



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
WASHINGTON, D.C. 20424-0001

October 2, 2006

**General Counsel Announces Office of General Counsel
Unfair Labor Practice Settlement Policy**

The following sets forth the Office of General Counsel (OGC) policy on settlements in pending unfair labor practice (ULP) cases.

As set forth in the Federal Service Labor-Management Relations Statute (Statute), the General Counsel's role is to "investigate alleged unfair labor practices" under the Statute, "file and prosecute complaints" under the Statute, and "exercise such other powers of the Authority as the Authority may prescribe." 5 U.S.C. § 7104(f)(2). Consistent with this statutory mandate, with respect to alleged ULPs, the OGC has an investigatory role and a prosecutorial role in the enforcement of the Statute. It is this mandate that should direct the policy of the OGC in the investigation, litigation, and settlement of cases.

When fulfilling its investigatory role under the Statute, the OGC is a neutral fact-finder. As an investigator, the OGC is not a party to the dispute. When filing and prosecuting complaints under the Statute, however, the OGC is no longer an investigator acting as a neutral fact-finder; the OGC represents the United States Government, pursuing violations of the Statute. As a prosecutor, the OGC is a party to the dispute and has an interest, as the enforcer of the Statute, in the resolution of the dispute. The OGC's involvement in resolving disputes will only occur in those cases that warrant prosecution.

Based on the foregoing, the OGC shall only seek settlement in or participate in the facilitation of a settlement in pending ULP cases where a final determination has been made that the issuance of complaint is warranted. The charging party and respondent are always free to enter into a private settlement agreement resulting in the withdrawal of the ULP charge. Prior to a final decision that complaint is warranted, however, the OGC shall not facilitate nor be a party or signatory to any such settlement agreement.

Once a final determination is made that issuance of complaint is warranted, the OGC will take an active role in resolving the complaint. The Regional Directors are encouraged to utilize Alternative Dispute Resolution to seek pre-complaint (after a determination to issue complaint has been made but prior to actual issuance) or post-complaint settlement.

This policy replaces any existing OGC policy providing for the involvement of the OGC in the resolution or settlement of a pending ULP prior to a final decision that issuance of complaint is warranted. In addition, all regulatory provisions must be applied in a manner consistent with this policy.