

FEDERAL LABOR RELATIONS AUTHORITY  
OFFICE OF THE INSPECTOR GENERAL



**INTERNAL REVIEW**

**INTERNAL REVIEW OF THE  
FEDERAL LABOR RELATIONS AUTHORITY'S  
EXTERNAL AFFAIRS FUNCTION**

REPORT NO. 00-02  
May 2000

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### Executive Summary

**Background:** The FLRA external affairs function became operative in 1979, during the first of FLRA's existence. The function was handled in the Office of the Executive Director, as well as by several individuals specifically brought on board by past Chair/men who functioned as external affairs and/or special assistants during the first eight years of the FLRA's existence. During the middle of the 1980's, the presiding Chair brought on two Schedule C Congressional Affairs personnel who assumed the majority of external and Congressional affairs functions for approximately 1 ½ years. When these individuals left the agency, the external affairs function was again realigned with the Office of the Executive Director. During Chair McKee's tenure, a Schedule C employee was brought on board who assumed total responsibility for public and Congressional affairs functions with the exception of external publications which were handled in the Information Resource Management Office and the Office General Counsel's Congressional and Technical Assistance Inquiries. During the tenure of Chair Segal, the position of Director of External Affairs was created in the Authority. Three Schedule C incumbents consecutively held the position.

**Discussion:** The FLRA external affairs function is one of the major assigned duties of the Director of External Affairs. The incumbent is a Schedule C employee who performs Congressional and White House liaison, is responsible for the FLRA website media and publication releases and serves as a confidential executive assistance to the Chair/man FLRA. The extent of workload related to this function is relatively small due to the quasi-judicial nature of the FLRA mission and the extensive publications which are available to the public. The FLRA has no written policy or procedures for the conduct of external affairs with the exceptions of a 15 year old instruction on Congressional inquiries and an Administrative Services Division Memorandum providing procedures for publishing material in the Federal Register. The function of external affairs is an administrative function which affects all organizational components. As it is being currently administered, the function is performed and tracked separately by each FLRA component and coordinated, as a courtesy, with the Director of External Affairs. There are no standardized requirements or

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procedures. There is no centralized oversight or agency tracking system. An employee in the Office of the Executive Director performs a significant amount of man hours working on external affairs tasks and an employee in the Affairs. The office of General Counsel and Federal Service Impasses Panel employees also perform external affairs tasks.

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**Internal Review  
Of the  
Federal Labor Relations Authority  
External Affairs Function**

**Objective:** The objective of this Internal Review is to examine the current external affairs function, compare it with that of other small and/or regulatory and quasi-judicial agencies and examine the processes and procedures used to maximize the efficiency and effectiveness of the function, as it is administered in the Federal Labor Relations Authority (FLRA).

**Scope:** The scope of this Internal Review includes an assessment of the FLRA processes used to administer traditional Federal Agency external administrative interfaces including, White House inquiries, Congressional inquiries, public inquiries, media requests, Office of Management and Budget and General Services Administration tasking, other Federal agency requests, public information (publications and website) and legislative review and tracking. This review focuses on the administrative aspects of the external affairs function, but does not address specific execution of the political or legal aspects of the function. However, the quasi-judicial mission of the FLRA requires constant and continuing external interfaces by the three FLRA components.

**Definition:** An external affair is a broad term used in government to define oral and written communications with entities outside of an agency. It includes all external interfaces, both public and private sector. The term “external affairs” can be broken down into three major functional areas: Congressional and Legislative Affairs, Inter-Agency Governmental Affairs and Public Affairs.

**Methodology:** The methodology used for this review includes interviews with External Affairs principals from seven small regulatory and quasi-judicial agencies and a review of their external affairs procedures and policies to establish a baseline of comparison. Discussions were held with the FLRA Authority, Office of the General Counsel and Federal Service Impasses Panel senior managers and the Director of External Affairs. Interviews were conducted with FLRA principals who are involved in external affair functions, along with a review of various FLRA external inquiries and replies, past and current FLRA processes and an evaluation of the efficiency, effectiveness and the degree of internal management controls that are used in the administration of the FLRA’s External Affairs Program.

**FLRA External Affairs Function**

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The FLRA external affairs functional requirements differ and are handled somewhat differently than most other Federal agencies. To begin with, the “service” and “product” stem from the mission of the FLRA, requires continual external interface. The three Agency components, (the Authority, the Office of the General Counsel and the Federal Service Impasses Panel) handle and track their own case related Congressional and public inquiries separately. This organizational independence is clearly supported by the Federal Service Labor-Management Relations Statute (the Statute). The Office of Case Control in the Authority, which serves as the Authority’s point of contact with the public, generally handles its own public inquiries, which are almost all case related. The Office of Case Control also serves as the Authority’s point of contact for public comments for FLRA Authority documentation published in the Federal Register. However, the Solicitor and Deputy Solicitor are the Federal Register Liaison Officer and Alternate Liaison Officer, respectively. The Federal Register Authorizing Officer is the Director of Administrative Services. The Office of the Solicitor handles the Authority’s Freedom of Information (FOIA) and Privacy Acts inquiries, while the Office of the General Counsel and Federal Service Impasses Panel (FSIP) generally handle their own. The Office of the Solicitor provides legal reviews and comments on Federal and/or FLRA regulations, when requested.

The FLRA Director of External Affairs, is currently a Schedule C employee whose function, in addition to overseeing external affairs, is to serve as a “special executive assistant” to the Chair/man of the FLRA and to provide political advice/liaison with Congress and the White House, as well as oversee special FLRA projects. The current Director, External Affairs is also involved in budget programming, conference planning, and other special projects as requested by the Chair/man.

The current External Affairs Director stated that there has been minimal Congressional interface and virtually no testimony since 1995, when there was a bill proposed to merge the FLRA with the Merit Systems Protection Board. If testimony for a Congressional Hearing were necessary now, the Director of the External Affairs would be responsible for working with the appropriate official to produce the testimony. The Director of External Affairs does not issue cyclic legislative reports to general management, but has distributed the status of proposed legislation relevant to the FLRA. Upon specific request, the Director of External Affairs will check the status of specific legislation for interested managers. In addition, the Director of External Affairs also works on special projects, writes magazine articles and press releases, helps arrange agency seminars and oversees publication production and the FLRA website. The Director of External Affairs also interfaces with the media, issues news releases and participates in major external FLRA functions.

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The FLRA does not have extensive inter-agency external interface beyond the Federal labor-management community because of the adjudicatory nature of its mission. As previously mentioned, there is little interaction with Congress beyond follow up on Presidential Appointee nominations and confirmations. Also, because of the extensive amount of public information, publications, and press releases available through the FLRA website, there has been a minimal interface with the media. Administrative interfaces with Federal agencies are primarily handled directly by the Office of the Executive Director (i.e. Office of Management and Budget, Office of Personnel Management, etc).

Because the FLRA is an adjudicatory agency, it does not normally maintain liaison or interface with special interest groups. However, the Office of General Counsel does engage in "outreach" with its external training sessions for Federal Agency labor relations specialists and Union officials. The FLRA does not have international relations or interface, except for labor-management issues involving Federal agencies in foreign locations (i.e. Department of Defense, Department of State, etc).

To date, neither the Director of External Affairs nor Office of the Executive Director has issued policy or guidance for the external affairs function from an Agency level and overarching perspective. Policy does exist delineating the process for handling Congressional, but it is 15 years old. The Office of the General Counsel has issued its own guidance for handling its own Congressional.

A majority of the FLRA's external Federal and public inquiries received do not pertain to FLRA legal or administrative responsibilities and are sent to the FLRA in error. Depending on the clarity and complexity of the issues, these public inquiries are either forwarded to the appropriate agency or sent back to the originator with an appropriate letter of explanation. The Director of External Affairs estimated that 80% of the public inquiries received by the FLRA do not belong here. On the average, the FLRA receives 10-15 White House inquiries and 12 -20 Congressional inquiries each year. Many of these are also sent in error. Over the past year, more than 600 public inquires were received by the Assistant to the Executive Director, many of them misdirected and having nothing to do with the FLRA. Because each of the individual components handles its own mission related external affairs function, associated workload is decentralized and only estimable. This review does not reveal excessive workload needs in the current structure, but does reveal a duplication of effort by each component in maintaining a tracking system with no centralized controls. FLRA written responses to external customers that were provided by the Assistant to the Executive Director, Office of General

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Counsel and Federal Service Impasses Panel were appropriate and customer oriented.

The FLRA is mentioned in a significant number of Federal publications (Federal Yellow Book, Federal Employees News Digest, Federal Directory, Federal Staff Directory, to name a few) which require annual updates. These updates are provided by the Assistant to the Executive Director who serves as the official point of contact for these publications. This individual also drafts most replies to Authority Congressionals and media requests.

The Assistant to the Executive Director generally receives and tracks all public general inquiries (telephone calls, e-mail and letters) sent to the Authority and responds to them. According to the Assistant to the Executive Director, all responses are coordinated with the Director of External Affairs, but are released with the Assistant to the Executive Director's signature. The Assistant to the Executive Director also is responsible for coordinating the FLRA Annual Report to the President, drafting the yearly Letter of Assurance, coordinating the FLRA Bulletin and Newsletter, and drafting responses to White House inquiries. The Assistant to the Executive Director also drafts responses to Congressional, but these go out under the signature of the Director of External Affairs. Most Authority public information functions are handled by the Assistant to the Executive Director in the Office of the Executive Director and reviewed by the Director of External Affairs prior to release. The Assistant to the Executive Director has been with the FLRA since its creation and has extensive historical and corporate knowledge of the FLRA. This may be a contributing factor to his significant involvement in external affairs tasking.

The Office of the General Counsel responds to all Congressional and public inquiries concerning the Office of the General Counsel and provides a copy of Congressional response to the Director of External Affairs, after such responses are issued. The FLRA Office of Information Resource Management, also part of the Office of the Executive Director, is responsible for the technical publication of all information that is distributed externally, prepares the bound volumes of case decisions and maintains the FLRA Home Page. FLRA Authority's FOIA requests are handled by the Office of the Solicitor. The Office of the General Counsel handles its own FOIA and Privacy Act issues. FSIP handles its own FOIA and Privacy Act inquiries, but usually coordinates them with the Office of the Solicitor.

The current Director of External Affairs "works at the pleasure of the presidentially appointed Chair/man." The Director of External Affairs spends a significant amount of time working with the Chair/man and other Presidential appointees, as needed, on matters that require a high level of confidentiality. The Director of External

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Affairs also performs speech (or testimony) writing, accompaniment to external events, tracks relevant confirmation hearings and interfaces with relevant Congressional staff.

### Position Descriptions

A review of current position descriptions of the Director of External Affairs, the Assistant to the Executive Director and Information Resource Management Labor Relations Specialist document the following duties of the three Authority individuals who perform significant duties in the external affairs function.

a. Director of External Affairs: This position is a Schedule C position, comparable to a General Schedule 301 or 1035, Grade 15. The position description and level of classification supports the level and expertise needed for this position and specifically enumerates external affairs functions. The Director of External Affairs reports directly to the Chair/man and has the official function of managing and directing the Federal Labor Relations Authority's Intergovernmental Relations and Public Affairs programs, as well as overseeing and coordinating special projects for the Chair/man. The position description also states that the Director of External Affairs is to provide advice and assistance to the Chair/man and other Presidential appointees on sensitive issues relating to external and political affairs. The Director of External Affairs serves as the Agency's liaison to the White House and the Agency's point of contact for FLRA Presidential appointee nominations and confirmations. The incumbent also establishes and maintains liaison with Members of Congress and oversees Congressional communications. The Director of External Affairs has the responsibility for coordinating the Agency's responses to Congressional requests. The incumbent is also expected to form relationships with the Legislative organizations in the Office of Management and Budget and the General Services Administration. The incumbent is supposed to establish effective working relationships with the media, oversee Federal Labor Relation's Authority press releases, publications and website content. The incumbent, according to the position description, oversees the Chair/man's speaking schedule, reviews and comments on legislation affecting the Agency, and performs special management projects for the Chair/man.

b. The Assistant to the Executive Director's position description contains external affairs responsibilities, although the incumbent reports to the Executive Director and not the Director of External Affairs. This position is also classified as a GS-301-15. The defined duties and responsibilities of this position make the incumbent responsible for the preparation of the Authority's written responses to public inquires, including referrals from the White House and Congressional offices. The position description also states that when required, the incumbent directs

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liaison activities with other Agency offices and other Federal Agencies in the development of responses to inquiries. The Assistant to the Executive Director is also charged with responsibility for drafting/directing publications, such as Agency newsletters and bulletins, and external reports, such as the Letter of Assurance, and coordinating the Annual Report to the President, etc. (These are reviewed by the Director of External Affairs prior to release).

c. The Information Resource Management Labor Relations Specialist's position description assigns the incumbent the responsibility of formulating and implementing the Authority's legal publications and technically maintaining the FLRA's website. The incumbent is responsible for the technical preparation and promulgation of the Authority's rules and regulations, providing technical advice, and preparing legal and other publications, including reports of case decisions, bound volumes of Authority decisions, digests, indexes, citatory, information announcements and guides, pamphlets, regulations, manuals and other informational publications. While this position description does not indicate coordination of these duties with the Office of External Affairs, the present incumbent does routinely interface with the Director of External Affairs on information that goes external or on the website. This employee reports directly to the Director, Information Resource Management, who reports to the Executive Director.

According to the Assistant to the Executive Director, significant work hours are spent on the external affairs function (80-90 hrs/month). The same holds true for the Information Resource Management's Labor Relations Specialist who is responsible for the FLRA Home Page and the production of other external information publications. The Director of External Affairs is not a "designated supervisor" or evaluator of personnel in other organizational entities which work to support or execute assigned external affairs functions. While the Director of External Affairs was asked to provide input for the performance appraisal of the Assistant to the Executive Director in FY 1999, the same was not requested of the Information Resource Management Labor Relations Specialist, who provides total technical support for the external affairs function.

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**Summary of External Affairs Functions Performed by other  
FLRA Organization Entities**

The various processes used by the FLRA organizational entities to administer their external affairs function demonstrates the absence of program centralization Agency-level policy and defined requirements.

**Office of the Solicitor**

The Office of the Solicitor functions as the “attorney” for the Authority. It also has the responsibility, by delegated authority, of handling Freedom of Information (FOIA) requests and Privacy Act requests. Since the Office of the General Counsel and Federal Service Impasses Panel fundamentally handle their own FOIA and Privacy Act requests, the Office of the Solicitor basically handles those sent directly to and relevant to the Authority. The Office of the Solicitor maintains a FOIA tracking and response system for the Authority as do the other components for their own FOIAs. Authority FOIA responses are reviewed and signed by the Deputy Solicitor and are generally not coordinated with the Director of External Affairs, unless a matter of sensitivity is involved. The Office of the Solicitor also has the responsibility of preparing the Annual FOIA Report which summarizes the FOIA actions of all of the FLRA components. This report is sent to the Department of Justice and made part of a consolidated report to Congress. This document is coordinated with the Director of External Affairs and signed by the Chair/man, FLRA. Statistical input on the number of yearly FOIA requests is provided to the Office of the Solicitor for this report by each of the organizational elements which handle FOIA requests. FLRA has not historically received an abundance of FOIA requests. Information provided by the Deputy Solicitor revealed that during 1999, a total of 131 FOIA requests were processed by the Agency: 68 of these were handled by Office of the General Counsel Regional Offices, 16 by the Office of the General Counsel, 13 by the Federal Service Impasses Panel and 34 by the Office of the Solicitor<sup>1/</sup> 1 .

The Office of the Solicitor also has the responsibility of providing legal reviews on external legislation when requested (usually by the Director of External Affairs). Substantive media inquiries and Congressional inquiries received in the Office of the Solicitor are normally forwarded to the Director of External Affairs. Historically,

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<sup>1/</sup> Since the General Counsel has the responsibility and accountability of managing the regional offices, the regional offices are referred to in this review as the Office of General Counsel Regional Offices.

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these have been minimal. Privacy Act Appeals, which are almost non-existent, are forwarded directly to the Chair/man, FLRA. The Office of the Solicitor also serves as the Agency Liaison and Certifying Officer for Federal Register Publications. (Internal policy issued by the Administrative Services Division as Administrative Services Memorandum #4, August 26, 1996, requires all FLRA documents that are to be printed in the Federal Register, be staffed through the Director of External Affairs prior to being sent to the Office of the Solicitor for publication in the Federal Register.) In addition, the Solicitor also serves as the FLRA's Ethics Officer and interfaces with the Office of Government Ethics. On occasion and when necessary, the Office of the Solicitor interfaces with White House Counsel on matters relating to the nomination of FLRA Presidential appointees. The amount of external interface by the Office of the Solicitor, apart from its legal mission, is minimal.

### **Office of the General Counsel**

The Office of the General Counsel's external interfaces is predominantly case related telephone calls or written inquiries which are handled internally. Any communication that will have Agency impact is forwarded to the Director of External Affairs. The Office of the General Counsel rarely receives inquiries of an administrative nature. Most Congressional inquiries received by the Office of the General Counsel are related to legal cases. After the issuance of the Office of General Counsel's external correspondence, a copy of the Office of General Counsel's response is forwarded to the Director of External Affairs as a courtesy. The Office of the General Counsel's external correspondence is always signed by the General Counsel. Direct telephone calls are handled by principals in the Office of the General Counsel. The Office of the General Counsel maintains a manual log of Congressional inquiries. Most of the interface between Congress and the Office of the General Counsel actually relates to appropriations and case related issues, rather than political issues.

In situations involving media inquiries, and press releases, the Office of the General Counsel normally coordinates action with the Director of External Affairs. In situations involving press releases, the Office of the General Counsel prepares its own material and forwards it to the Director of External Affairs for review and release. In the case of Congressional testimony, the Director of Operations and Resource Management for the Office of General Counsel prepares the testimony for the General Counsel on all management and appropriation issues and the Deputy General Counsel prepares testimony for the General Counsel on issues related to the operations of the Statute. In both instances, the testimony is sent to the Director of External Affairs for review. While this procedure is more of a courtesy than actual staffing, the Office of the General Counsel does take Director of External Affairs' comments into consideration. The last time General Counsel testified

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before Congress was in 1995, when the merger of the Federal Labor Relations Authority with other quasi-judicial agencies was being considered. As with other FLRA components, Congressional testimony is rare.

The Office of the General Counsel has documented guidance on how to address Congressional correspondence. This guidance is in the form of an Office of the General Counsel Management Memorandum (95-2) dated December 5, 1994. Congressional inquiries received by Office of the General Counsel's Regional Office Directors are forwarded to the Office of the General Counsel with a written draft response. Media contact is rare at the Regional Offices. The Director of Operations and Resource Management handles external affairs for the Office of the General Counsel. This responsibility is noted in the incumbent's position description.

### **Federal Service Impasses Panel (FSIP)**

The Federal Service Impasses Panel has very little external interface beyond its mission related purpose. Over the last three fiscal years, the aggregate amount of time spent on external affairs by the Executive Director, has been less than 12 hours per year. During FY 97, the Federal Service Impasses Panel received approximately 20 external inquiries. During FY 98 and FY 99, approximately 17 inquiries per year were received and processed. These figures include 12 FOIA requests per year from the same individual and 4 telephone conversations with the Office of the Solicitor regarding the location of records to address FOIA inquiries. Most of the other FSIP external affairs interfaces (public and media inquiries, Congressional, inquiries from other Federal agencies etc.) are by telephone.

The Executive Director of the FSIP is responsible for the FSIP's external affairs interface. This responsibility is clearly delineated in his position description. However, during the past three years, with the exception of relating the status of cases to Congressional staffers (as a result of Congressional inquiries), or referencing the FLRA website to media inquiries about cases, the FSIP has coordinated most of its external affair matters with the Director, External Affairs. The FSIP has had little interaction over the last few years with other Federal Agencies regarding non-case related items. From time to time, the FSIP receives calls from the media, generally in response to National Treasury Employees Union (NTEU) Press releases. Unless the call merely requires a reference to the FLRA website address, the caller is directed to the Assistant to the Executive Director if case material is requested, or to the Director of External Affairs for other information. While there is no clear definition of what types of external telephone inquiries are handled by the FSIP Executive Director and what types are turned over

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to the Director of External Affairs, professional judgment is used and in either case, the Executive Director of the FSIP keeps the Director of External Affairs informed.

The FSIP publishes a brochure describing its functions and a “Guide to Dispute Resolution Procedures Used by the Federal Service Impasses Panel” which are distributed externally. These publications were not reviewed by the Director of External Affairs prior to release, but were reviewed by the Administrative Services Division, in the Office of the Executive Director. The FSIP printed case decisions, however, are reviewed by the Director of External Affairs prior to publication.

### **External Affairs in Various Regulatory Agencies**

When compared to other small and quasi judicial agencies, the FLRA external affairs function is executed most similar to the Office of Special Counsel. The Office of Special Counsel also uses a Schedule C employee and has decentralized administration of external affairs tasks. The National Labor Relations Board employs six General Schedule employees at the Headquarters office to administer external affairs but, like the FLRA, its field offices have an attorney administer this function as a collateral duty. On the other side of the spectrum, the Equal Employment Opportunity Commission maintains centralized administration for external affairs and employs 21 General Schedule employees to handle its external affairs program. Details on how other agencies, similar in size or structure to the FLRA are provided below and are summarized in Attachment 1.

#### **1. Farm Credit Administration**

The Farm Credit Administration (FCA) is a regulatory agency whose mission is regulates issues of rural America. The FCA has five regional offices. The FCA Office of Congressional and External Affairs handles all Congressional and matters for the regional offices. Direct Congressional are rarely received at FCA regional offices. The FCA has approximately 319 FTEs and the Office of Congressional and External Affairs is authorized eight positions (currently has seven people on board.) The FACE has a comprehensive external affairs role which is explicitly documented in FACE Administrative Policy. The Director of the Office of Congressional and External Affairs reports to the Chair, FACE and maintains responsibility for all external functions, including international affairs and liaison with special interest groups. Some of the major external affairs functions of the FACE include:

1. Maintaining a tracking system for all incoming and external correspondence.

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2. Reviewing all external correspondence issued by the FACE to provide for the uniform, consistent release and distribution of public information (with the exception of information relative to the Freedom of Information Act and the Privacy Act which are the responsibility of General Counsel).
3. Approving all newsletters, brochures, manuals, Home Page information and information released to the media or available to the public (with the exception of oversight reports from the Office of the Inspector General).
4. Preparing media releases, testimony and all information for Chair and CEO signature released in response to White House, Congressional and OMB, GAO tasking (information provided by appropriate functional managers).
5. Monitoring relevant legislation and confirmation hearings and providing weekly updates to management.
6. Attending pertinent Congressional committee and staff meeting and coordinating/preparing FCA management principles for Congressional interfaces.

### **Equal Employment Opportunity Commission**

The Equal Employment Opportunity Commission ( EEOC ) is an quasi-judicial agency with the mission of eradicating employment discrimination in the workplace. The Agency consists of 2800 FTE's and has an Office of Communications and Legislative Affairs which is staffed with 21 FTEs. In addition, a program manager at each of the 50 EEO field offices treats Congressional and legislative affairs as a collateral duty. The Office of Communications and Legislative Affairs has produced a Communications and Legislative Affairs Handbook which provides detailed guidance for EEO programs, providing guidance for managers, as well as, its own staff on handling communications and legislative affairs.

The EEOC's Communications Staff communicates the Commission's policies and programs externally to the media and public by coordinating responses to informational inquiries and by providing technical assistance to EEOC staff on communication matters. The Communications staff also serves as the Agency liaison with the news media, coordinates communications with external non-government organizations, responds to oral and written inquiries, produces public service announcements and conducts seminars and exhibits. It also coordinates the production of information materials for the public and annual reports to the President and Congress. The Communications staff also assures uniformity of

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policies and provides guidance to the EEO's field offices concerning external relations.

The Legislative Staff serves as the communications link between the EEO and Congress and Executive Branch. It coordinates and responds to Congressional communications, conducts legislative liaison with members of Congress, congressional committees, congressional staff and legislative agencies. It conducts intergovernmental liaison with Executive Branch agencies, tracks, researches and analyzes legislation and issues and provides guidance to the Office Directors on congressional matters.

### **Office of Special Counsel**

The Office of Special Counsel (OSC) is an independent investigative and prosecutorial agency with the mission of protecting Federal whistleblowers, investigating and prosecuting prohibited personnel practices, and enforcing the Hatch Act. The OSC consists of 90 FTEs and consists of a Headquarters located in Washington, DC and two field offices (Oakland, CA and Dallas, TX). The OSC has an Office of Congressional and Public Affairs which are staffed with one Schedule C, five year appointed GS-15. The Office of Congressional and Public Affairs was previously staffed with an additional position which was eliminated due to downsizing. The Office Congressional and Public Affairs has no written policy or guidance and primarily focuses on handling all Congressional inquiries, press releases and liaisons with OMB and GAO. The review of all other external and public information is performed by senior staff attorneys. The structure of the Office of Congressional and Public Affairs of the OSC is the most similar to that of the FLRA.

### **National Labor Relations Board**

The National Labor Relations Board (NLRB) is a quasi judicial agency whose mission is to resolve private sector labor management disputes. The NLRB is comprised of 1900 FTEs and has 55 regional offices, 33 of which are considered Regional Offices headed by senior executives who report to their Office of General Counsel. The external affairs function is basically divided between the Executive Secretary, the Director of Information and the Division of Operational Management in the Office of General Counsel. External affairs in the field offices are handled by the Regional Directors and coordinated through the Office of General Counsel. All three offices and the Board (five Members) respond to Congressional inquiries. The NLRB has no written policy but requires Congressional inquiries to be

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responded to in 3 days. The NLRB does not maintain an automated or manual accounting of external inquiries or responses, but they do maintain individual files and try to coordinate with one another, but there is not 100% coordination. All relevant external affairs and public information positions are career general schedule positions. The Division of Information is responsible for the official dissemination of information to the public and media and is staffed currently with six General Schedule positions. Depending on the subject matter, sometimes the Executive Secretary prepares documentation going to Congress, sometimes reviews drafts created by responsible principals (such as the budget submission.) There is no standard protocol. The Chair, NLRB requested that he sign all documentation released to Senate, the House of Representatives and White House inquires. In general, the Board Members are not aware of the subject matter of Congressional inquiries unless they are directly sent to them. NLRB traditionally based "unwritten" policy is to distance knowledge of routine Congressional from the Board so that they maintain total independence in their case decision making. The NLRB Congressional Affairs principals also do not get involved in legislative affairs or routinely interact with Congressional staff to ensure that they do not elicit a "lobbying" perception. The Office of the Solicitor is responsible for monitoring and updating staff on relevant legislation. No one tracks confirmation hearings. While the Executive Secretary is staffed with 5 professionals and 15 support personnel, no one person is dedicated to Congressional affairs. The Executive Secretary estimated that between  $\frac{1}{4}$  and  $\frac{1}{2}$  FTE was engaged in the Congressional Affairs function in his office.

### **Legal Services Corporation (LOC)**

The Legal Services Corporation (LSC) is a small organization of 90 employees whose mission is to provide legal services. It is comprised primarily of attorneys and has no field offices. Its Office of Government Affairs is comprised of six individuals who perform a comprehensive centralized congressional and public affairs function. This office was created in January 1998 by centralizing a formerly bifurcated function. The LSC has external affairs administrative policy is responsible for providing and/or reviewing all communication to Congress, the White House, the public and the media and provides oversight over the website and all major printed information such as manuals and brochures before they are released. They have a manual tracking system for Congressional, White House and public inquiries. They maintain ongoing contact with Congress, track all relevant legislation and provide updates to the Board, Staff and Bar organizations. When required, the LSC Government Affairs Office drafts testimony for principals testifying at Congressional hearings. They review all external requests and replies with the exception of FOIA inquiries which are handled by the General Counsel.

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### **Securities Exchange Commission (SEC)**

The Securities Exchange Commission is an independent agency comprised of approximately 3000 employees. The SEC maintains 11 regional offices. Its mission is to maintain the integrity of security markets and protect the investor. Its external affairs function is divided among two offices, the Office of Legislative Affairs and the Office of Public Affairs. Its Office of Legislative Affairs is comprised of eight General Schedule employees and is solely responsible for Congressional Affairs for the entire agency, including the regional offices. The main functions of the Office are to assist Congressional staff in the preparation of legislation, respond to Congressional inquiries (approximately 5-10 per week), interface with Congressional staff, and track confirmation of Commission Members. The Office of Legislative Affairs reviews, but does not prepare, Congressional testimony which is developed by program managers. Program managers have the responsibility to talk with the public concerning their programs. The SEC has almost no contact with the media. The Office of Legislative Affairs also maintains the SEC's website, primarily because its Director developed it and maintained it prior to accepting her current position.

The Office of Public Affairs is staffed with nine full-time General Schedule personnel. In addition, each regional office has an individual who is responsible for public information interface with the media as a collateral duty. Tasking from GAO and OMB and the SEC's budget submission is handled exclusively by the Office of the Executive Director. The Office of Public Affairs' primary job is to interface with the media (provides news clips and news reports) and senior officials of the SEC. External correspondence is reviewed by the Office of the Chair. The Office of Public Affairs is also responsible for overseeing the visits of foreign visitors (The Office of International Affairs produces international policy and agency liaison). The Office of Public Affairs maintains responsibility for producing SEC publications and quarterly newsletters, but, there is also an Office of Education which is responsible for producing Agency brochures and educational material. The Office of Public Affairs does not get involved in lobbying or reviewing external legislation (a function of program managers).

### **Federal Maritime Commission (FMC)**

The Federal Maritime Commission (FMC) is a small agency comprised of 140 full time equivalents. The Agency has no formal external affairs program. Congressional interface is handled as a collateral duty by a senior attorney. Public information is handled as a collateral duty by the Office of Secretaries.

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### Discussion

External Affairs is an important administrative function. At the FLRA, the current External Affairs position has three major aspects. One is that the Director of External Affairs serves as a confidential executive assistant to the FLRA Chair/man and engages in political duties associated with White House, the Congressional and Presidential appointee interfaces. The second aspect involves oversight of external and public affairs activities that have to do with the FLRA as an Agency. The third aspect is to oversee and/or participate in special projects, as requested by the Chair/man.

In many Federal agencies, the external affairs function, in addition to Congressional and public affairs, also includes periodic meetings with appropriate Congressional committees and staff, liaison with the Office of Management and Budget, review of proposed Federal legislation and legislative research/coordination. By virtue of its quasi judicial mission, the FLRA's external interfaces differ from that of most other executive and regulatory Agencies. It's White House and Congressional interface relates mostly to its Presidential appointees and their nominations/confirmations. A significant amount of the FLRA's mission results are legal decisions, a matter of public information, and are published and available to the public on the FLRA website. FLRA's interface with the media is rare. With the exception of administrative interfaces with executive agencies such as the Office of Management and Budget, Office of Personnel Management, Government Services Administration, etc. which are normally processed through the Office of the Executive Director, FLRA's interfaces with Federal Agencies normally pertain to training of labor-management principals or the investigation, dispute resolution or adjudication of labor-management relations cases. It is important to distinguish between the legal and administrative aspects of the FLRA's external affairs function.

During the previous FLRA administration, at the onset of this review, the Director, External Affairs was a Schedule C position. The incumbent reported to and was supervised by the Chair/man, FLRA. This has not changed with the appointment of a new Chairman (February 2000). The existing position description of the Director of External Affairs specifically states that "the incumbent's decisions must reflect the sound judgment and in-depth knowledge" of the views and policies of the Chair." This indeed strengthens the bond between the Director, External Affairs with the Chair/man. While this review did not reveal any significant conflicts of interest in the way the external affairs function is administered in each FLRA component, the function of external affairs, like financial management and personnel management, is a function whose scope covers the full Agency and not just the Chair/man or the Authority. While the reality is that this function is performed by different individuals throughout the organization, the "official " organizational placement of the external

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affairs function in the Office of the Chair/man gives the appearance of Agency head and Authority control and implies the lack of organizational independence.

The actual execution and day-to-day business application of the external affairs function “encompasses oversight” over the Authority’s, and theoretically other FLRA components’ external affairs functions. As stated previously, the labor management specialist in the Information Resource Division performs a majority of the technical work associated with the Director, External Affairs responsibility of coordinating/overseeing FLRA publications and website. This individual is supervised and evaluated by the Director, Information Resource Management Division without any formal input from the Director of External Affairs’, even though much of his technical function supports external activities and the Director of External Affairs function. As previously mentioned, the Assistant to the Executive Director, in the Office of the Executive Director, who also performs external affairs functions, received evaluation input and an award nomination initiated by the Director of External Affairs for FY 99. The Director of External Affairs is not a “designated supervisor” or manager of personnel in other FLRA organizational entities which support or execute assigned external affairs functions. The absence of functional policy and lack of consistency in procedures throughout the Agency does not support standard policy and accountable execution of the function nor standards for the evaluation of employees who perform the function.

The only existing FLRA external affairs policy, “White House and Congressional Correspondence Control Procedures”, FLRA 1322, dated March 10, 1986, which has not been updated, pertains to handling White House and Congressional inquires only. It does not address the FLRA’s internal process, requirements or procedures of handling other FLRA external affairs functions. This instruction is currently under revision as a result of to a previous Inspector General Management Letter noting a significant amount of outdated FLRA policy which needed review, revision, or cancellation. It would benefit the FLRA’s administration of the external affairs function if this revision enumerated the Agency overarching process for the administration of external affairs.

In spite of the fact that there is a designated Director of External Affairs in the Office of the Chairman, the FLRA administrative external affairs function is fragmented among the Office of the Executive Director and Office of General Counsel, the Federal Service Impasse Panel and Case Control Office and the Office of the Solicitor and is neither executed or coordinated in a centralized or standardized manner. The FLRA has no centralized tracking system for incoming and outgoing correspondence. The administrative tracking of incoming and external correspondence is performed and maintain separately by the various organizational entities. The fact that there is no centralized external tracking system weakens

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Agency administrative accountability and places senior executive management in a vulnerable position. Also, although the current vertical relationships appear to be cooperative, the decentralized administration of the external affairs function makes the services and output susceptible to stylistic, political and philosophical differences.

Out of each of the three FLRA components, the Authority is the only component that routinely coordinates all of its external affairs functions with the Director of External Affairs. As previously mentioned, the Office of the General Counsel, the Federal Service Impasses Panel, and the Office of the Solicitor handle most external matters pertaining to their mission, both legal and administrative. While the Office of the General Counsel has its own policy issued December 5, 1994, directly pertaining to its own handling of Congressional inquiries and responses, the other components do not have their own separate policies. Sometimes documentation that will be sent externally is coordinated with the Director of External Affairs, sometimes a courtesy copy is sent, but it is a matter of organizational courtesy since there is no specific FLRA policy requiring it. Generally, this review affirmed that if any inquiry is received by a component which affects the entire Agency, it is usually forwarded to the Director of External Affairs for action, but again, this is a matter of personal choice, vice policy. Each of the major components keeps their own files and correspondence tracking systems. There is no central Agency tracking system.

The current Director of External Affairs was not concerned with the decentralized external affairs function and stated that the position's main function was to support the Chair/man and could not be separated from the Agency external affairs function.

The incumbent commented that outreach and responsiveness were critical to the Chair/man as well as to the mission of the Agency. The incumbent also stated that it was important for the Chair/man to be able to use the Schedule C position as desired and in a confidential manner. The incumbent did not feel that such a relationship produced a conflict of interest when interfacing with other agency principals. Two deputy level principals of the FLRA stated during interviews that the current structure of the external affairs position could influence the independence of decisions on what should be provided in response to external inquiries, but emphasized that their own Presidential made the final decision, and that historically, there have not been many conflicts.

The Director of the External Affairs function felt strongly that the External Affairs function should remain where it is (Schedule C position under the Chair/man). The Assistant to the Executive Director also supported retaining the current structure. The majority of other managers interviewed favored the decentralized execution of the external affairs function. This perspective is predicated on the basic facts that the FLRA is made up of three statutory independent components and that most of

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the component external interface involves mission related matters and very few administrative external matters. While decentralization supports component independence, it also causes duplication of work, fragmented management accountability and additional use of resources. While the Inspector General understands management's preference for decentralized functions, it is difficult to support the efficiency of such program administration in an organization that has limited resources.

### **Conclusion**

This review did not evidence any issues of non-compliance. This review did reveal that the function is decentralized and is performed differently by employees in the Office of the Executive Director, Office of the General Counsel, Federal Service Impasses Panel, and the Office of the Solicitor.<sup>2/ 2</sup> Because of FLRA's customer orientation, a great deal of information has been made available to the public through the FLRA website and publications. This commendable effort has significantly reduced potential external affairs workload. Compared to other agencies, the FLRA receives very few Congressional and media requests. A majority of Congressional inquiries received are related to the legal missions of the three FLRA components and are handled independently. However, statutory independence cannot be used to explain why a significant amount of external affairs work is performed by two individuals in the Office of the Executive Director who do not officially report to nor are rated by the Director of External Affairs and why there has not been overarching guidance for the conduct of external affairs at the Agency level during the past twenty-two years.

The Office of the Executive Director is composed of all other FLRA administrative support functions which "support" the business operations of the entire agency. External Affairs is a current exception, even though historically it has been at various times a working level responsibility of the Office of the Executive Director. It is the opinion of the Inspector General that External Affairs - specifically the public affairs aspect (vice Congressional and White House inquiries, which generally pertain to legal cases and Presidential appointees respectively) is an Agency administrative function and should be administered similarly to other administrative support functions, such as procurement, personnel administration, budget, etc. The current

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<sup>2/</sup> While the Statute clearly directs legal and decisional independence among the three FLRA components, this statutory authority does not include administrative independence. An Office of the Solicitor Memorandum, dated October 11, 1984, subject "The Role of the Chairman of the FLRA Regarding Budget Matters," support this perspective, although it specifically deals with budget administration.

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structure and execution of the function does not evidence efficient use of resources and does not provide maximum administrative accountability for the Agency.

One other issue needs to be mentioned, although it must be emphasized that there does not appear to be a problem at the current time. This issue deals with the use of a Schedule C position for the external affairs function. From a political perspective, it is understandable why a Schedule C employee might be preferred, especially one who has established good working relationships with White House and Congressional principals. From an Agency perspective, a corporate perspective and familiarity with the Agency and civil service program administration might reduce the number of support resources required to perform the function. Another potential consideration to maximize efficiency would be to separate the Congressional and public affairs aspects of the function. From resource and work efficiency perspective, there may be significant value to placing the Public Affairs function back to a General Schedule employee capacity in the Office of the Executive Director, since it is an administrative function and is Agency-wide oriented. There might be more Agency orientation and accountability if the “public affairs” part of the external affairs function was performed from an administrative perspective. It would also provide a centralized point for external administrative tracking and accountability. 3/ 3 Such placement would also eliminate potential conflicts between Agency administration and political influences, and acknowledge the current reality that a significant part of the “public affairs” aspect of the external affairs function is being performed by general schedule employees who do possess FLRA corporate knowledge and experience.

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3/ Centralized tracking can also be performed by Director of External Affairs in the current structure.

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The suggestions above are not intended to eliminate the Schedule C position in the Office of the Chair/man or “burrow in” the present or any future incumbent. The Schedule C (or General Schedule, if preferred) position in the Office of the Chair/man should be retained to provide political Congressional and White House interface for FLRA’s Presidential Appointees and also function as a “special Executive Assistant for the Chair/man (and even all Members of the Authority and other Presidential appointees). This suggested restructure would not affect the Chair/man’s knowledge of external matters because the component heads and Executive Director report administratively to the Chair/man as well and would relay pertinent information whether or not the current Schedule C/External Affairs position remained as it is or was restructured. The new, restructured position, under the Chair/man could also assume Authority-wide duties and serve as an Authority advocate in Agency-wide programs, initiatives and budget formulation.<sup>4/ 4</sup> Another viable option might be to consolidate the administrative duties now performed by two individuals in the Office of the Executive Director with the current Director of External Affairs to strengthen Agency-level administration and accountability and validate the documented purpose of this position.

Otherwise, the FLRA appears to be performing its administrative external affairs functions relatively well, in spite of its fragmented structure. This review verified that the 14 individuals performing the external affairs function were performing their work in a timely, responsive and just as, if not more effective customer oriented manner <sup>5/ 5</sup> . For what appears to be a moderate amount of work, the function is being performed in a decentralized manner by 14 different employees in the absence of Agency policy and procedures and does not reflect an efficient process or the astute use of resources. What would be more efficient is a standardized and more centralized process for administering the external affairs function throughout the Agency.

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<sup>4/</sup> During the finalization of the review, the Director, Case Control's role as the Authority advocate was strengthened by the Chairman, to include budget formulation, but his universe of responsibility does not include the Offices of Executive Director and Solicitor, which are also Authority organizations.

<sup>5/</sup> Director, External Affairs, Director, Case Control Office, Assistant to the Executive Director, Labor Relations Specials (IRM), Solicitor, Office of the General Counsel Deputy for Operations and Resource Management, 7 Regional Office Directors, Federal Services Impasse Panel Executive Director

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### Findings and Recommendations

The following provided for management consideration for improving the efficiency and effectiveness of external affairs operations, ensuring management accountability and the more astute use of FLRA resources.

**Finding 1:** The FLRA does not currently maintain a centralized Agency tracking/accounting system for administrative external inquiries, tasking and responses. This diminishes the Agency's accountability for external interfaces.

**Recommendation 1:** Create a centralized Agency automated external administrative correspondence tracking system to provide accountability for the receipt and timely response to external administrative inquiries or tasking. If the function of external affairs remains decentralized, have all components enter Congressional and public inquiries into a common Agency-wide system maintained by the Director of External Affairs.

**Finding 2.** The FLRA does not have current, relevant Agency-wide policy for the conduct of external affairs. The current policy related to FLRA external affairs is over 15 years old and relates only to the handling of Congressional and White House inquiries. There is no overarching Agency guidance for handling public affairs, external administrative correspondence, or standardized procedures for staffing external correspondence.

**Recommendation 2:** The Director, External Affairs, with input from the Authority, Office of General Counsel and Federal Service Impasses Panel, develop and implement FLRA External Affairs policy which provides procedures for the program administration of all aspects of the administrative external affairs function (i.e., Congressional and White House inquiries, administrative public inquiries, and legislation interfaces, media, website content, etc).

The following is provided for management consideration for improving the efficiency and effectiveness of the FLRA external affairs operations, to increase management accountability and promote the astute use of FLRA resources. In no way does this recommendation imply or reflect lack of compliance or performance of any individual currently associated with the function. The recommendation is based on my objective assessment of the current process, the amount of resources involved and the process vulnerabilities which can be addressed for a more efficient and effective administration of the function. I do recommend management provide serious consideration and would support no position restructure until the current position of Director, External Affairs is vacated.

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**Observation:**

The FLRA external affairs function is fragmented within the Authority and not centralized under the Director of External Affairs. The FLRA mission related aspects of external affairs are administered (statutorily sanctioned) by the three components with different levels of coordination with the Director, External Affairs. This result in some process and procedural redundancies, lack of centralized accountability and an excessive use of human resources to perform the function. While it is understood that the two primary external affairs support personnel in the Office of the Executive Director have extensive corporate knowledge in their fields of expertise and that this may be the underlying reason for their significant involvement in external affairs, the current processes for the evaluation of these principals differ because direction, supervision and accountability are not officially centralized under the Director of External Affairs.

**Recommendation:**

1. In order to maintain centralized accountability and maximize the use of critical resources wisely, the Chair/man, FLRA, consider the future restructure of the Schedule C position in the Office of the Chair/man to:

a. Consolidate all administrative external affairs tasking under the Director of External Affairs in the Office of the Chair/man, and provide an additional resource, if necessary, to assist the Director, External Affairs in executing a consolidated external affairs program.

OR

b. Provide "special assistance and political interface" at the White House and Congressional level for the Chair/man and other executive members of the Agency, providing special assistance and oversight of special projects for the Chair/man, and serve as an advocate for the entire Authority. This position could be a Schedule C position, as it is now, or restructured as a General Schedule position to facilitate the accumulation and retention of corporate knowledge, if desired. This structure would necessitate the creation of a Public Affairs Officer in the Office of the Executive Director, who would have the responsibilities of executing the Agency's external correspondence tracking system and coordinating all administrative public interactions and interfaces for the Agency and provide Agency-wide oversight over public affairs.

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2. In order to maintain equitable treatment and evaluation of employees, the Director, External Affairs should provide performance input regarding external affairs administration for both the Assistant to the Executive Director and Information Resource Management Labor Relations Specialist who performs significant amount of work in administrating the external affairs function under the current structure.

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