
LABOR-MANAGEMENT FORUM CHARTER
UNITED STATES CUSTOMS AND BORDER PROTECTION
AND
THE NATIONAL BORDER PATROL COUNCIL

SECTION 1: PRINCIPLES AND GOALS

A. Principles

U.S. Customs and Border Protection (CBP or Agency) and the National Border Patrol Council (NBPC or Union) are committed to securing our Nation's borders and communities by preventing the illegal entry of people and contraband across our borders, and by diligently enforcing immigration, customs and other laws of the United States. Both parties recognize that employees are the most important resource for accomplishing this vital mission, and commit to establishing a non-adversarial forum for managers, employees and their Union representatives to discuss means of improving productivity, effectiveness, employee morale, working conditions and quality of work life.

Executive Order 13522, Creating Labor-Management Forums to Improve Delivery of Government Services, became effective December 9, 2009. The stated purpose of the Executive Order is to establish a cooperative and productive form of labor-management relations throughout the executive branch in order to promote satisfactory labor relations and improve the productivity and effectiveness of the Federal Government.

In furtherance of these principles, the parties establish this charter for the CBP-NBPC Labor-Management Forum (Forum).

B. CBP-NBPC Labor-Management Forum Goals

1. Foster trust and communication between the parties.
2. Reduce conflict between the parties.

3. Improve the Agency's productivity and effectiveness through the involvement of employees.
4. Improve morale, working conditions and the quality of work life for all Border Patrol employees.
5. Improve the decision-making process and reduce the need for traditional adversarial bargaining through early, pre-decisional Union involvement.
6. Proactively identify problems and solutions to better accomplish the mission.
7. Foster problem-solving at the lowest possible levels.
8. Recognize, publicize, and promote successes within the Agency.
9. Adopt alternative dispute resolution techniques and interest-based bargaining processes.
10. Promote collaborative and productive labor-management relations throughout the Agency.
11. Encourage similar collaborative efforts at the Sector and other appropriate levels.
12. Provide guidance to lower-level forums as appropriate, to include recommendations for training on effective labor-management relations and collaborative problem solving.

SECTION 2: FORUM STRUCTURE AND FUNCTION

A. Forum Structure

The Forum shall be composed of the Commissioner of CBP or designee and the NBPC National President or designee and eight additional members: four appointed by CBP and four appointed by the NBPC. The Commissioner of CBP or designee and the NBPC National President or designee will co-chair the Forum. Advisers and subject matter experts from CBP and the NBPC may also be present with prior concurrence from the other party's co-chair.

B. General Principles

Forum participants will treat each other with dignity and respect, and share their ideas, proposals, information and concerns with each other. Each participant is expected to participate as an equal partner in all discussions and activities associated with the Forum.

The Forum will use a “strive for consensus” decision-making model in all of its activities; that is, the parties will make every effort to reach a decision that is acceptable to all participants. Each participant has a responsibility to participate in the decision-making process and to support the group’s decision if consensus is reached. Agreements reached by members of the CBP-NBPC Labor-Management Forum do not constitute a waiver of any right provided for by Title 5 U.S.C. Chapter 71. If no consensus is reached, the options for the Forum include seeking the services of a facilitator, forwarding the issue to a delegated working group, or determining that consensus is not going to occur. In the absence of agreement, the parties retain their rights under 5 U.S.C. Chapter 71.

The Forum will provide guidance and options for training managers, supervisors, and Union officials on collaboration and problem-solving.

C. Guiding Principles

The participants adopt the following guiding principles based on those recommended by the National Council on Federal Labor Management Relations:

- Labor-management forums should contribute positively to the performance of CBP;
- Labor-management forums should promote the economic and workplace interests of employees and managers;
- Labor-management forums should operate with a clear charter that grants the parties broad authority to develop solutions jointly on issues that fall outside the scope of bargaining;
- Employees and their Union representatives should 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;

- Management and Union officials and participants in the Forum should receive training on the requirements of the Executive Order, the guiding principles, and tools and processes that could assist with problem-solving and conflict resolution;
- Labor-management forums should use skilled facilitators at appropriate times;
- Labor-management forums should set goals, measure performance, and communicate results;
- Managers and Union representatives at all levels should be committed to making labor-management forums work, which means being personally engaged;
- In the spirit of the larger labor-management engagement process, the parties should take a collaborative approach to collective bargaining;
- Labor-management forums should be led by relevant decision makers and supported by appropriate staff; and,
- The parties will devote sufficient resources to the implementation of the Executive Order.

SECTION 3: MEETINGS

The co-chairs will be responsible for assuring that necessary preparations are made for upcoming meetings including developing and distributing agendas, meeting notifications, meeting summaries or minutes, and meeting logistics. The co-chairs will also be responsible for jointly communicating decisions made by the forum and monitoring steps taken to effectuate those decisions.

Meetings may be held at CBP Headquarters or other agreed upon locations. The time, date, and location of meetings will be jointly set by the co-chairs or their designees.

The duration of meetings will be jointly determined by the co-chairs and will be based on the time estimated to work through the agenda, generally not to exceed two working days.

At least twenty-one (21) calendar days prior to the scheduled date of the meeting, the parties will exchange anticipated agenda items. Matters not on the agenda can be discussed by mutual consent.

Agenda items will exclude individual grievances and Equal Employment Opportunity complaints.

Absent mutual agreement, meetings will require a quorum of not less than three (3) of the permanent members from each side, including the co-chairs or their designees.

For the first twelve months, the Forum will meet quarterly. Thereafter, the Forum may agree to meet less than four but at least two times per calendar year. This meeting is not meant to interfere with the current quarterly meetings being held by the Chief, U.S. Border Patrol and the NBPC.

The five (5) bargaining unit members of the Forum will receive union official time for the meeting as well as time necessary to travel to and from the meeting consistent with governing regulations and the collective bargaining agreement. The Forum bargaining unit members will be reimbursed travel and per diem in accordance with the Federal Travel Regulations.

The Agency agrees to provide a CBP employee as appropriate, who will not be an official member of the Forum, to record the minutes of the meeting. Prior to distribution, the minutes must be approved by both parties.

Action items will be summarized at the end of each meeting.

Upon mutual agreement of the co-chairs, Forum meetings may be facilitated by a Federal Mediation and Conciliation Services (FMCS) or other mutually agreeable facilitator. In the absence of a facilitator, meetings will be led by the co-chairs.

SECTION 4: COMMUNICATION

Minutes will be posted in electronic format on CBPnet in such a manner that employees may have access to them. Additionally, a place on CBPnet will be dedicated to the work, members, participants, and actions of the Forum. All Forums items adopted for CBPnet will be reviewed and approved by both parties before its publication.

The parties will jointly communicate to CBP employees Forum initiatives/projects and their results, as deemed appropriate by the parties. However, this does not preclude the NBPC from communicating to bargaining unit employees or CBP from communicating with supervisors/management officials when deemed appropriate.

SECTION 5: PRE-DECISIONAL INVOLVEMENT (PDI)

Pre-decisional involvement (PDI) means those activities where employees, through their elected exclusive representative, the NBPC, are afforded the opportunity to shape decisions regarding their conditions of employment.

The Forum is responsible for reaching a common understanding on the structure of their pre-decisional involvement process and subjects appropriate for PDI. Upon reaching an understanding on PDI subjects and structure, the Forum will develop PDI guidance.

PDI does not waive management's statutory right to make decisions under 5 U.S.C. § 7106, nor does it waive the NBPC's right to engage in bargaining prior to implementation.

CBP recognizes that bargaining unit employees represented by the NBPC are an essential source of ideas and information. Their input generated through the Forum will assist management in making better informed decisions before proposing changes in working conditions that affect them.

It is the intent of the parties that collaboration will result in less formal bargaining and/or fewer issues that must be referred to the collective bargaining process.

The collaborative process is not intended to be co-management. CBP management is ultimately responsible for making final decisions once the Forum collaboration process is completed.

In order to be successful, it is critical that the parties:

- Have a common understanding of what PDI means and under what circumstances it is appropriate;
- Have a similar expectation of the results they seek to obtain from PDI;
- Agree on what subjects are appropriate for PDI; and,
- Agree on what actions occur after PDI has concluded.

The following principles of PDI will be observed:

- The process begins early when ideas are forming;

- Information is freely shared throughout the process and there is an understanding on the confidentiality of the information and process;
- The participants use a problem-solving approach that is appropriate to the issue.

SECTION 6: GENERAL PROVISIONS

The Labor-Management Forum and its associated processes are complementary to the existing collective bargaining process; not a substitute for it. Nothing in this Agreement abrogates and/or modifies the parties' Collective Bargaining Agreement and Memoranda of Understanding.

This Agreement will be reviewed annually to evaluate the effectiveness of the parties' collaboration unless the parties agree otherwise.

This Agreement becomes effective on the date it is fully executed.

IN WITNESS WHEREOF, the undersigned have duly executed this Forum Agreement as of the date first written above.

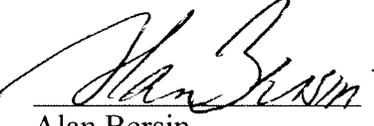
For the National Border Patrol Council:

For U.S. Customs and Border Protection:



 George E. McCubbin III
 President

6/9/2011
 Date



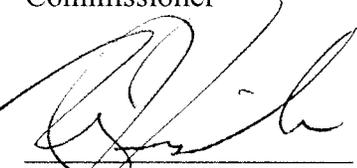
 Alan Bersin
 Commissioner

6/9/2011
 Date



 Christopher J. Bauder
 Executive Vice President

6/9/2011
 Date



 Michael J. Fisher
 Chief, U.S. Border Patrol

9 JUNE 2011
 Date