March 9, 2018

The Honorable Ronald H. Johnson
Chairman, Senate Committee on
Homeland Security and Governmental
Affairs
SD-340, Dirksen Senate Office Building
Washington, D.C. 20515

The Honorable Claire C. McCaskill
Ranking Member Senate Committee on
Homeland Security and Governmental
Affairs
SH-503, Hart Senate Office Building
Washington D.C. 20515

Dear Chairman Johnson and Ranking Member McCaskill:

By way of introduction, all of the individuals named below are former career members of the United States Senior Executive Service, who retired after more than 200 combined years of civilian service with the Federal Government. We each have served for extended periods as Regional Directors of the Federal Labor Relations Authority (FLRA), under both Democratic and Republican administrations, and now join together to bring to your attention what we deem to be a matter of the greatest importance to the federal sector labor-management relations community.

It has come to our attention that the FLRA senior management has recommended the closure of two (2) of its Regional Offices (Boston and Dallas) in its recent FY 2019 budget submission to the Office of Management and Budget (OMB). For the reasons set forth below, we believe this decision, if accepted, will adversely affect not only the efficient performance of that agency's mission, but will also negatively impact the very significant progress which has been made in recent years to reduce reliance on confrontational labor relations in the federal sector, while also encouraging alternative methods of dispute resolution.

The FLRA was created by act of Congress in 1978 and charged with the enforcement of the Federal Service Labor-Management Relations Statute (Statute) as applied to Federal Government Agencies and more than two million civilian federal employees, with specified statutory exemptions. This represented the first statutory recognition of collective bargaining in the federal sector, which had formerly been governed by Executive Orders beginning with President John F. Kennedy. Disputes arising under the Executive Orders had been investigated and processed by the Department of Labor (DOL), Labor-Management Services Administration.

At the outset, the FLRA regional structure was streamlined from that of its DOL predecessor, by not absorbing or quickly closing regional locations in Buffalo, Newark and Seattle. This left a new field structure consisting of nine (9) Regional Offices in Boston, New York, Washington D.C., Atlanta, Kansas City (later moved to Denver), Chicago, Dallas, Los Angeles and San Francisco (and two (2) sub-offices in Cleveland and Philadelphia) charged with investigating several thousand pending cases transferred from DOL to FLRA at the transition, as well as all new cases being filed under the Statute. In 1981, FLRA, along with other Federal Agencies, experienced a mandated Reduction in Force, which while reducing staff, left the regional office structure unchanged. However, in 1990, the number of Regional Offices was reduced from nine (9) to seven (7), initially reducing both the Los Angeles and New York Regions to sub-office status, and, in later years, eliminating both of those offices in addition to the Cleveland and Philadelphia sub-offices. All of the noted staff and organizational reductions were carried out in furtherance of various budgetary and fiscal cutbacks.

The value of Regional Offices in locations where FLRA staff was accessible to the parties was demonstrated again and again over the years. Regularly scheduled regional training presentations became an established resource to both labor and management representatives, many of whom could not travel to Washington or other distant sites. Feedback surveys prepared by attendees immediately after each regional training program clearly demonstrated that the parties valued these opportunities to meet and interact with regional staff and gain a clearer understanding of the investigative process. Moreover, having regional offices located closer to the actual work sites allowed FLRA agents to develop working relationships with the labor and management community, facilitating communication and trust during the investigative process. Despite having to limit field travel at various times due to repeated travel budget constraints, there is no doubt that regular, onsite investigations had been the norm and was viewed as the best practice for achieving more accurate and complete results. This is especially true for rank and file employees, with very limited knowledge of the Statute and legal process, who would be understandably reluctant to speak openly with FLRA personnel who were simply an unseen voice on the telephone. When used, this alternate process was not in furtherance of efficient and effective government, but was strictly a consequence of resource limitations. To eliminate two of the Regional Offices as now proposed, would further reduce the credibility and effectiveness of the FLRA.

Essentially, FLRA went far beyond most agencies in reducing operational costs and expenses. In FY 2000, FLRA had 215 FTE's; by FY 2009, the number of FTE's was 114, a 45% reduction. In FY 2017, FLRA reduced staffing by another 12 positions, 10% of its staffing level at that time. Further, in FY 2014, FLRA reduced space in several regional offices and surrendered 12,000 square feet (1 entire floor) in its headquarters office.

Despite these repeated sacrifices, the staff of the FLRA continued its total commitment to carrying out the agency's mission. Employee feedback made clear that they believed strongly in their work to improve the collective bargaining climate in federal sector. But there were impacts. In the FY 2009, Partnership For Public Service "Best Places to Work" survey, FLRA ranked last (32 of 32) among similar-sized agencies. In no small part due to genuine internal policy shifts and pro-active outreach to both labor and management, the survey results for the past three (3) fiscal years now showed FLRA ranking first in many categories and in the top five of similar-sized agencies.

There has been no FLRA General Counsel since November of 2016. While the Deputy General Counsel was initially able to carry on some functions in an acting capacity, even that ended in November of 2017 pursuant to requirements of the Vacancies Act. In the absence of a General Counsel, no Complaints may issue despite administrative determinations by Regional Directors that violations are present. Parties are well aware of this inability, now entering its fifth month, and case filings have significantly declined throughout the country accordingly. It is in this environment that the current FLRA leadership has recommended the closure of two (2) of its seven (7) Regional Offices.

In July 2017, OMB issued guidance to federal agencies on the preparation of their FY 2019 budget requests, to include areas where organizational changes could be made to effect operational savings. It is clear however, that this guidance was not to simply show a savings in dollars without regard to the mission of each agency and delivery of services to its stakeholders. Rather, the instruction was to implement change that has the potential to "dramatically improve effectiveness and efficiency of government." The closing of the Dallas and Boston Regional Offices will reduce the number of Regional Offices by 29% and adversely affect 17 persons working in those offices. Moreover, this is being done in the absence of a General Counsel whose role it is to oversee regional operations. This will have a predictable negative impact on national staff morale (after working so hard to rise from its dismal standing in FY 2009). The closures would further limit face-to-face communication with parties and further move toward an undesirable teleservice center approach to collective bargaining in the federal sector. It is noted in this regard that more than 445,000 members of the Federal civilian workforce now reside in the geographic jurisdictions of the Dallas and Boston Regions.

In our view, this is serious error and should not be approved.

Sincerely,

Gerald Cole (San Francisco)

Edward Davidson (Boston)

Matthew Jarvinen (Denver)

Barbara Kraft (Washington D.C.)

Jean Perata (San Francisco)

James Petrucci (Dallas/New York)

Marjorie Thompson (Denver)

Richard Zaiger (Boston)