selecting solutions
- Parties must interest information

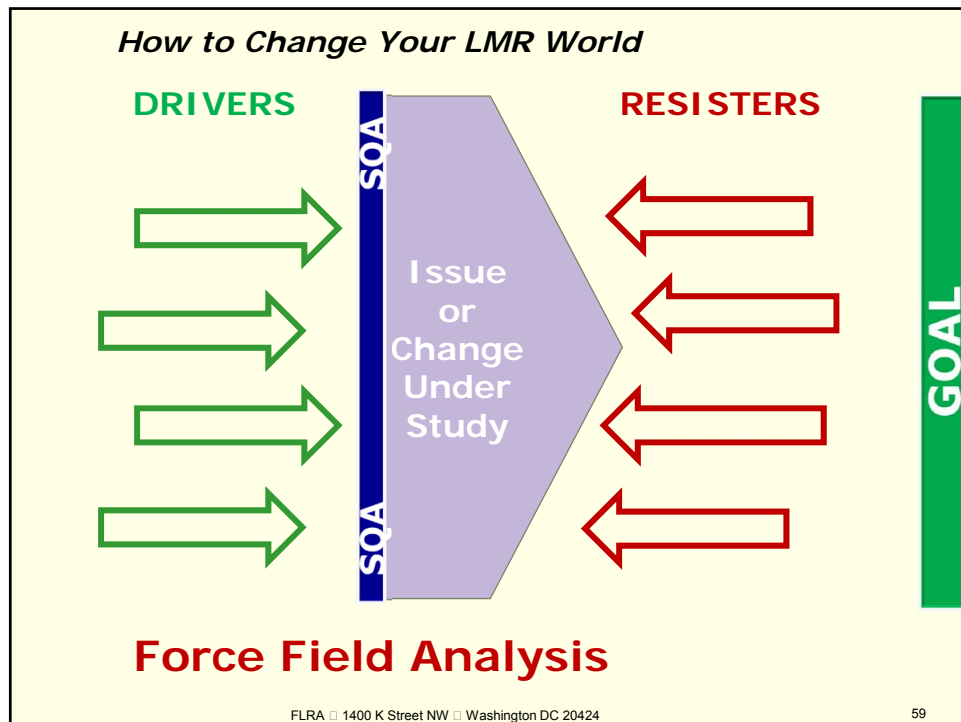


## You Can Be Most Successful If You

- Cooperate
- Be creative
- Engage each other
- Change the rules
- Take risks
- Eliminate "us" verses "them"
- Get out of the box
- **Redefine what it means to "win"**
- Work together for joint success







**LMR Team**

1. ID Key Drivers & Resisters
2. Rank resisters
3. ID top resisters to convert to drivers
4. ID next steps

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## Not Covered in Orientation!

10:10	• Collective Bargaining Under the CSRA
11:15	• Traditional Bargaining Methods
9:40	• IBB: How to Prepare & Engage
10:30	• Bargaining Exercises
12:30	• IBB Skills (Bstorm, Consensus, Charting)



## Q&A, Discussion





# Federal Labor Relations Authority Office of the General Counsel

*Pre-Decisional Involvement  
and Office Moves*





# What is Pre-Decisional Involvement?

- When Management is going to make a change in working conditions, it doesn't wait until the plans for the change are complete, and it is ready to implement, before giving notice to the Union.
- Instead, Management brings in the Union at an earlier time in the decision-making process.



# What is Pre-Decisional Involvement?

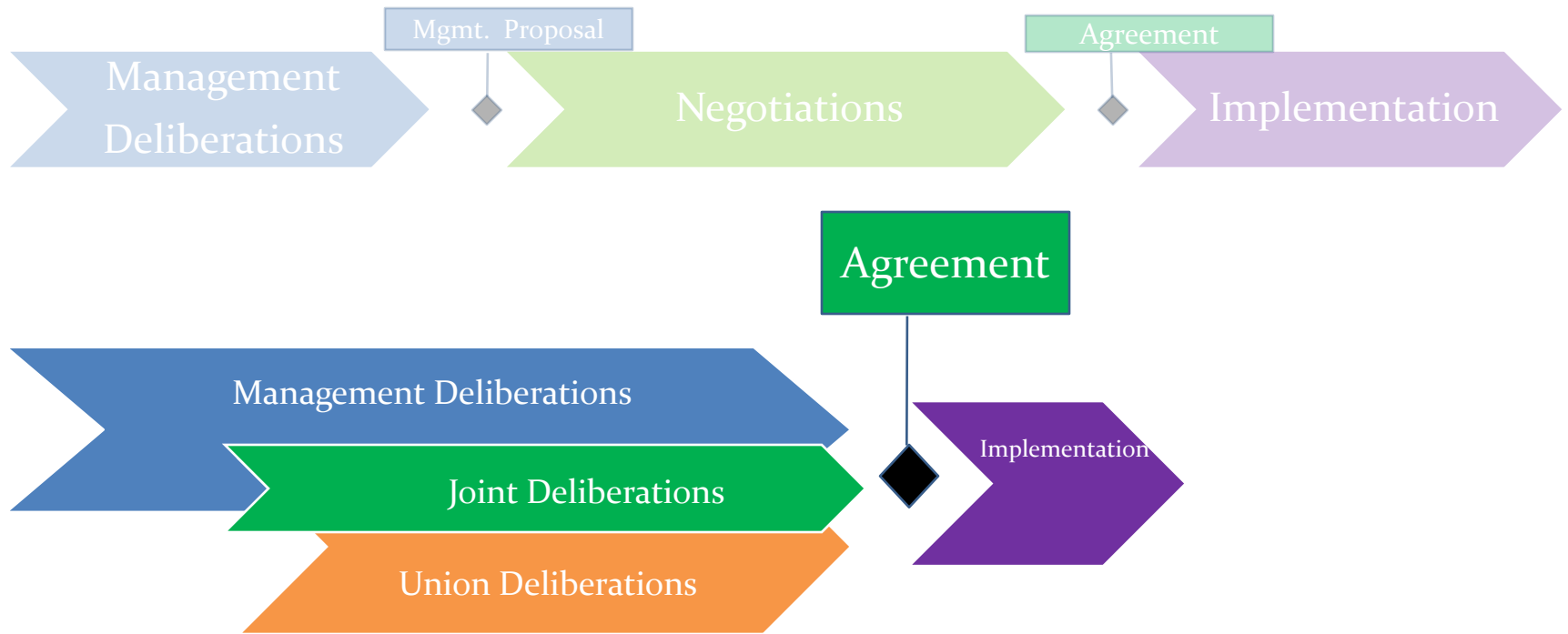
- When the parties meet to discuss the policy or the change, they don't engage in traditional bargaining; instead, they engage in joint problem-solving.
- The parties share information, to the extent possible, in order to help the decision-making process
- If the parties reach an agreement, there may be no need for any traditional collective bargaining on the subject afterwards.



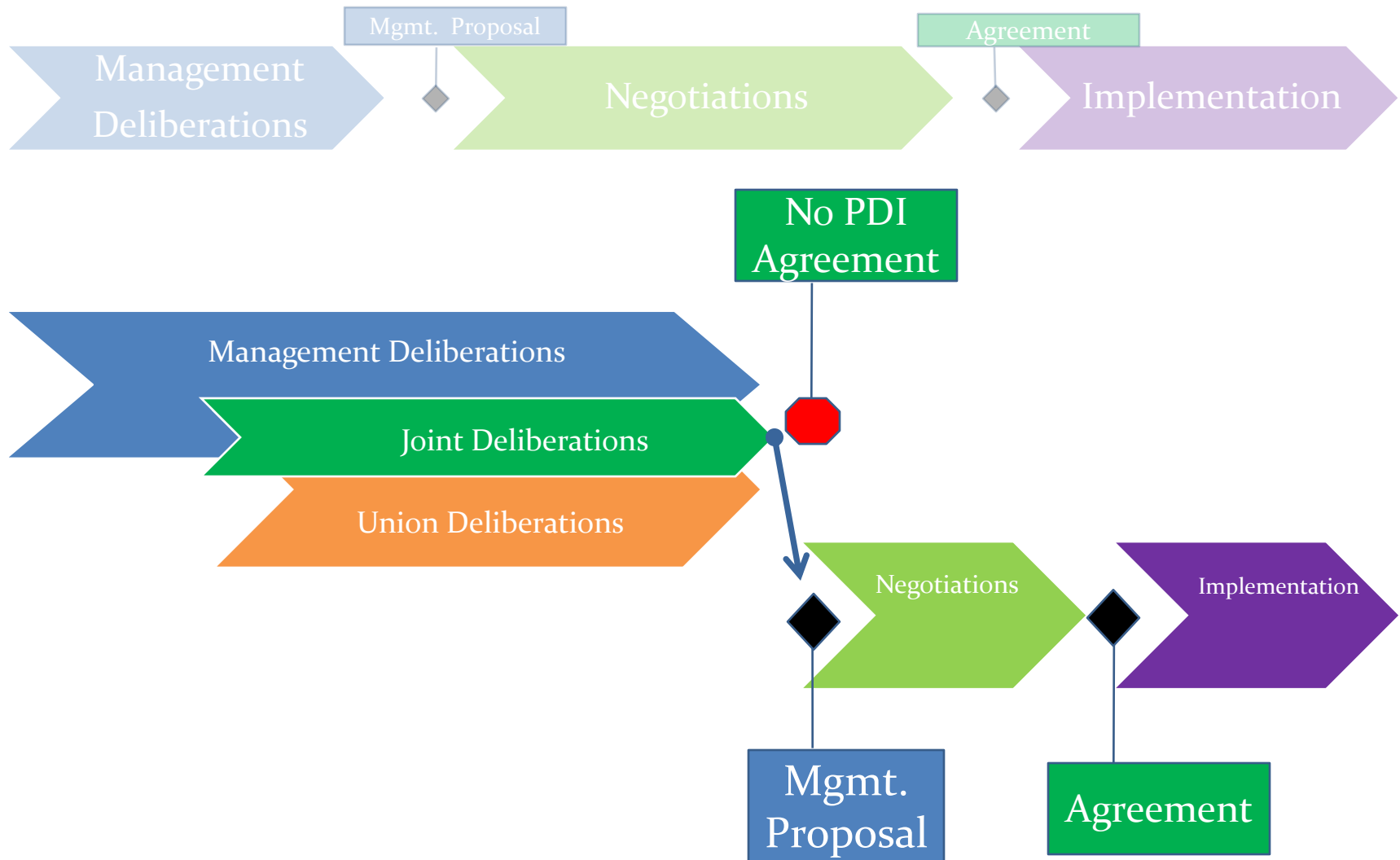
# Traditional Negotiation Process



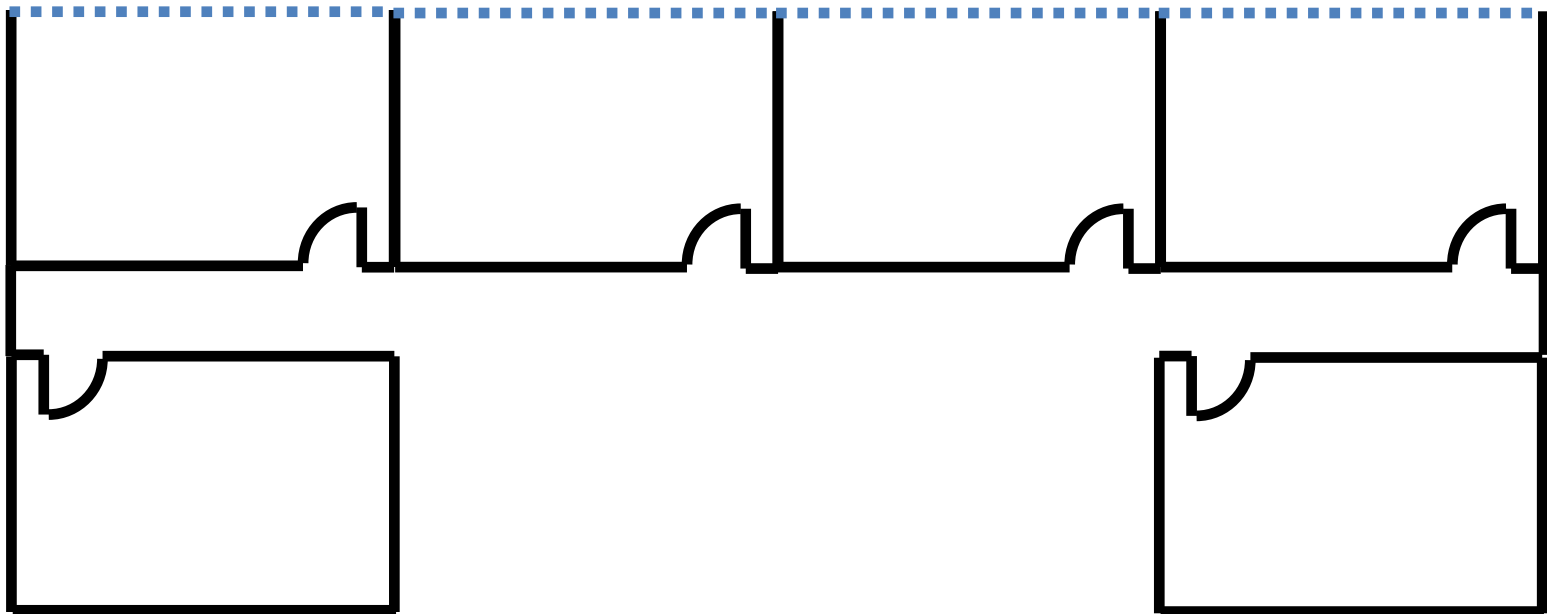
# Pre-Decisional Involvement



# Pre-Decisional Involvement

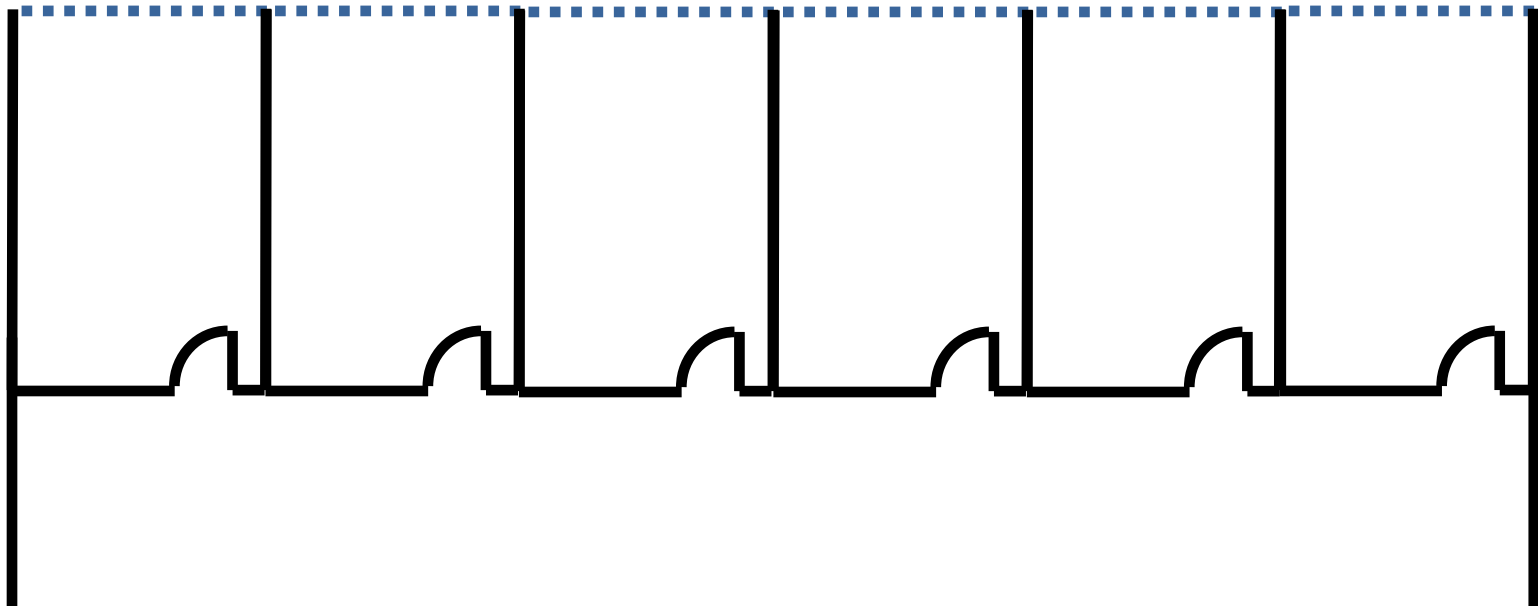


Example: *Who gets the window offices?*





Example: *Who gets the window offices?*



# Multi-Phase PDI

- Some issues, such as space allocation, involve multiple, distinct, sequential decisions
- For example:
  - You can't decide how offices are going to be assigned until you know what the space is going to look like.
  - You can't decide what the space is going to look like until you know which space you're moving into.
  - You can't decide what space you're moving into until you've decided what your requirements are.
- Each stage provides an opportunity for PDI



# Multi-Phase PDI

- Method of PDI may vary depending on the phase
- Early phases – input and information-gathering
  - PDI is utilized to provide input into management decision
  - Parties understand that PDI may not result in a binding agreement
- Post-lease phases
  - Parties engage in PDI in hopes of reaching agreement in lieu of I&I bargaining



# Multi-Phase PDI

## *Example*

- Input PDI during:
  - Gathering Preliminary Requirements / Needs Assessment Phase
  - Employee Survey Phase
  - Presenting Concepts / Refining Options
- Problem-Solving PDI during:
  - Design Phase
  - Construction/Build-out/Move-in Phase



# PDI – Key Aspects

- Union is brought in early
- Parties act as problem-solvers
- Parties use interest-based principles
- Parties share information to the extent possible, with a mutual understanding of what information must remain confidential
- Questions as to rights are not appropriate at this stage





# Pre-Decisional Involvement

## 4 Requirements for Successful Use

- The parties share a mutual appreciation of why it is in their interest to use pre-decisional involvement.
- The parties have a common understanding of how pre-decisional involvement will work.
- Labor relations are structured in a manner that supports pre-decisional involvement.
- The parties have similar expectations as to the outcomes expected from pre-decisional involvement and how those outcomes will be implemented.



# Advantages of Using Pre-Decisional Involvement

- For agencies, pre-decisional involvement:
  - Provides early access to ideas from employees,
  - Eliminates the need for traditional bargaining in some cases, and results in more efficient negotiations when bargaining is necessary, and
  - Facilitates implementation.
- For labor organizations, pre-decisional involvement:
  - Promotes early access to information,
  - Provides an opportunity to influence decision makers, and
  - Provides a seat at the table to present and address employee concerns.



# Common Expectations

- What is the structure of the PDI process?
  - Who?
    - Formal standing committee or informal *ad hoc* workgroup?
    - Who will be on the committee / workgroup?
  - What authority?
    - Does the committee / workgroup have decision-making authority?
    - Does it strictly make recommendations?
      - What happens to these recommendations?



# Common Expectations

- What happens when pre-decisional involvement is concluded?
- Input or Decision-Making?
- Agreement or Recommendation?
  - Consensus reached
    - Proceed to implementation without further bargaining
    - Recommendation accepted by principals
    - Recommendation modified and accepted
  - No Consensus reached
    - Revert to proper place in existing labor-management relationship
    - Statutory bargaining may be required



# Pre-Decisional Involvement

## Summary of Steps

- Decide when to engage and on what issue.
- Understand relationship between pre-decisional involvement and collective bargaining.
- Decide on the structure of the process.
- Utilize interest-based principles to develop solutions.
- Utilize interest-based principles to address issues that arise during implementation.
- Evaluate actions and measure benefits achieved.







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Federal Mediation and Conciliation Service

# Collaboration and P.D.I.





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# Office Moves: The Issues Before Us



and ways to address them...



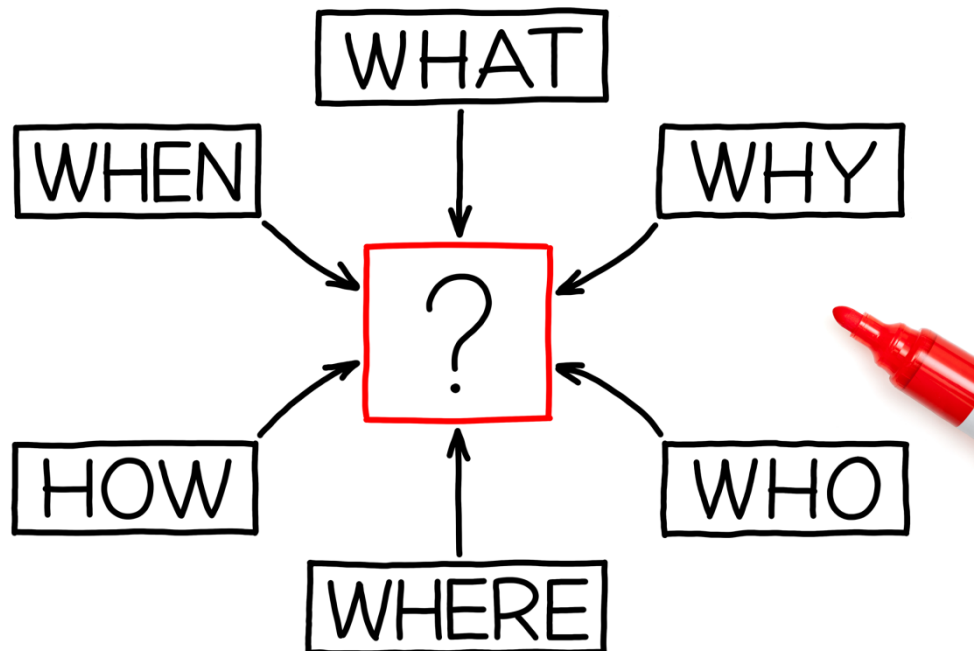
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# Office Moves: Questions to Ponder

Office Moves...

- What issues of mutual interest may arise?





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# Office Moves: Questions to Ponder

- What is preferable to you and your constituencies/stakeholders?
  - A. Resolve with mutual agreement using a resolution timeline controlled by you?

Or

- B. A resolution timeline that is indefinite and/or determined by someone other than you?

***You do have a choice!***



# Collaborative Approaches

- Improved Communication Skills
  - ***Active Listening is key***
- Problem-Solving processes
  - ***Interest-Based Approaches***
  - ***Problem-Analysis Tools***



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Federal Mediation and Conciliation Service

# Collaborative Approaches

- The value of facilitation
  - ***Have someone focused on process and keeping the group on task***





# Collaborative Approaches

- Key commitments
  - ***Personal accountability in the process;***
  - ***Mission-driven and value to the American people;***
  - ***Recognizing the human dynamics involved; and a willingness to support each other***



# Collaborative Approaches

- When can you use them?
  - *In bargaining*
  - *With PDI*
  - *Anytime!*

*It's just good problem-solving*



**FMCS**

Federal Mediation and Conciliation Service

# Federal Mediation and Conciliation Service

The Role of FMCS in Federal Sector  
Bargaining and Labor Relations



**FMCS**

Federal Mediation and Conciliation Service

# Role and Function of the FMCS in Federal Sector Labor Relations





# FMCS

Federal Mediation and Conciliation Service

## Statutory Mission: Taft-Hartley Act



Originally created in 1947  
as an Independent  
agency under the  
Taft-Hartley Act





**FMCS**

Federal Mediation and Conciliation Service

# Statutory Mission: Taft-Hartley Act



Neither a regulatory nor an enforcement agency, but a neutral party designed to assist labor and management





# FMCS

Federal Mediation and Conciliation Service

## FMCS Mission: Taft Hartley Act



Promote sound and stable labor-management relations;

Prevent or minimize work stoppages;

Advocate collective bargaining, mediation, arbitration;



**FMCS**

Federal Mediation and Conciliation Service

# FMCS Mission: Taft Hartley Act



Advocate the art,  
science and practice of  
ADR;

Provide conflict  
resolution services;

Foster improved labor-  
management  
relationships



**FMCS**

Federal Mediation and Conciliation Service

# FMCS Structure



## **Acting Director Allison Beck**

was appointed by the President of the United States, and reports directly to the President



# FMCS

Federal Mediation and Conciliation Service

## FMCS Structure

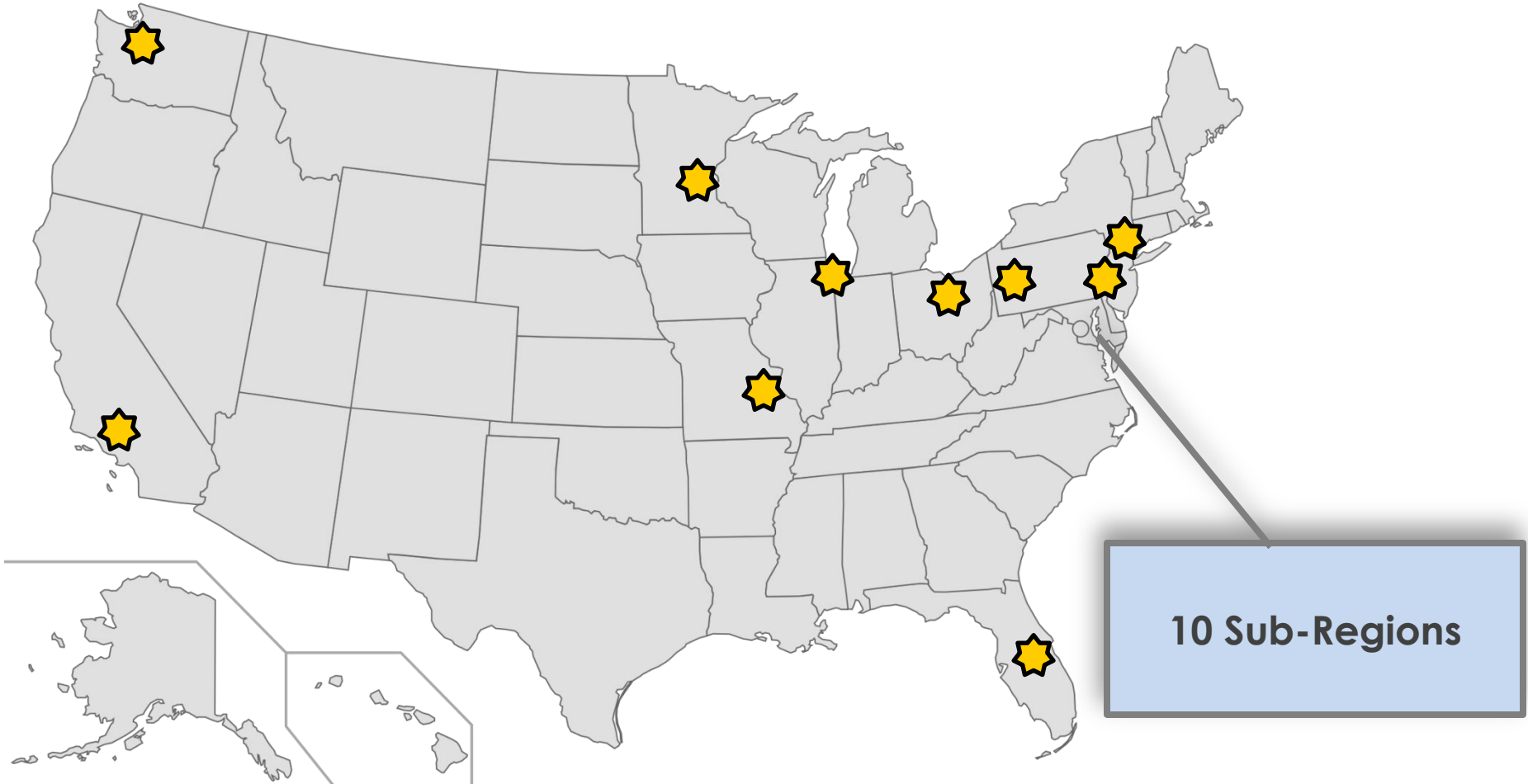




# FMCS

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## FMCS Structure



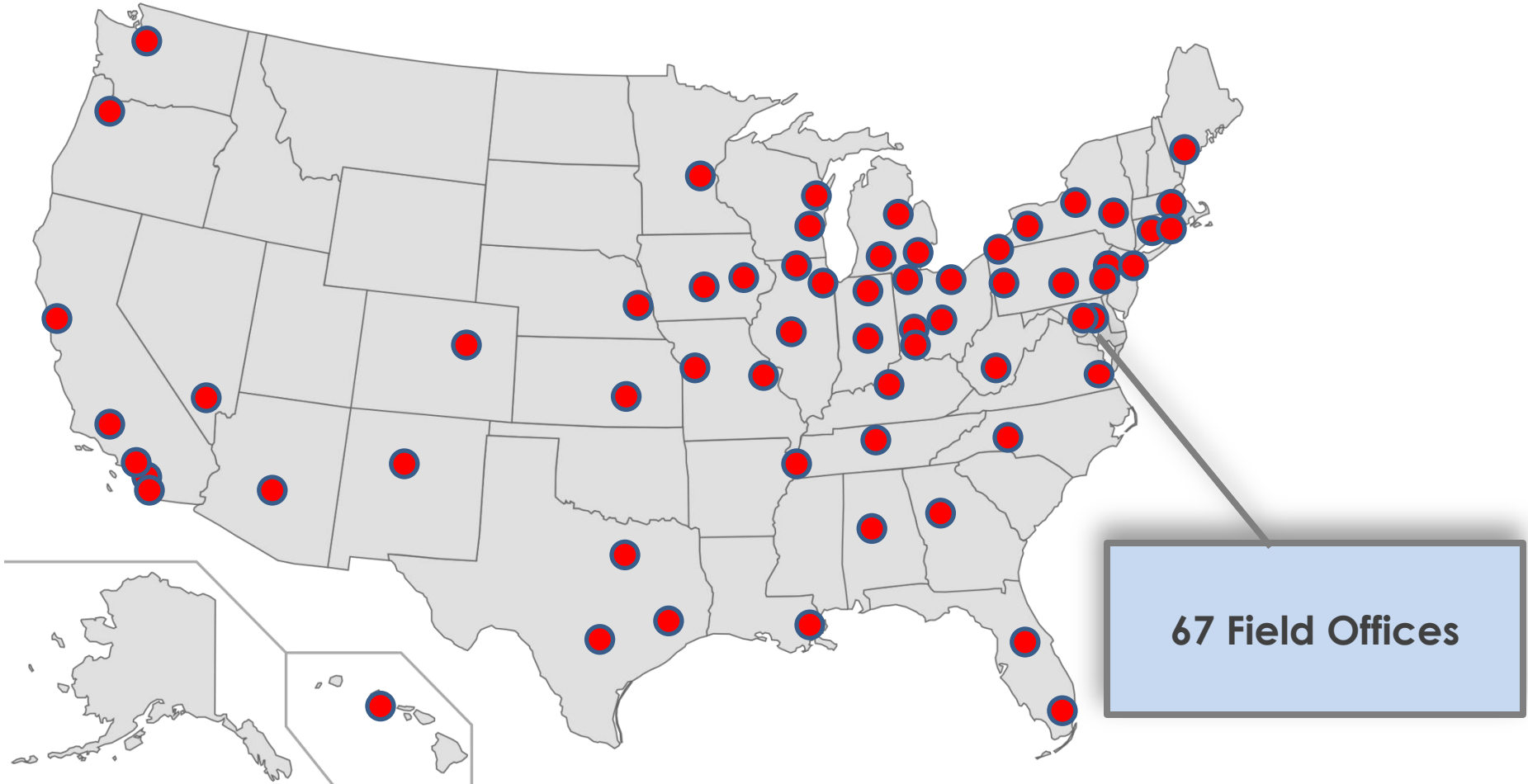




# FMCS

Federal Mediation and Conciliation Service

## FMCS Structure







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# How Can Mediation Benefit You?

Mediation, the use of a third-party neutral, can help you “bridge the gap.”



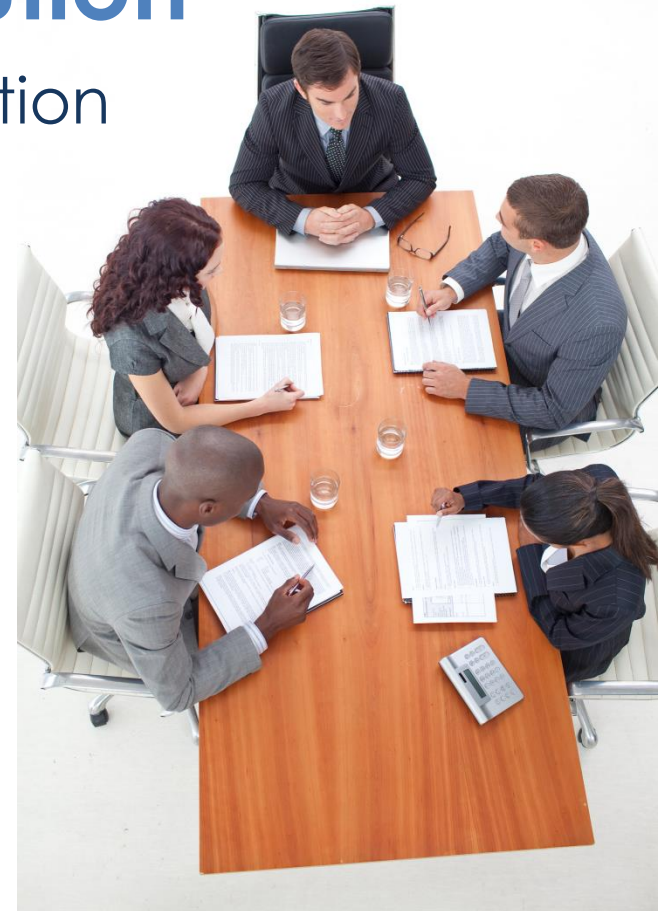


# FMCS

Federal Mediation and Conciliation Service

## Mediation: An Effective Tool for Conflict Resolution

- Parties retain control of resolution
- Voluntary (in most cases)
- Informal vs. formal process
- Time efficient
- Cost effective







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# A Mediator Can...

## Help Parties

- Clarify issues
- Define problems
- Generate options
- Explore alternatives





# FMCS

Federal Mediation and Conciliation Service

## A Mediator Can...

### Help Parties

- Keep Talks Moving Forward
- Make Suggestions







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# A Mediator Can...

## Help Parties

- Establish Realistic Expectations





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# FMCS and Federal Labor Relations

- Federal Labor Relations Statute
  - Includes the role of the mediator
- Executive Order 13522





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# The Federal Labor Relations Statute

## § 7119.

- (a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses.

The Service shall determine under what circumstances and in what manner it shall provide services and assistance.



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## Mediation vs Arbitration

- No Authority to Impose Settlement
- Assists the parties in crafting their own settlement
- Ability to discuss the dispute “Ex Parte”



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# Effective Use of a Mediator





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# When Should You Call the Mediator?

It depends... but

- It's important to allow enough time for mediator to understand the issues and dynamics
- Calling a mediator does not mean the process has failed



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# When Should You Call the Mediator?

It depends... but

- It's important to allow enough time for mediator to understand the issues and dynamics
- Calling a mediator does not mean the process has failed



## Effective Use of a Mediator

- Mediator attendance in separate caucus is important -- Needs to understand.
- Mediator attendance in a side bar is also important.





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# Effective Use of a Mediator

- Joint Sessions
- Caucuses
- Side Bars
- Reality Testing: BATNAs, WATNAs, and MLATNAs



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# Effective Use of a Mediator

A mediator's job includes:

- Helping parties identify
  - Interest
  - Concerns
  - Needs
  - Possible options for resolution



## Effective Use of a Mediator

A mediator's job includes:

- probing for specific information that will help analyze a demand;
- Helping parties determine what will be gained both short term and long term (don't want to focus on winning a battle and lose the war mentality), and...



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# Effective Use of a Mediator

A mediator's job includes:

- keeping lines of communications open. Mediators will also occasionally offer alternatives to the parties for consideration.



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## FMCS: How Can We Help You?





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# FMCS Services for Federal Sector

Provided without cost to the parties:

- Collective Bargaining Mediation
- Grievance Mediation
- Relationship Development and Training
- Education and Outreach
- Facilitation





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# FMCS Relationship-Building Programs

- Relationships by Objectives (RBO)
- Partners in Change (PIC)
- Customized programs



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# FMCS Services for Federal Sector

Provided on a Reimbursable Basis:

- Alternative Dispute Resolution for non-Collective Bargaining disputes (i.e., EEO)



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# Support for Executive Order 13522

- Joint training with FLRA on the EO
- Committee and Meeting Effectiveness
- Communication
- Interest-Based Problem-Solving
- Meeting facilitation



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# Interest-Based Negotiation and Problem Solving



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# Aim of Negotiations

- To reach desired and durable result
- To reach agreement efficiently and fairly
- To keep the relationship intact



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# Traditional Bargaining





## Traditional Negotiations

### Preparation:

- A Look Back – “Let’s get even”
- Data Sources – “Yours can’t be right”
- Mobilization – “Prepare for battle”
- Expectations – “Do what we can to get away with what we want”



## Traditional Negotiations

At the Table (continued):

- Opening Exchange-DEMANDS!
- Exaggerated Positions
- Withholding Information
- Limited scope (Confined to NLRB “Box”)
- “The enemy is within” perspective
- Focus is on Power and Control
- Reluctant agreements are considered “success”
- Settlements- Not Solutions



# Traditional Negotiations

Aftermath:

- Less than Optimal Agreement
- Resentment – Revenge
- Game Playing
- Unwillingness to Implement



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# Interest-Based Negotiations



## Tenets of IBN

- Ownership in the solution
- Ease of implementation
- Consistent with organizational values and norms



## IBN Terminology

- **Issue:** A problem or subject area to be addressed
- **Position:** One's proposed solution to an issue. A solution to a problem or concern which is crafted to meet one party's interests





## IBN Terminology

- **Interest:** An underlying motivation, concern or need that must be considered in reaching a mutually satisfactory solution. Interests are what cause one to take a given position and often express why the issue is an issue in the first place



## IBN Terminology

- **Options:** Potential, often partial, solutions to satisfy one or more interests
- **Criteria:** Broad or general agreed-upon qualities of an acceptable solution.



## Steps of the IBN Process

- Step 1: Defining the Issue
- Step 2: Identifying Interests
- Step 3: Developing Options
- Step 4: Crafting a Solution



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# Distinguishing Interests from Positions



## Distinguishing Interests From Positions

- **Interests**

- The needs or concerns underlying the issue

- **Position**

- One party's solution to the issue



## Interests and Positions

- Interest Statement
  - Focuses on **why** the issue is an issue
  - Identifies one's true needs and concerns regarding the issue
  - Opens the way to a dialogue so the things one cares about can be discussed, understood and addressed





## Interests and Positions

- Position Statement
  - Focuses on **how** the issue should be resolved
  - May not reveal one's true needs and concerns regarding the issue
  - Can set up a confrontation: my way vs. your way



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# Tools and Techniques

- Active Listening
- Brainstorming
- Consensus



## Ground Rules for Effective IBN

- Focus on issues, not people
- Focus on interests, not positions
- Share information early and fully; don't wait to be asked for it
- Work hard at finding ways to meet all interests, including your own



## Ground Rules for Effective IBN

- Use interests and mutually acceptable criteria to reach the best solution
- Help each other manage risks and maximize benefits
- Participate fully
- Listen actively for understanding



## Final Thoughts

- **Adopt an unconditionally constructive strategy**
  - Even if “they” are acting irrationally and emotionally, balance your emotions with reason
  - Even if “they” are not listening and misunderstand you, try to understand them.
  - If the other party is trying to coerce you, neither give in to that coercion nor try to coerce them; be open to learning from them and try to persuade them.
  - Be reliable.

# Space Acquisition, PDI and the GSA Leasing Process

J. Kenneth Schelbert, Director  
Lease Policy, Strategy and Delegation Division  
Office of Leasing

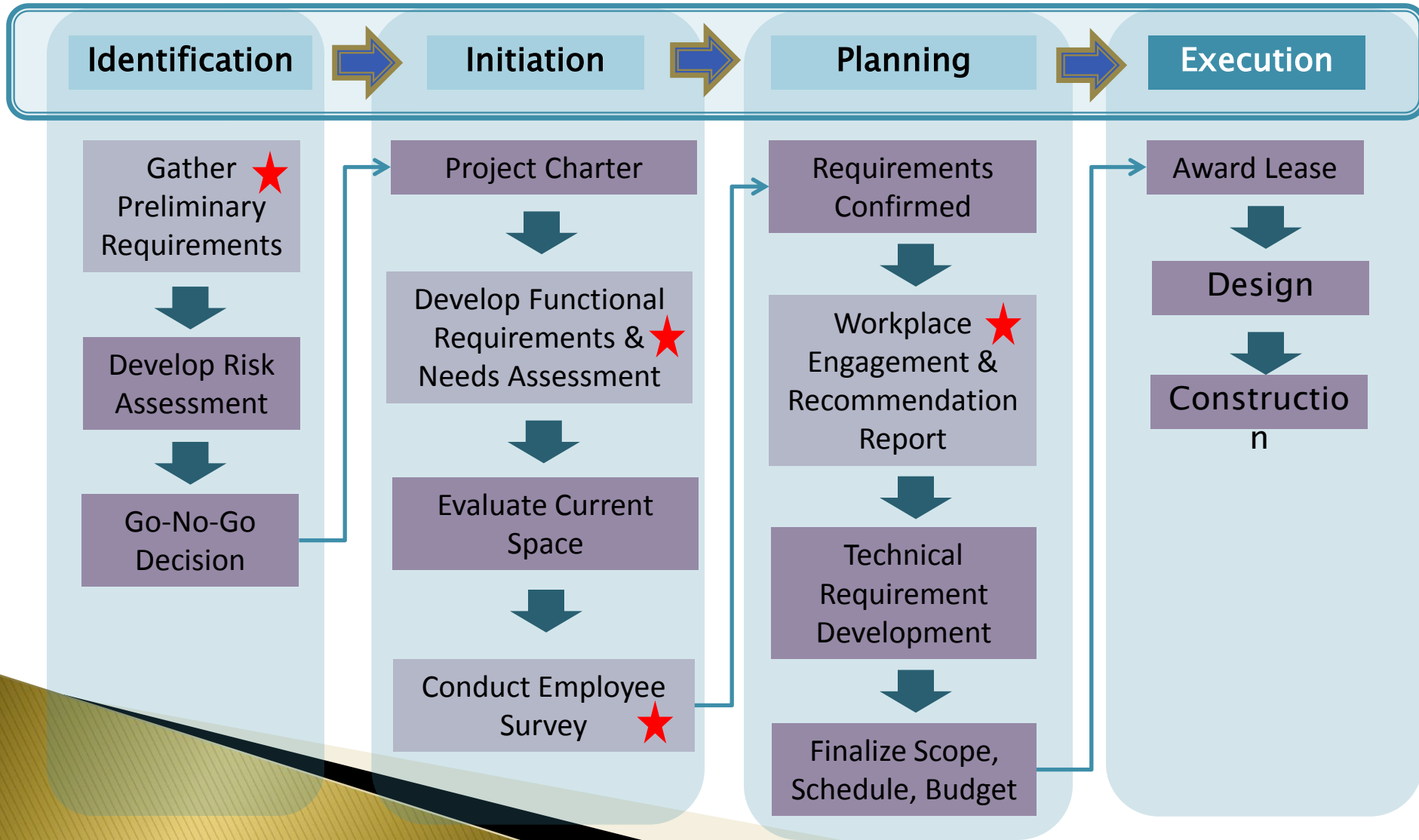
July 23, 2015

# Challenges in Space Acquisition

- ▶ Evolving Agency Missions, Changes in Technology, Work Practices
- ▶ Desirability of Federal Tenants
- ▶ Federally-owned versus Commercial Lease
- ▶ Constrained Agency Budgets – Cost Containment and Role of Space
- ▶ Procurement Challenges
- ▶ Requirements versus Desires
- ▶ Location Policies (EO 12072 and 13693)
- ▶ Freeze the Footprint/Reduce the Footprint



# Owned & Leased Space Project Lifecycle



# GSA Leasing Milestones

## Working Document

1. Customer Request
2. RWA Funds in Place for Prospectus Projects
3. Acquisition Plan Finalized
4. Initial Financial Assessment with Signed Customer Draft OA
5. Requirements Finalized
6. Issuance/Award of Task Order
7. Task Order Notice to Proceed
8. Advertisement
9. Market Survey Report Approval
10. Transmittal of Solicitation Package
11. Receipt of Initial Offers
12. Final Proposal Revisions Received
13. Price Negotiation Memorandum Approved
14. Signed OA Document for Award
15. Lease Award
16. Design Intent Drawings Complete
17. Design Intent Drawings Workshop Complete
18. Issue DIDs to Lessor
19. TI Costs Received/TI Negotiations Commence
20. Construction Drawings Received
21. Customer review and acceptance of Construction Drawings
22. TI Costs Approved and NTP Provided
23. Construction Kick-off/Progress Meetings
24. Substantial Completion
25. Acceptance of Space
26. Punch List Complete
27. Lease Term Commencement
28. Occupancy

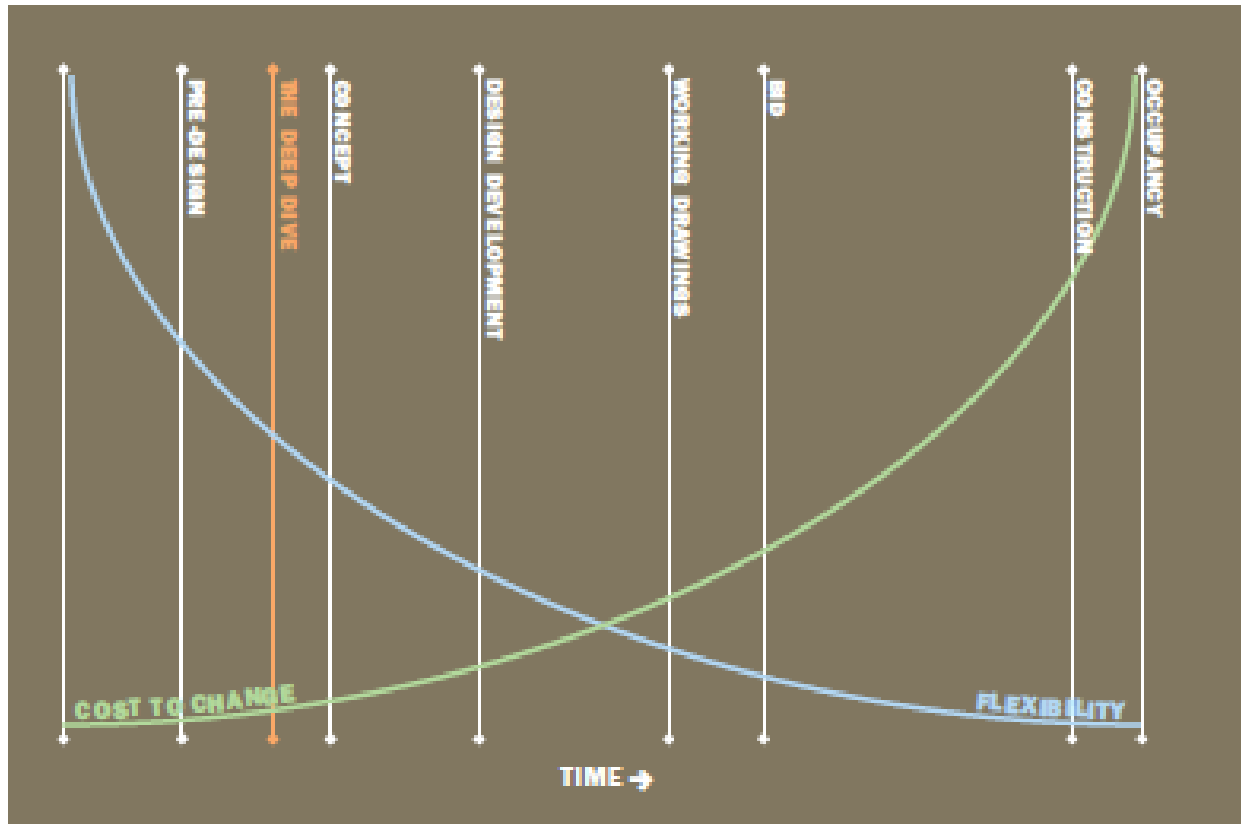
# Leasing Process

- ▶ Type of Space
  - Functional Requirement Based on Mission
  - How Much Space Based on Requirements
  - Focus on Increased Density in Utilization Ratios
- ▶ Location
  - Delineated Area – Larger Areas Often Required to Maximize Competition
  - Must Balance Mission Requirements with EO12072, 13693 & Rural Development Act
- ▶ Decision to Lease
  - After Determining No Federally-owned or Vacant Leased Space is Available

# Leasing Process (cont.)

- ▶ Comprises Four Distinct Life Cycle Phases
  - Planning
  - Procurement
  - Execution
  - Occupancy
- ▶ Prime Opportunity to Engage PDI and Impact Outcomes During the Planning Phase
- ▶ Once the Procurement is Underway, Changes Become More Difficult/Costly, Although Some Flexibility Still Exists

# The Flexibility to Cost Dichotomy



Note: PDI should occur during the planning and pre-solicitation phase. Flexibility to make changes decrease and costs to make changes increase as the procurement progresses.

# PBS Milestone Report

	<i>Task</i>	<i>Est. Days for Phase Completion</i>
<b>Requirements Development</b>	Customer Request Requirements Finalized (90 Days) Acquisition Plan Finalized (15 Days) Initial Financial Assessment with Signed Customer Draft OA (15 Days)	120 days
<b>PreSolicitation</b>	Advertisement Placed & Responses Evaluated (30 Days) Market Survey Process (15 Days)	45 Days
<b>Solicitation</b>	Transmittal of Solicitation Package (21 Days) Receipt of Initial Offers (30 Days) Signed OA Document for Award (75 Days) Lease Award (14 Days)	140 Days
<b>Design and TI Negotiation</b>	Design Intent Drawings Complete (60 Days) Customer review and acceptance of Construction Drawings (60 Days) Initial TI Bids Received (30 Days) TI Costs Approved and NTP Provided (60 Days)	210 Days
<b>Construction &amp; Occupancy</b>	Substantial Completion Acceptance of Space (120 Days) Lease Term Commencement (0 Days) Occupancy (6 Days) Punch List Complete (14 Days)	140 Days

# Pre-Solicitation Process

(Hint: this is the time for PDI)

- ▶ Acquisition Planning
- ▶ Advertisement
- ▶ Market Survey



# Solicitation and Negotiations Process

- ▶ Draft Request for Lease Proposals (RLP)
- ▶ Issue RLP
- ▶ Evaluate Offers
- ▶ Negotiation Objectives
- ▶ Negotiations

# Final Evaluation and Award

Request for Final Proposal Revisions

GSA Reviews and Evaluates Final Offers

GSA Identifies Apparent Successful Offeror  
and Sends Draft Lease Out for Signature

GSA Lease Contracting Officer Signs Lease

Build-out, Acceptance, and Move-In

Design, TI Negotiations, and Notice to Proceed

Construction Phase

Lease Commencement and Closeout

# Key Leasing Resources

- ▶ Publicly Available Policy and Portfolio Information
- ▶ General Services Acquisition Manual (GSAM) and Federal Acquisition Regulations  
<http://www.acquisition.gov/index.asp>
- ▶ Leasing Desk Guide:  
<http://www.gsa.gov/portal/content/163635>
- ▶ Lease Inventory:  
<http://www.gsa.gov/portal/content/101840>

# Questions?

Ken Schelbert

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(202) 501-1109



UNITED STATES OF AMERICA  
**FEDERAL LABOR RELATIONS AUTHORITY**  
WASHINGTON, D.C. 20424

**OFFICE OF THE SOLICITOR**

**VIA E-MAIL**

September 22, 2017

This refers to your request under the Freedom of Information Act dated August 21, 2017, and received on September 5, 2017, in the Solicitor's Office of the Federal Labor Relations Authority (FLRA). In your request, you seek "a digital copy of the Training Materials developed on collaborating and negotiating over space-related matters such as office layout, work space allocations per employee and equipment."

Pursuant to § 2411.7 of the FLRA's regulations, 5 C.F.R. § 2411.7, your request has been granted. Enclosed are training materials related to office moves and interest-based techniques to address space-related matters. You can also find additional information in FLRA's other negotiability training materials on FLRA's website: <https://www.flra.gov/resources-training/training/course-materials>.

There are no charges associated with processing your request pursuant to § 2411.13(b)(4) of the FLRA's regulations, 5 C.F.R. § 2411.13(b)(4).

Sincerely,

s/ Zachary R. Henige  
Zachary R. Henige  
Deputy Solicitor  
Federal Labor Relations Authority



# **U.S. Nuclear Regulatory Commission (NRC) & National Treasury Employees Union (NTEU)**

***Presenting at the FLRA/OGC/FMCS/GSA Workshop on  
Office Moves and Space Allocations:  
Labor Relations and Collective Bargaining  
Implications***

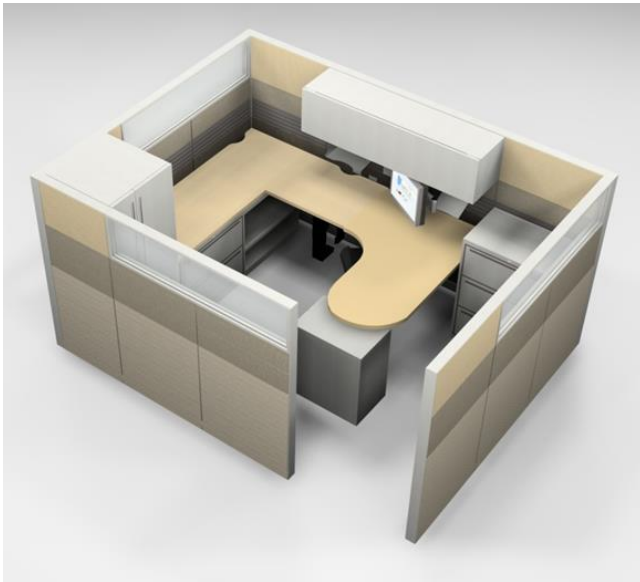
**July 23, 2015**





# BACKGROUND

- NRC has 3 Headquarters buildings (OWFN, TWFN, and 3WFN), 1 storage facility, 4 regional offices, and 1 training facility.
- All NRC bargaining unit employees are represented by NTEU Chapter 208. NTEU and NRC have partnered throughout the consolidation process.



# NRC SPACE & MOVE HISTORY

- In 2006/2007, NRC had a space shortage
- NRC added 5 satellite facilities, negotiated more than a dozen MOU's
- Obtained approval for a new building at 3WFN
- Planned and built 3WFN and negotiated moves to 3WFN
- OCHCO moved into 3WFN in December 2012
- Outside forces stopped all other moves that were scheduled to be completed in Spring of 2013
- Contingency plans to reconsolidate to OWFN and TWFN
- Planning for future space needs

# STRATEGIES FOR SUCCESS

- Communication
- Cooperation
- Trust



# COMMUNICATION



- Designate an agency and a union **point person** who are available to address questions/concerns specific to office space issues
- Point person must:
  - Be available
  - Be responsive
  - Understand the issues
  - Have access to decision-makers and technical experts

# COMMUNICATION



- Discuss decisions and issues **early** to avoid unnecessary delays or confusion
- Communicate **regularly** with each other
  - Weekly conference call regarding consolidation efforts
  - Conference call every other week regarding general construction and maintenance issues
  - Meetings on an as-needed basis to address specific offices' moves





# COMMUNICATION

- Attendance matters!
- Who attends matters too (must have people who have the information and can make decisions)



# COOPERATION

- **Listen** to the concerns of the other side
- **Discuss** ways to address concerns
- Consider issuing **joint announcements** when providing information to staff





# COOPERATION

- Be open to suggestions from all sources
- Be facilitators, not litigators
- Focus on interests not positions
- Recognize obligation and limitation of traditional negotiations
- Compromise when necessary



# COOPERATION TOOLS



- Create opportunities for input
- Polls on design choices and finishes
- Display samples of finishes
- Model work stations for employees to view
- Establish a web page with weekly updates
- Reach out to local partnership councils

# TRUST

- Work as a team, not opposing sides
- Consistency of representatives
- Rely on existing relationships (i.e. labor/management partnership committees)





## Contact Information

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(301)415-3604

# Federal Labor Relations Authority Office of the General Counsel

*Office Moves and the Duty to  
Bargain*



# Office Space

“involve matters at the very heart of the traditional meaning of ‘conditions of employment’; few policies and practices could be considered more central to an employee's working conditions than those relating to job safety and office environment.”

*Library of Cong. v. FLRA*, 699 F.2d 1280, 1286 (D.C. Cir. 1983).

# Office Space

Employees' and management's interests in office space “present the sort of questions collective bargaining is intended to resolve.”

*U.S. Dep't of HHS, SSA, Balt., Md.*, 36 FLRA 655, 668 (1990).



# Scope of Bargaining

## *Three Categories*

- Mandatory
  - Those subjects the parties are required to negotiate.
- Permissive
  - Those subjects the parties may mutually agree to bargain but are not required to bargain.
- Prohibited
  - Those subjects that the parties are not permitted to bargain.

# Prohibited Subjects

- No duty to bargain over matters:
  - Specifically provided for by Federal statute;
  - Inconsistent with law or Government-wide rule or regulation;
  - Inconsistent with an agency rule or regulation for which a compelling need exists;
  - Relating to the conditions of employment of employees in a different bargaining unit.

# Role of Federal Property Management Regulations

GSA's Federal Property Management Regulations (FPMR), as codified at title 41 of the Code of Federal Regulations, generally constitute "Government-wide regulations" within the meaning of section 7117(a) of the Statute.

*NTEU, Chapter 6, 3 FLRA 748 (1980).*

## Management Rights – 5 U.S.C. § 7106(a)

- to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
- to determine the mission, budget, organization, number of employees, and internal security practices of the agency;
- to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
- to make selections for appointments;
- to take whatever actions may be necessary to carry out the agency mission during emergencies.

# Exceptions to Management Rights

5 U.S.C. § 7106(b)(1):

- Numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty.
- Technology, methods, and means of performing work.
- *Permissive: an agency may bargain over these matters.*

# Exceptions to Management Rights

## *Procedures and Appropriate Arrangements*

- 5 U.S.C. § 7106(b)(2): The “procedures which management officials of the agency will observe in exercising” any management rights under 7106.
- 5 U.S.C. § 7106(b)(3): “Appropriate arrangements for employees adversely affected by the exercise of” any management right under 7106.
- Procedures and appropriate arrangements are *mandatory* subjects. Referred to as “impact and implementation” bargaining.

# Duty to Bargain

While an agency's decision to move its offices is not negotiable, the agency has a duty to bargain over negotiable proposals regarding:

- the procedures to be used to implement the move
- any appropriate arrangements for adversely affected employees.

*EPA*, 25 FLRA 787, 789 (1987); *SSA, Office of Hearings & Appeals, Region II, N.Y.C., N.Y.*, 19 FLRA 328, 328 (1985); *Dep't of Treasury, IRS, Dallas Dist.*, 19 FLRA 979, 980 (1985); *see also NFFE Local 7*, 53 FLRA 1435 (1998).



# What Parties Need to Ask about Changes in Office Space

- Are the effects of the change more than *de minimis* (i.e., more than trivial)?
- Have the parties already bargained over the change (covered-by defense)?
- Did the union waive its right to bargain over the change?

*PBGC*, 59 FLRA 48, 50-51 (2003).

# *The De Minimis Doctrine*

In assessing whether the effect of a change is more than *de minimis*, the Authority looks to the nature and extent of either the effect, or the reasonably foreseeable effect, of the change.

*Dep't of the Air Force, Air Force Materiel Command, Space & Missile Sys. Ctr., Kirtland AFB, 64 FLRA 166, 173 (2009).*

# *De Minimis?*

- *SSA, Balt., Md.*, 21 FLRA 546, 548-49 (1986) (permanent relocation of an entire office staff to a building four or five blocks away).
- *EPA*, 25 FLRA at 789-90 (relocation of twelve employees to a new office, where the new location, even though relatively close to the old location, had smaller offices, reduced storage space for documents and files, and was noisier).
- *Dep't of Air Force, Air Force Logistics Command, Sacramento Air Logistics Center, McClellan AFB*, 35 FLRA 217, 219 (1990) (office move of a division of employees, where new building was less insulated, colder, and noisier than prior building).
- *PBGC*, 59 FLRA at 51-52 (office relocation of two employees to smaller, interior offices).

# “Covered-By” Defense

- Prong 1: Is the subject matter of the change “expressly contained” in the collective bargaining agreement? (i.e., a reasonable reader would conclude that the contract provision settles the matter in dispute). If not, then:
- Prong 2: Is the subject matter of the change “inseparably bound up with,” and plainly an aspect of, a subject covered by the agreement? (i.e., subject matter is so commonly considered to be an aspect of matters contained in the CBA article that the negotiations are presumed to have foreclosed further bargaining.)

*SSA, Balt., Md.*, 66 FLRA 569, 572-573 (2012); *U.S. Customs Serv., Customs Mgmt. Ctr., Miami, Fla.*, 56 FLRA 809 (2000); *U.S. Dep’t of HHS, SSA, Balt., Md.*, 47 FLRA 1004 (1993).

# Agency's Responsibilities

- Provide union reasonable notice and opportunity to request bargaining.
- If the union requests bargaining, respond.
- Bargain to the extent required by the Statute.
- Generally, maintain the *status quo* until the bargaining process is completed.
- Cooperate with Federal Service Impasses Panel, if requested by union, prior to implementation.

*U.S. DOD, Def. Commissary Agency, Peterson Air Force Base, Colo. Springs, Colo., 61 FLRA 688 (2006); U.S. INS, Wash., D.C., 55 FLRA 69 (1999).*

# Union's Responsibilities

- Timely request to bargain.
- Submit negotiable and responsive proposals.
- Bargain in good faith.
- Timely request FSIP assistance if impasse is reached.

*U.S. Dep't of Labor, Wash., D.C., 60 FLRA 68, 70 (2004).*

# Are the Union's Proposals Negotiable?

- An agency may implement a change if *all* proposals on the table at the time of implementation are non-negotiable, and it has otherwise bargained in good faith.
- The agency must, however, respond to the union's request to bargain over the proposals, even if all the proposals are non-negotiable.
- If the agency chooses to implement under these circumstances, then it acts at its peril. If *any* proposals are determined to be negotiable, then the agency has committed a ULP.

*U.S. DOJ, INS, Wash., D.C.*, 56 FLRA 351 (2000); *Fed. Bureau of Prisons, FCI, Bastrop, Tex.*, 55 FLRA 848 (1999).



# When Does the Duty to Bargain Arise?

The duty to bargain over an office move arises once the agency has made a “final decision” to relocate. This occurs when “agreement [has] been reached on all matters essential to make a final commitment to move.”

*Dep’t of HHS, SSA, Region I, Boston, Mass.*, 47 FLRA 322, 324 (1993); *Dep’t of HHS, SSA, Balt., Md.*, 41 FLRA 339, 340 n.\* (1991).

# *Status Quo Ante Relief*

The Authority has granted *status quo ante* relief in cases involving office moves arising from agency reorganizations and realignments.

- *PBGC, 59 FLRA at 54* (ordering agency to return two employees to offices they occupied prior to realignment).
- *Dep't of the Air Force, Air Force Materiel Command, Space & Missile Sys. Ctr., Kirtland AFB, 64 FLRA at 176* (ordering that employees who were moved to different offices during reorganization and realignment be returned to their former work locations).

# *Status Quo Ante Relief*

The Authority also applied the factors set forth in *FCI*, 8 FLRA 604 (1982) to *reject* a request for *status quo ante* relief in an office move case.

- *SSA, Balt., Md.*, 21 FLRA at 549, 570 (finding that the agency's attempts to stop or delay the move were unsuccessful because GSA was prepared to evict it from the old offices).

# Prospective Bargaining

In addition to traditional posting and cease and desist orders, the Authority has typically ordered the agency to engage in prospective bargaining over the impact and implementation of office moves that had already occurred when the decision was issued.

- *SSA, Balt.*, 21 FLRA at 549; *Dep't of Treasury, IRS, Dallas Dist.*, 19 FLRA at 983; *see also EPA*, 25 FLRA at 791 (prospective bargaining order best effectuates purposes and policies of the Statute because it allows the parties the flexibility to bargain freely about how the relocation “may have affected employees and the opportunity to agree to retroactive application of the agreement”).

# Retroactive Relief

The Authority has also awarded other forms of retroactive relief in certain cases involving office reallocations and redesigns.

- *Dep't of HHS, Region IV, Office of Civil Rights, Atlanta, Ga.*, 46 FLRA 396, 398-99 (1992) (ordering agency to “return the office configuration as closely as possible in its reduced state to the previous configuration” and to “continue negotiations on the reconstruction until the matter is ultimately resolved”)
- *FAA, Nw. Mountain Region, Renton, Wash.*, 51 FLRA 35, 37 (1995) (concluding that a retroactive bargaining order will “effectuate the purposes and policies of the Statute by ensuring the substitution of any design features negotiated by the parties or imposed by the Panel”).

# **Federal Labor Relations Authority Authority Component**

## ***The Scope of Bargaining Related to Office Moves***



# Scope of Bargaining: Overview

- The Move
- Common Areas
- Office Equipment
- Workstations, Floorplans, Seating Areas/Assignments, Offices
- Commuting, Parking
- Amenities



# The Move

- Reasonable Administrative Leave

*AFGE, Local 2879*, 49 FLRA 1074, 1077-79 (1994)  
(Provision 1) (finding negotiable provision to grant reasonable amounts of administrative leave, as necessary, in connection with an office move).

# Common Areas

- Handicap-Accessible Entrances

*AFGE, Local 644, 27 FLRA 375 (1987) (Proposal 6) (finding negotiable proposal to provide a means for handicapped persons to enter the office).*

- Location of Loading/Unloading Area

*AFGE, Local 644, 27 FLRA 375, 377-78 (1987)  
(Proposal 2) (finding negotiable proposal to place loading/unloading areas as close to building as possible).*

# Common Areas

- Meeting Areas

*AFGE, Local 12, 27 FLRA 363, 369-71 (1987) (Proposal 3d)*  
(finding negotiable proposal that all meeting areas will be equally accessible to all employees).

- Access to Windows

*AFGE, Local 12, 27 FLRA 363, 369-71 (1987) (Proposal 3a)*  
(finding negotiable proposal that windows will not be blocked by private offices, and that conference rooms and private offices will be located internally) .

# Common Areas

- Lighting and Ventilation

*AFGE, Local 12, 27 FLRA 363, 369-71 (Proposal 3e) (1987)*  
(finding negotiable proposal that lighting and ventilation surveys will be conducted upon request for relocated offices).

- Air Conditioning and Heat

*AFGE, Local 644, 27 FLRA 375, 382-84 (1987) (Proposal 7)*  
(finding negotiable proposal requiring suitable air conditioning and heat in all working areas).

# Common Areas

- Space Heaters

*AFGE, SSA Gen. Comm.*, 68 FLRA 407, 408-14 (2015)

(finding negotiable proposals that would require:

(1) notification to the union before removing a space heater and an attempt to remedy the heating/cooling issue or provide a replacement heater; (2) employees seeking to introduce new space heaters (as reasonable accommodation or other permissible purpose) will seek the building manager's approval, and the parties will jointly create a procedure to follow; and (3) the agency and the union to jointly establish a list of approved space heaters and update it annually).

# Common Areas

- Corridors, Fire and Other Safety Codes

*Library of Cong. v. FLRA*, 699 F.2d 1280 (D.C. Cir. 1983), enforcing 7 FLRA 578 (1982) (Proposals XII and XIII) (finding negotiable proposals that: (1) all corridors conform to D.C. fire code and federal regulations; and (2) no employee shall be required to work in areas that violate National Fire Protection Association (NFPA) Life Safety Codes and another fire-safety report).

- OSHA Inspections

*U.S. Dep't of the Treasury, IRS, Dallas Dist.*, 19 FLRA 979 (1985) (Proposal 7) (finding negotiable proposal to require agency to request safety inspections of new building).

# Common Areas

## Limitations:

- **Location of Library/Conference Room**  
*AFGE, Local 644*, 21 FLRA 658, 661-63 (1986) (Proposal 5)  
(finding proposal to relocate library/conference room and use that space for offices outside the scope of bargaining because agency established impermissible interference with management's right to determine its internal security practices).



# Office Equipment

- **Printers, Copiers, Fax Machines**

*NFFE, Fed. Dist. 1, Local 1998, IAMAW, 66 FLRA 124, 124-27 (2011)*  
(Proposal 1) (finding negotiable proposal to distribute printers, copiers, and fax machines evenly and liberally, and within 50 feet of each employee's desk).

- **Shredders**

*NFFE, Fed. Dist. 1, Local 1998, IAMAW, 66 FLRA 124, 133-34 (2011)*  
(Proposal 7) (finding negotiable proposal to provide one shredder for every 12 employees and a shredder that is capable of shredding cardboard).

- **Sit/Stand Desks**

*NFFE, Fed. Dist. 1, Local 1998, IAMAW, 66 FLRA 124, 134-35 (2011)*  
(Proposal 8) (finding negotiable proposal to make sit/stand desks available for employees with ergonomic issues ).

# Office Equipment

- Access to Current Equipment  
*U.S. Dep't of the Treasury, IRS, Dallas Dist., 19 FLRA 979 (1985) (Proposal 2) (finding negotiable proposal to continue to make equipment currently assigned to employees (credenzas) available after relocation).*
- Space, Equipment, Facilities Similar to Current  
*U.S. Dep't of the Treasury, IRS, Dallas Dist., 19 FLRA 979 (1985) (Proposal 3) (finding negotiable proposal to provide proper space, equipment, and facilities similar to those currently provided).*

# Workstations, Floorplans, Seating Areas/Assignments, Offices

- Acoustics of Seating Area

*NFFE, Fed. Dist. 1, Local 1998, IAMAW*, 66 FLRA 124, 127-29 (2011) (Proposal 3) (finding negotiable proposal that would require agency to design counter workspaces so that employees are not required to raise their voices when talking to customers).

- Seating to Minimize Distractions

*Library of Cong. v. FLRA*, 699 F.2d 1280 (D.C. Cir. 1983), enforcing 7 FLRA 578 (1982) (Proposal XI) (finding negotiable proposal requiring that each employee in a particular unit be situated in a way to minimize distractions from telephone calls).

# Workstations, Floorplans, Seating Areas/Assignments, Offices

- Access to Windows

*AFGE, Local 12, AFL-CIO, 27 FLRA 363, 369-70 (1987)*

(Proposal 3c) (finding negotiable proposal that employees will be given priority in allocating work spaces adjacent to windows) .

# Workstations, Floorplans, Seating Areas/Assignments, Offices

- **Size/Square Footage**

*NTEU*, 43 FLRA 1442, 1447-54 (1992) (Proposal 9) (finding negotiable proposal to guarantee each employee a minimum of 100 square feet of office or work space in the event of any office renovations or moves)

*NTEU, Chapter 83*, 35 FLRA 398 (1990) (finding negotiable proposal requiring that affected employees will have at least 64 feet of contiguous work space).

- **Cubicle Size, Wall Space**

*NFFE, Fed. Dist. 1, Local 1998, IAMAW*, 66 FLRA 124 (2011) (Proposal 6) (finding negotiable proposal to require cubicles at least as large as, and with as much wall space as, cubicles at old location within the scope of bargaining).

# Workstations, Floorplans, Seating Areas/Assignments, Offices

- Selection by Seniority

*NTEU, Chapter 83, 64 FLRA 723 (2010) (finding negotiable proposal to allow employees to select from all available cubicles by seniority, without regard to workgroup assignment – as was done previously).*

*NTEU, 41 FLRA 1283 (1991) (finding negotiable proposal to allow employees to choose their own seating by seniority, from within the entire space allocated to three groups within the same division).*

# Workstations, Floorplans, Seating Areas/Assignments, Offices

## Limitation:

- Selection by Seniority:

*NTEU, Chapter 101, 58 FLRA 653 (2003) (finding proposal that employees will select their workstations by seniority from anywhere on the floor that is assigned to the employees' respective division to be outside the scope of bargaining because it affects management's right to determine its internal security practices ).*

# Workstations, Floorplans, Seating Areas/Assignments, Offices

- **Assignment of Desks**

*Dep't of the Treasury, IRS, Midwest Reg'l Office, Chi., Ill.*, 16 FLRA 141 (1984) (Proposal 1) (finding negotiable proposal concerning the procedure for assigning desks (e.g., by grade and seniority) at the new location, but not the agency's choice of its functional office space design).

- **Individual Offices**

*AFGE, Local 644, AFL-CIO*, 21 FLRA 658, 658-61 (1986) (Proposals 1 and 2) (finding negotiable proposals that: (1) new space will be structured to provide individual offices for each bargaining-unit employee; and (2) all employees will be provided with offices in accordance with what they have at the present time).



# Workstations, Floorplans, Seating Areas/Assignments, Offices

- Office Doors

*Library of Cong. v. FLRA*, 699 F.2d 1280 (D.C. Cir. 1983), enforcing 7 FLRA 578 (1982) (Proposal XIV) (finding negotiable proposal requiring that, to ensure quiet and effective working conditions, each analyst's office will have a door).

- Partitions in Shared Offices

*Library of Cong. v. FLRA*, 699 F.2d 1280 (D.C. Cir. 1983), enforcing 7 FLRA 578 (1982) (Proposal XV) (finding negotiable proposal requiring that, to ensure quiet and effective working conditions, all two-person offices will have floor-to-ceiling partitions dividing the office).

# Workstations, Floorplans, Seating Areas/Assignments, Offices

## Limitations:

- Location of Workstations for Employees Who Interact with the Public:

*AFGE, Local 1164*, 66 FLRA 112 (2011) (finding proposal for floor plan that would provide hybrid workstations with privacy walls for interviewing customers outside the scope of bargaining because agency established that it impermissibly interferes with management's right to determine the methods and means of performing work, and proposal is not an appropriate arrangement).

*AFGE, Local 1164*, 65 FLRA 924, 925-26 (2011) (Proposal 3) (finding proposal for separate employee front-end interviewing areas, and an isolated back-end area for employee work stations to be outside the scope of bargaining where union conceded that it affects management's right to determine the methods and means of performing work).

# Workstations, Floorplans, Seating Areas/Assignments, Offices

## Limitations:

- Reception Areas (Shields)

*AFGE, Local 3937*, 66 FLRA 393, 397-400 (2011) (Proposal 4) (finding proposal to install polycarbonate shields at reception areas to be outside the scope of bargaining because it impermissibly interferes with management's right to determine its internal security practices, and proposal is not an appropriate arrangement).

- Reception Areas (Barriers)

*U.S. Dep't of the Treasury, IRS, Dallas Dist.*, 19 FLRA 979 (1985) (Proposal 6) (finding proposal to require a barrier in front of the office to restrain the general public from entering the area to be outside the scope of bargaining because it affects management's right to determine the technology, methods, and means of performing work and is only negotiable at the agency's election).

# Commuting, Parking

- Traffic (Pilot Flexitime)

*AFGE, Local 644, AFL-CIO*, 21 FLRA 658, 665-66 (1986)  
(Proposal 14) (finding negotiable proposal to establish a pilot flexitime project because of traffic).

- Suitable Parking

*AFGE, AFL-CIO, Local 644*, 27 FLRA 375, 383-85 (1987)  
(Proposal 8) (finding negotiable proposal to provide suitable parking for government and private automobiles).

# Commuting, Parking

- Free Parking (Employees)

*AFGE, Local 1458*, 63 FLRA 469, 470-71 (2009) (Proposal 1) (finding negotiable proposal to provide free parking for all affected unit employees who do not receive a transit subsidy).

- Free Parking (Union President)

*AFGE, Local 1458*, 63 FLRA 469, 470-71 (2009) (Proposal 2) (finding negotiable proposal to provide the union president with free parking at the facility where the union's office is located).

- Free Parking

*AFGE, Local 644, AFL-CIO*, 21 FLRA 658, 658-61 (1986) (Proposals 6 and 11) (finding negotiable proposals that require: (1) free parking spaces (in one office); and (2) free parking spaces within walking distance of the building (in another office)).

# Commuting, Parking

## Limitation:

- Parking Reimbursement

*NTEU*, 30 FLRA 677, 677-79 (1987) (Proposal 1) (finding proposal that all employees moved from Rockville, MD to Washington, D.C. be reimbursed for their parking expenses to the extent that they exceed parking costs in Rockville outside the scope of bargaining because it is inconsistent with the Travel Expense Act and the Federal Travel Regulations).

# Amenities

- Exercise Room

*AFGE, Local 1458*, 63 FLRA 469, 471-72 (2009) (Proposal 3) (finding negotiable proposal to provide an exercise room equipped with equipment and showers).

- Showers and Lockers

*Library of Cong. v. FLRA*, 699 F.2d 1280 (D.C. Cir. 1983), *enforcing* 7 FLRA 578 (1982) (Proposal XVI) (finding negotiable proposal that agency provide: (1) 10 showers for men and 10 showers for women in an area accessible from the rear loading areas; and (2) 60 lockers suitable for temporary clothing storage adjacent to the shower area).

# Amenities

- Break Area

*U.S. Dep't of the Treasury, IRS, Dallas Dist.*, 19 FLRA 979 (1985) (Proposal 8) (finding negotiable proposal to provide a coffee break area in the new office facilities that is similar to the one in the present facility).

- Provide or Pay for Daycare

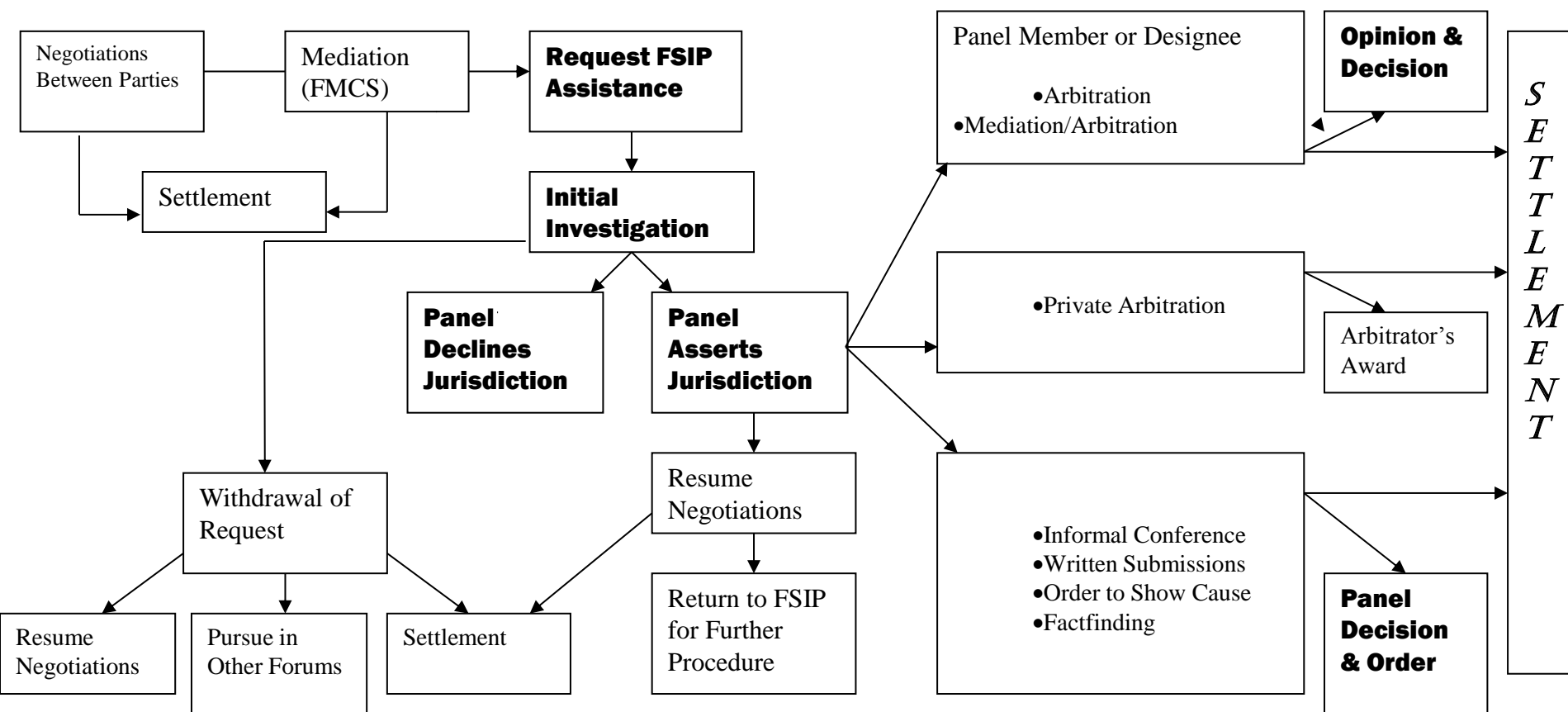
*NTEU*, 30 FLRA 677, 681-83 (1987) (Proposal 3) (finding negotiable proposal requiring that agency either provide or pay for daycare for the children of all relocated employees requesting such services).



# **Federal Labor Relations Authority Federal Service Impasses Panel**

*Impasses Over Office Moves*





# Jurisdictional Issues:

(1) *Bargaining Obligation  
Disputes*

(2) *Negotiability Disputes*

*Bargaining Obligation Dispute* is defined in 5 C.F.R. § 2424.2(a) of the FLRA's regulations by examples–

- Proposal concerns a matter “covered by” a CBA
- Bargaining not required because effect of change is *de minimis*

*DHHS, SSA, Balt., Md., 47 FLRA 1004*  
(1993) (SSA) is the most frequent FLRA decision relied on to provide guidance when bargaining obligation disputes, are raised.

*Negotiability dispute* is defined in 5 C.F.R. § 2424.2(c) of the FLRA's regulations as "a disagreement" between an agency and a union "concerning the legality of a proposal or provision."

*Commander, Carswell Air Force Base, Tex., 31 FLRA 620 (1988) (Carswell)* is the guidance the Panel follows when considering claims concerning *negotiability disputes*.

As with *SSA*, the Panel has applied *Carswell* in a way that preserves its discretion to decline or assert jurisdiction where a negotiability dispute is alleged, depending on the circumstances of the case.



Maintenance of the *Status Quo*  
While a Case Is Pending  
Before the Impasses Panel:

*INS*, 55 FLRA 69 (1999)

After *INS*, for there to be a violation of § 7116(a)(6), the Office of the General Counsel must establish that, by implementing a change in conditions of employment, the agency failed to cooperate with an impasse procedure or decision.

The FLRA left it “to the Panel to determine whether to adopt specific procedures concerning the maintenance of the *status quo*, or whether to issue such orders under particular circumstances.”

The Panel has decided to order employers to maintain the *status quo*, if at all, “under particular circumstances,” i.e., on a case-by-case basis, after the Panel’s staff has completed its initial investigation of the request.

The effect of a Panel order to maintain the *status quo* is to freeze a situation in place; primary concern is not to protect the rights of either party but to determine what is in the best interests of resolving the impasse fairly

Note: *INS* does not confer on the Panel the authority to order *status quo ante* remedies; remedies are available only in the ULP forum.

# Recent Impasses over Office Moves:

*National Science Foundation, Arlington, Va., Case No. 14 FSIP 100 & 104 (October 23, 2014); med-arb with Member Wasserman; maintenance of *status quo**

Key Issues: Offices or cubicles for GS-12 employees; size of offices or cubicles for GS 11-12 employees; height of cubicle partitions; whether cubicle doors should be lockable; the number and size of shared meeting space; file and storage space.

*HUD, Region IX, S.F., Cal., Case No. 14 FSIP 71 (August 8, 2014); med-arb with Chairman Jacksteit; maintenance of *status quo**

Key Issues: Should the parties use the agency's physical space plan that incorporates space for 55 future employees, or the union's, which maintains key elements of current space - workstations at existing sizes (cubicles of 64 square feet and offices of 150 square feet), and places all management offices in interior locations.



*DHHS, Region 8, Denver, Colo., Case No. 14 FSIP 64 (June 30, 2014); med-arb with Exec. Dir. Schimansky; maintenance of status quo*

Key Issues: Should certain employees on the 11<sup>th</sup> floor have private offices and, if so, the size of the offices; should there be additional “phone booth” rooms on the 11<sup>th</sup> floor; should certain employees be permitted to reserve their own conference rooms without management’s involvement; height and composition of workstation panels.

*Dep't of Educ., Kansas City Office, Kansas City, Mo., Case No. 13 FSIP 40 (May 1, 2013); med-arb with Member Malin*

Key Issues: break rooms/amenities; vending machines; OCR bargaining unit employee workspace; workstation storage and counter surface; pink noise system.



# Federal Real Property Asset Management



## ***Federal Real Property Policies***

GSA Office of Government-wide Policy

July 23, 2015

- Background: Federal Real Property Asset Management
- Freeze the Footprint Policy
- National Strategy for Real Property
- Reduce the Footprint Policy and GSA's Role
- Space Management



# Executive Order 13327: Federal Real Property Asset Management

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## **Executive Order 13327, 69 Fed. Reg. 5897 (February 6, 2004)**

- Created the Federal Real Property Council (FRPC)
- Established Senior Real Property Officer (SRPO) role
- Directed SRPOs to develop and implement agency asset management plans
- Mandated the creation of a centralized real property database (FRPP)
- Directed SRPOs to report on an annual basis information that lists and describes real property assets under the jurisdiction, custody, or control of their agency, except for classified information



# Federal Real Property Council

## **GSA supports the FRPC by:**

- Publishing performance measures and standards adopted by the FRPC
- Maintaining the Federal Real Property Profile (FRPP) and collecting inventory information on the federal government real property holdings on an annual basis
- Establishing information technology standards for landholding agencies to facilitate the uniform reporting of real property information
- Assisting the Office of Management and Budget in implementing real property policies

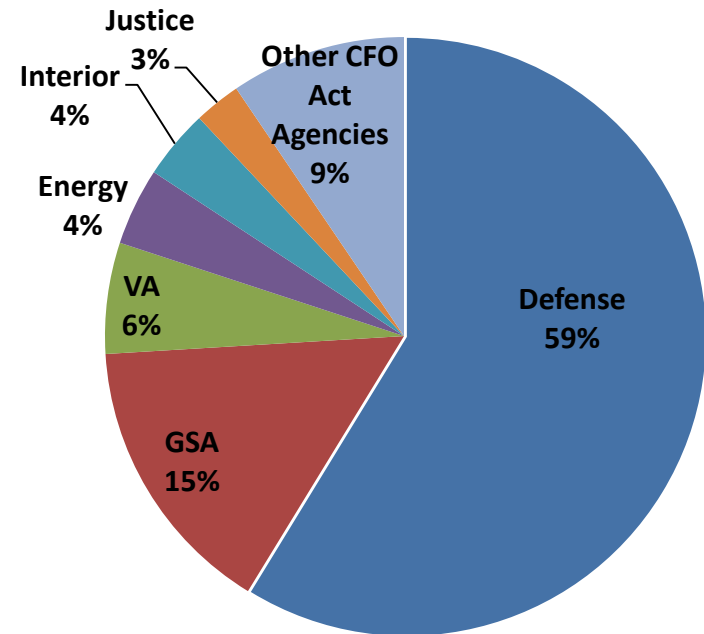
# Federal Real Property Key Statistics

## FY 2014 Federal Real Property Portfolio

Buildings	Total Number	275,195
	Total Square Feet	2,799,968,879
	Total Annual Operating Costs	\$21,519,901,990
Structures	Total Number	481,398
	Total Annual Operating Costs	\$7,849,371,096
Land	Total Acres	39,784,271
	Total Annual Operating Costs	\$189,311,908

Data Source: FRPP\*

## FY 2014 Percentage of Government-wide Buildings by Square Feet



\*Statistics based on the submissions of the 24 CFO Act agencies.

# Domestic Buildings SF by Agency

## U.S. and U.S. Territories Buildings Square Footage (SF) by Agency†

Department or Agency	Owned SF**	Leased SF	TOTAL SF	% of Govtwide Total
Air Force Department***	453,172,353	11,208,340	464,380,693	16.6%
Army Department***	701,268,422	18,556,093	719,824,515	25.7%
Corps of Engineers***	10,511,090	413,695	10,924,785	0.4%
Defense/WHs***	7,520,747		7,520,747	0.3%
Department of Agriculture	41,497,309	15,429,811	56,927,120	2.0%
Department of Commerce	7,873,642	1,101,818	8,975,460	0.3%
Department of Energy	116,467,566	615,208	117,082,774	4.2%
Department of Health and Human Services	33,156,149	2,637,637	35,793,785	1.3%
Department of Homeland Security	42,833,791	9,054,978	51,888,769	1.9%
Department of Interior	101,965,494	3,466,167	105,431,661	3.8%
Department of Justice	69,898,399	748,340	70,646,739	2.5%
Department of Labor	22,130,226	3,332,876	25,463,102	0.9%
Department of State	1,624,650	132,372	1,757,022	0.1%
Department of the Treasury	4,124,080	2,233,991	6,358,071	0.2%
Department of Transportation	19,586,668	6,325,664	25,912,332	0.9%
Department of Veterans Affairs	151,543,858	16,613,123	168,156,981	6.0%
Environmental Protection Agency	4,213,577	155,633	4,369,210	0.2%
General Services Administration	231,099,284	197,481,134	428,580,418	15.3%
National Aeronautics And Space Administration	45,224,003	1,073,932	46,297,935	1.7%
National Science Foundation	1,384,635	222,329	1,606,964	0.1%
Navy Department***	438,709,480	3,281,778	441,991,258	15.8%
Office of Personnel Management		74,985	74,985	0.0%
United States Agency for International Development		3,553	3,553	0.0%
<b>Total</b>	<b>2,505,805,423</b>	<b>294,163,456</b>	<b>2,799,968,880</b>	<b>100.0%</b>

† All real property data from the CFO Act agencies required to submit data to the FRPP

\*\*includes federal government owned, foreign government owned, museum trust, and state government owned

\*\*\* Department of Defense

### Key Definitions and Examples

**Buildings (Examples):** Office, Laboratories, Hospital, School, Museum, Data Center, Warehouse

**Square Feet:** For buildings, the unit of measure is area in square feet and is designated as Square Feet (SF).





# Freeze the Footprint Policy

**Reduced budgets** beginning in 2010 resulted in policies to promote efficient spending by agencies, including on real property (M-12-12 “Promoting Efficient Spending to Support Agency Operations” May 11, 2012)

**Freeze the Footprint (FTF) Policy**: Specified actions to improve efficiency and cost effectiveness of real property were issued in the “FTF” policy (MPM 2013-02)

Under FTF (issued by OMB in March 2013), agencies were required to:

- 1) **Freeze**: Agencies are required to freeze their total office and warehouse square footage by FY15.
- 2) **Identify Offsets**: Agencies must offset increases to their office and warehouse portfolios with disposal of assets to ensure no net portfolio increase.
- 3) **Develop Cost Savings Plan**: Agencies must submit, and annually update, a cost savings and innovation plan describing agency compliance actions, internal controls, etc.
- 4) **Provide Data for Public-facing Accountability for their Actions**: Each agency’s compliance with its baseline is assessed annually and reported on Performance.gov.



# National Strategy and GSA's Role

- **National Strategy: Freeze, Measure & Reduce the Federal Footprint**
- Issued by OMB in March 2015
- **GSA's Role** in Supporting the National Strategy:
  - Create and implement tools to assist federal agencies with federal real property asset management
  - Be a resource for guidance & expertise regarding real estate
  - Engage agencies in dialogue to identify opportunities for disposals, co-locations and consolidations and assist agencies in preparing their 5-year strategic plans
  - Provide guidance and necessary tools to improve FRPP data quality.
- **Expected Outcomes:**
  - Spur action towards focused reduction of the federal real property footprint
  - Promote transparency in managing federal real property
  - Remove federal real property from GAO's "High Risk" List
  - Feed the GSA pipeline for services (e.g., consolidations, Targeted Asset Reviews, and the Total Workplace FIT program)



# Reduce the Footprint (RTF) Policy

## Reduce the Footprint Policy (RTF) Requirements (Issued by OMB in March 2015)

Agencies must submit and annually update a five year real property efficiency plan to OMB. The RTF policy require agencies to:

1. **Reduction Targets for All Building Types:** Agencies set annual FY 2015 – FY 2020 square foot reduction targets for office, warehouse, and all other building types.
2. **Continue Freeze on Offices and Warehouses:** Set a new FY 2015 – FY 2020 baseline for office and warehouse space; baseline serves as a maximum space level that is used to gauge the magnitude of annual reductions.
3. **Space Design Standard:** Agencies issue an office space design standard by March 25, 2016.
  - The design standard will ensure new office space is designed efficiently
  - Over time as office space is replaced, the efficiency of the portfolio increases

~ Agencies will set their targets and standard based on their mission needs ~



# GSA's Role Supporting the RTF Policy

- ✓ **Reduce the Footprint Policy.** GSA is bringing all resources to bear in support of the RTF policy implementation. GSA will:
  - Qualitatively and quantitatively assess each agency's Real Property Efficiency Plan and provide feedback to each agency
  - Use GSA's internal intelligence, such as Client and Local Portfolio plans, and Occupancy Agreement and FRPP data, to help agencies aggressively identify opportunities for:
    - Co-locations and consolidations
    - Space reductions where utilization can be improved
    - Disposals, exchanges and outleases
  - Compare agency reduction targets against their FY 2014 portfolios
  - Establish agency FY 2015 RTF baselines and track performance through FY 2020
  - Coordinate closely with OMB and with agencies

*Is there a government-wide space standard?*

- Space requirements based on pay grade or maximum area per person under Federal Property Management Regulations (FPMR), Part 101-17, Temporary Regulation D-76 (41 CFR Part 101-17) were withdrawn in 1995 and are no longer mandated by federal regulations, specified by GSA, or recommended by the OGP Office of Real Property Management.
- Current guidance, under Title 41, Volume 2, Chapter 101 of the Code of Federal Regulations, Sec. 101-17.301 Space allowances states, "**Space allowances are derived from specific studies of the operations of the agencies, and are directed toward providing each employee with enough space to work efficiently**".

# Space Management

- *What basic assignment and utilization of space policy governs an Executive agency?*

"Executive agencies must provide a quality workplace environment that supports program operations, preserves the value of real property assets, meets the needs of the occupant agencies, and provides child care and physical fitness facilities in the workplace when adequately justified. **An executive agency must promote maximum utilization of federal workspace, consistent with mission requirements, to maximize its value to the government.**" (41 CFR 102-79.10)

- *What objectives must an Executive agency strive to meet in providing assignment and utilization of space services?*

**"Executive agencies must provide assignment and utilization services that will maximize the value of federal real property resources and improve the productivity of the workers housed therein."** (41 CFR 102-79.15)

- **National Strategy for Real Property**

[www.whitehouse.gov/sites/default/files/omb/financial/national-strategy-efficient-use-real-property.pdf](http://www.whitehouse.gov/sites/default/files/omb/financial/national-strategy-efficient-use-real-property.pdf)

- **Reduce the Footprint Policy**

[www.whitehouse.gov/sites/default/files/omb/financial/memos/implementation-reduce-the-footprint.pdf](http://www.whitehouse.gov/sites/default/files/omb/financial/memos/implementation-reduce-the-footprint.pdf)

- **GSA Customer Guide to Real Property**

<http://www.gsa.gov/portal/content/104177>



# Questions?

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