

A: Regardless of what we may like, not like, seek or try to avoid, the reality is that management will be exercising management rights. We are attempting to influence HOW management goes about exercising them and what decisions it makes. We are looking for management to make a good-faith effort at truly pre-decisional involvement. The EO calls for PDI on all workplace matters, regardless of whether or not they are subject to bargaining under Chapter 71. Done right, this means that we will be talking to management about a much wider range of subjects than we usually do and that management's decisions will be better because of our involvement. None of this precludes collective bargaining.

Q: Is there a "recipe for success"?

A: The "recipe" for success in LMFs is the same as the recipe for success in more traditional L/M relations, i.e., build a strong union, with clear objectives, good leadership and an active membership that will do what needs to be done. There is currently a window of opportunity that may or may not last. AFGE should take advantage of this time to push our issues. We should take advantage of an atmosphere where managers are being told to work more collaboratively with us. The recipe for success rests in communicating with the bargaining unit, really understanding the bargaining unit's concerns and interests so that we can advance them in the LMFs. Union leaders and activists should use this as an opportunity to involve employees who may not come forward with grievances (and may not have grievances that they want to file) but who are interested in being involved in making their agency deliver better services for the public, and a better workplace for their members. The Union should make sure that it communicates regularly with the Bargaining Unit and that it doesn't let the AFGE name get lost in the process. Employees should know that it is AFGE that got improvements for them, not something called the "Labor-Management Forum."



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- *At the same time, we are finding that metrics mean a lot to managers.*
 - *Many managers don't respond to calls for LMFs and other requirements of the EO even if their Department Secretary or other high official issues a memo telling them to do so.*
 - *If they are given metrics, however, such as how many LMFs they have created, how they are dealing with PDI, etc. they have an incentive to respond.*
 - *NP Gage was at a meeting with a DoD Component and found that the managers' eyes were glazing over until the issue of metrics came up. Suddenly they were interested because they knew they would be measured.*
 - *At a recent meeting with DoD about forums, a manager said that it was important to have metrics and then follow up and require reports about how management and labor are meeting those metrics,*
- *The National Council has a workgroup on metrics that will be coming out with recommendations. AFGE also will come out with more guidance.*

Q: My local union holds the cert. We have no Council. How should we move forward? Is there anyone out there who can assist us?

A: Whether your local holds the certification or not, you should be approaching management to say you want to have a LMF at the local level. First, go to www.lmrcouncil.gov as mentioned above and click on "Agency Plans" and find your agency or department. See what your agency or department told the NCFLMR that it would do to implement the EO. In addition, if you scroll down further below the plans you will see "Supplemental Information," where you can check to see if your agency submitted additional information. These plans were required by the EO to show how the agency intends to implement the EO. This will give you an idea as to where and how to start. For example, your Agency plan most likely says that the agency will set up forums at the levels of recognition, because that is required by the EO. Show this to your management counterpart and say you want to get started on setting up your LMF.

You may have a good working relationship with management and, in the spirit of collaboration, your agency may agree and you can sit down and work out your LMF Agreement. You may work for managers who are not particularly collaborative, but they do comply with the letter of the Statute and they know the EO requires them to have a LMF at the level of recognition. You may have to put in a demand to bargain a LMF to get the process started.

It is also possible that you work for dictatorial managers. They may say that EO or no EO, they are not interested in a LMF. Or, they might have been told by higher-ups that they have to have LMFs so they draft an agreement that isn't good for the union and resist making any changes. In this situation you either have to demand to bargain if they say they don't want a LMF or propose a good agreement for a LMF as a counter to their bad proposal. In either case, you may have to use mediation, file ULPs, or go to the Impasses Panel to get an agreement.

The most common kind of managers we have seen so far are nervous, afraid they might do something wrong and get in trouble, are not particularly excited about LMFs and have adopted a "wait and see" approach. They will tell you that they haven't received any instructions, they haven't been told by their Department to have a LMF, they are waiting for guidance, etc. These are all excuses, and you should demand to bargain to get the process going.

Q: Isn't this approaching some sort of process of "co-management" or what they call in Europe "co-determination"?

- *Additionally, many agencies are looking at surveys to look at the labor-management climate. We are not in favor of a survey going to everyone in the bargaining unit asking what they think of the UM relationship. Most BU employees would not know how to answer the questions. It also is not appropriate for management, even with union involvement, to ask employees how they think their union is doing. We believe the survey should go to union stewards, officers, etc., as well as managers who interact with the union. The union locals should identify who should get the survey on the union side. We shall shortly have examples of the surveys that are being done.*
 - *Other ideas for things to measure include how early management notifies the union about changes, how comfortable BU employees feel about taking on roles in their local, etc.*
- *A second area for metrics in the EO is how LMFs are affecting the performance of the agency. There are a lot of anecdotal stories about the benefits of partnership under the Clinton EO, but very little actual measurement.*
- *When it comes to measuring LMF effectiveness, there should be discussions with those in the agency about what ALREADY is being measured. This can include measurements for the Government Performance Results Act (GPRA), the President's Management Agenda (PMA), your agency's strategic plan, etc. We do not need to reinvent the wheel. Employees who measure the effectiveness of programs, design studies, do statistical analysis, etc. can and should come to the LMFs with recommendations.*
 - *Don't let your agency act like measuring how well it is meeting its goals is some new, expensive task it has to take on. What it needs to do is take what it is already measuring and adapt it to show the effects of the LMF on agency performance.*
- *The third area of metrics required by the EO is improvement in employee and management satisfaction.*
- *Look at where your agency ranked in the OPM Employee survey.*
 - *Check out where your agency ranked in the Partnership for Public Service's "Best Places to Work" list.*
 - *You can drill down lower in your agency on the Partnership for Public Service's website at <http://www.ourpublicservice.org/OPS/> - look for "Best Places to Work" under "Quick Links." This can help you get closer to your particular unit and help you come up with issues to bring up in your LMF -the issues employees said were problems for them.*
 - *The NCFLMR suggested that improvements in employee development and training be measured as part of employee satisfaction.*
 - *We do not want to see the LMFs held back while they are figuring out the metrics. We also believe that trying to create too many abstract metrics before we have some issues on the table does not make sense.*
 - *Identifying issues that you believe are important to our members and the American public will lend themselves to you and management then figuring out the right goals and measurements to see if you are succeeding.*

Master Agreements. Also, there may be provisions in your Council agreement that leave some issues to the discretion of lower levels of management, and those should be subject to bargaining at those levels. If you don't reach agreement and management issues a policy directive, you have all of your traditional rights.

If you are above the level of recognition, such as a Department-level Forum, you may reach an agreement that becomes Department level policy. This does not change the rights and obligations of the lower levels of recognition under Chapter 71 including to right to bargain over issues that the policy leaves to the discretion of the lower levels.

Q: How do we put LMF agreements in writing and enforce them?

Agreements reached on issues in a LMF should be written down and signed as a document such as a MOU. MOUs are enforceable negotiated agreements. We will have more information on bargaining these MOUs. What we are not sure about at present, is how does one capture in a MOU things that may technically be prohibited subjects of bargaining. Among other things, this is what makes this entire effort a work-in-progress. Management may issue a Directive, Policy Letter, Instruction - whatever your agency calls its policy issuances, which captures the Forum decision. AFGE encourages all locals and councils to have as broad scope a grievance procedure as possible, i.e., a procedure that does not limit the things that can be grieved except for those prohibited by law. With a broad scope grievance procedure, you can grieve if management violates the policy decision that came out of the LMF process.

Q: What is Pre-decisional Involvement (PDI)?

A: Pre-decisional involvement is defined in the EO in two important places. In Section 1. Policy, the EO says:

Management should discuss workplace challenges and problems with labor and endeavor to develop solutions jointly, rather than advise union representatives of predetermined solutions to problems and then engage in bargaining over the impact and implementation of the predetermined solutions.

In Section 3, (a)(ii), the EO says that each agency or department head shall:

...allow employees and their union representatives to have pre-decisional involvement in all workplace matters to the fullest extent practicable, without regard to whether those matters are negotiable subjects of bargaining under 5 U. S. C. 7106..."

PDI truly means that the union is notified about something the agency either wants to do or is required to do before it actually decides how it will respond. Agencies like to say that involving the union prevents them from acting as quickly as they need to respond to emergencies. The reality is that agencies frequently spend months dealing with an issue internally before they notify the union about their decision (if they even do that) and give us a month or so to comment To the fullest extent practicable, the agency should bring the union into these deliberations as early as possible. The EO makes it clear that the unions should not be handed a predetermined solution. In true emergencies, management always has the authority to act quickly.

Q: Does AFGE have a position on whether and what metrics should be used as we go forward with this LMF process? Many of us are afraid that what will be used are the number of grievances and ULPs but that does not seem the best way to judge the relative success or failure of the LMF process. What should we do?

A: The EO calls for several types of metrics.

- One is a base-line assessment of the current state of Labor-Management relations in the workplace. In NP Gage's letter from February, which is on AFGE's website, he notes that we should oppose the approach of focusing on grievances and ULPs. Grievances should not be artificially repressed. During the Partnership era in the 1990s, there were locals that were not filing grievances because they had bought into the notion that grievances were, themselves, the problem. NP Gage spoke to the NCFLMR about this and the Council agreed that the resolution of disputes, rather than the numbers filed, should be examined. We should be looking at whether fewer meritorious grievances are going to arbitration rather than being resolved in-house.*

meaningful local agreements.

Q: What about topics that should be discussed?

A: NP Gage would like LMFs to take up career ladder progression for jobs that do not currently provide them. He would also like LMFs to take up getting college credit for the training that employees go through at their agencies. He has raised these issues at the NCFLMR and got employee development and training into the metrics the Council is looking at to measure employee quality of work life. AFGÉ will have more information to help you with these topics.

At the July 7, 2010 meeting of the NCFLMR, Co-Chair John Berry suggested that going forward, the Council should begin to take on substantive issues, create work groups, and have in-depth reports that can help LMFs in the agencies move forward with issues. He suggested Telework as a possible first issue. NP Gage agreed that this was an important issue for LMFs and also raised the issues of college credit and career ladders. Deputy Secretary of the VA Scott Gould raised the issues of Veterans hiring, training, and workforce planning so that an agency is developing the skills it will need in the future. There seems to be a theme here of career development, training, helping employees develop the skills they will need for future advancement in their agencies, etc. These are great topics to raise in your LMF.

There are so many topics that a LMF can discuss. One very important topic is the Obama Administration's Insourcing initiative, which calls on agencies to identify jobs that should be brought back and done by Federal employees rather than contractors. The Administration is concerned about the loss of in-house skills and the danger that could create for the future, when key skills and knowledge are in the hands of contractors, but not the government and its employees. AFGÉ has information about insourcing on our website and questions can be raised with Diana Price at priced@afge.org or Tim Shorrock at short@afge.org.

What we also need to keep in mind is that we are passionate proponents of "good government." We want to make sure that we make the government function more effectively and truly serve the public. Therefore, we should be thinking about topics for the LMFs that really speak to the needs of the public, ways that we can serve them better, and, frankly, to the concerns that the public may feel about how our agencies are hearing them and serving them.

Q: How should decisions actually be made at the LMFs? Are there votes? Consensus?

A: AFGÉ is not pushing a particular type of decision-making process. Consensus can be very powerful because it requires everyone to explain their views and ideas and try to persuade others; try to understand; try to find a way to come to a resolution that everyone can live with. It requires that you communicate with and try to understand the interests of your bargaining unit members so you can effectively articulate them in the Forum meeting. It can, however, break down the process if one person can keep an issue from being dealt with. A lot depends on the level of the forum. If you are an AFGÉ-only forum your views about voting versus consensus may be different than if you are part of an above-the-level-of-recognition forum with more than one union.

In a couple of departments we are seeing a "strive for consensus" model developing. This recognizes the power of trying to reach consensus and calls on the participants to engage fully and work hard to reach agreement. But it also understands the reality that the group may not reach agreement, and lays out some options, such as calling in a facilitator, giving the issue to a work group to bring ideas back to the Forum, or recognizing that no agreement will be reached and the parties will resort to their Chapter 71 rights and obligations. So far, this model has come up in multi-union forums above the level of recognition, but it could work for any forum.

Regardless of how your forum reaches a decision or fails to reach a decision, Chapter 71 remains in effect. In some agencies we are seeing that everyone understands that traditional or collaborative collective bargaining methods would need to be followed if no agreement is reached. But some agencies are balking at the idea that they may go through the Forum process, reach agreement, and still have to bargain. It is best for management to understand this up front.

If you are at the level of recognition and reach an agreement, you still need to put it into a form that is binding and enforceable, such as an MOU. If you are at the Council level, you need to make sure that you are allowing for local supplements, similar to what you probably have in your

bargain a LMF, either one of you can submit the first set of proposals, but neither one of you can unilaterally impose the LMF.

If management insists on unilaterally imposing a LMF charter or dropping anything else related to the Executive Order in your laps and saying "take it or leave it," you should respond. You should demand to bargain, and file a grievance if the agency is violating your contract or file a ULP if it is refusing to bargain in good faith. AFGE will develop more guidance as to how to handle this kind of situation. The response also could be an action by our members or it might be a press release, or it might be both. But we should not sit back and tolerate disrespect.

If management is trying to impose something that is not at the level of recognition, remember-other appropriate levels have to be agreed to by labor and management. If the agency is trying to set up a forum at a level that does not make sense to you, you do not have to agree. If management is trying to set up a forum at a level that does make sense to you, but you do not agree to the agency's terms, you should counter with your own ideas.

In terms of how to draft the charters, the guidance we have up on the AFGE website under Rights & Representation gets into the various subjects that one needs to think about. Look for the document called, "The Labor-Management Forum Agreement." We are also starting to post LMF agreements that have been signed and completed so that you can get ideas from them. We will be working to develop more details over the coming weeks.

Q: Are there specific things that need to be in the charter?

A: The "Labor-Management Forum Agreement" guidance on the AFGE website contains various issues that you will want to consider in establishing your forum and developing your agreement. Another point to keep in mind is that if you are at the level of recognition, and the appropriate people for the union and for management sign an agreement, whether you engaged in formal negotiations or not, that is a binding, contractual agreement. If you are not at the level of recognition, but people empowered to agree for their organizations sign an agreement, it is possible that the document will also be considered to be a contractual agreement. We will post updates on this issue as we move forward.

In general, LMF agreements are like agreements for other kinds of committees and should contain such things as the members, how often you meet, payment for members who have to travel to meetings, that union officials will be in a pay status, but the time will not come out of negotiated official time amounts, how items will be placed on the agenda, how decisions should be made, etc. Look at the guidance for more details.

Q:What roles should LMFs above the local level play?

AFGE is encouraging Council, Department, Regional, or other higher level LMFs to take responsibility for the success of lower-level forums. This includes having a compliance role to deal with problems with managers who refuse to establish forums, refuse to send appropriate people, refuse to allow pre-decisional involvement (PDI), etc. On a more positive note, these higher-level forums should gather information about lower-level forums and communicate success stories and best practices. Higher level forums are the appropriate places for PDI on decisions that will be made at that level. For example, a Department may wish to issue a new policy on travel, or telework, or some other matter that it will implement Department-wide. The LMF at that level should deliberate that policy before management has made a decision in the hopes that the final policy will be a better one for the Department and its employees.

If you are developing/negotiating a Council-level forum, you should make sure that it includes forums at the local and other appropriate levels. We are starting to see some agencies refusing to have forums below the Council level of recognition. Yet, it is the local level that is the frontline level where PDI should take place, where the work gets done, and where there is the best opportunity to come up with ways to improve the delivery of services. In addition, there may be operational agencies, business lines, regional offices or other places between the Council and the Local levels where decisions are made that we should have an opportunity to shape to make sure they are the right decisions and that they are worker-friendly decisions. We should use the EO to be at the table at those levels where, all too often, an agency tries to tie the hands of the managers and union representatives at the frontlines and prevent them from working out

Q: Who should be on the LMF? In my unit, how do I make sure that the director, deputy director, garrison commander, or other high level manager is at the table rather than labor relations and human resources people?

A: "LMFs should be led by relevant decision makers and supported by appropriate staff." This is one of the most important guiding principles that came out of the NCFLMR. NP Gage insisted that the LMFs not be led by labor relations or human resources personnel. As you know, there are some labor relations specialists who are obstructionist, have a vendetta against the union, and see their job description as keeping the union at arms' length. There are other labor relations specialists who are honest, who try to keep management from doing the wrong thing, and who help the parties solve problems. Whether you have the first kind of LR Specialist or are lucky enough to have the second kind, your LMF still must be led by relevant decision-makers and not LR or HR people. At the first NCFLMR meeting last February, OPM Director John Berry, who is co-chair of the Council, said that "decision-maker" means someone who has the power to reach across the table, shake hands, and say, "Done deal."

The EO says that LMFs are about getting the job done, delivering services, and accomplishing our agencies' missions. Therefore, labor relations people should not be the guiding forces. If the LMFs are run by labor relations, they are shunted into the labor relations arena rather than into how the agency delivers its products or services. We want high-level operational managers who can make decisions about innovative ideas to improve the delivery of services and make the workplace better for employees and who can stop bad ideas from going forward. As much as we might want to, however, we cannot force management to pick a specific management official and say that THEY must be at the table, any more than we would allow them to pick who can represent the union on the forum. But we should insist on relevant decision-makers and not let management claim that they have empowered low level managers or labor-relations specialists to be "relevant decision-makers." The Union should also have people on the LMF who can speak for the union and make decisions.

If you are having problems getting the right people to the LMF, look to the structure in your agency for appeal avenues. If you are part of a Council, inform the Council that management is not sending relevant decision makers. If you not part of a Council, find out if there is a Department-level or other forum at a higher level to address your issue. Whether you are part of a Council or not, if you are unable to get your problem resolved, let Terry Rosen at FSED, rosent@afge.org know that this is going on so that she can bring this to the attention of NP Gage so he can raise it to the NCFLMR level.

Q: How many people should be on a LMF?

A: There is no one answer as to the right number of people per LMF. There is a lot written about group dynamics, how to make committees effective, etc. We all know that there can be too many people in the room for any real work to get done. We also know that if the various places in which we represent people are not represented on the forum, we run the risk of seeming out of touch with our members and the forum runs the risk of missing out on the ideas and insights of the total workplace.

It is difficult to give a more detailed answer since at each level our members and leaders know their co-workers and managers best. Rather than saying from HQ who should be at the table, AFGE leaders at each agency should think through who are the real "players" that should be at the table.

Q: The question of charters has come up. How should we draft them? Management has, in some cases, simply given us a charter and said this is it. Can we bargain over them? What about filing ULPs if they simply drop them in front of us?

A: There is no question but that the Executive Order intends collaboration between the parties and joint problem resolution. It is incompatible with the EO for management to insist on its version of a charter. The fact that management comes forward with their thoughts is fine, but they cannot impose their vision.

If you are at the level of recognition, whether at the local or council level, LMFs are fully subject to bargaining. That means that you can request to bargain a LMF, management can request to

FAQs for Labor/Management Forums

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Introduction: We have been receiving numerous questions from AFGE activists about President Obama's Executive Order 13522—Creating Labor-Management Forums to Improve Delivery of Government Services (EO). The following are some of the frequently asked questions regarding the Labor/Management Forums (LMFs) along with some answers. The implementation of the EO is a work in progress with many variables so we will be updating this site periodically. We also ask that you provide information to us, including any LMF agreements you reach, successes you are having, or problems you are encountering in carrying out the EO in your agency. Please send to Terry Rosen at rosent@afge.org

If you haven't done this already, please check out the guidance that is on AFGE's website now. Go to www.afge.org, click on "Rights and Representation" and then on "Labor-Management Forums." There are President Gage's February letter to local and council presidents, AFGE's general guidance on the EO, more specific guidance on LMFs, and other documents. Also, you should go to www.lmrcouncil.gov the website of the National Council on Federal Labor-Management Relations (NCFLMR) that was created by the EO. Click on "Agency Plans" and find your agency's or department's implementation plan. These plans were required by the EO to show how the agency intended to implement the EO. See what your agency or department told the National Council that it would do to carry out the EO. In addition, if you scroll down further below the plans you will see "Supplemental Information." Many agencies' plans were not certified the first time around and they were asked to provide additional information.

Q: Is there a recommended structure for the LMF?

A: AFGE locals and councils should look at the structure of their agencies to figure out what makes the most sense for them. The EO requires a LMF at the level of recognition. That has been defined by the NCFLMR as follows:

The level of recognition is the level at which a bargaining unit with an exclusive representative is certified and the parties have specific rights and obligations within the collective bargaining process.

In addition, the EO calls for LMFs at "...other appropriate levels agreed to by labor and management..." The EO also allows for existing labor-management committees or partnership councils to continue to exist, but they should be adapted to carry out the provisions of the EO. If you already have labor-management committees that work for you, your management may be more comfortable keeping the committee, but doing the things required by the EO, rather than creating something brand new. Just make sure that you put in writing that your committee is now a committee to carry out the EO and that the parties agree to such things as pre-decisional involvement (PDI), sharing information expeditiously, making a good faith attempt to resolve issues, etc.

Your level of recognition could be at the local level or at a council level. Either way, you should insist on a LMF at that level. But it shouldn't end there. Having LMFs at various levels in an agency makes sense. The critical principle for AFGE is the following: where decision making is done by management, we believe that there should be a LMF so that there can be pre-decisional involvement that allows us to help shape the final decision. AFGE strongly recommends that there be cascading LMFs in the agency or department, i.e., not a single LMF at the top and nothing below, and not a single LMF at the local level with no connection to higher level LMFs. This could mean any number of things, such as LMFs at the regional level, the component level, or based on the business structure of the agency, such as business lines. This is a matter that will have to be discussed by the parties.