

FEDERAL MEDIATION AND CONCILIATION SERVICE
2018 CHIEF FOIA OFFICER REPORT
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Section 1: Steps Taken to Apply the Presumption of Openness

A. FOIA Training

The Federal Mediation and Conciliation Service (FMCS or Agency) administers its FOIA program through the Office of General Counsel. The FOIA program is serviced by a staff consisting of one attorney, who devotes approximately 20% of his time to performing the Chief FOIA Officer (CFO) functions, and a Paralegal Specialist, who also spends about 20% of her time on FOIA matters.

Both the CFO and the Paralegal Specialist (100% of the FOIA staff) received FOIA training last year. On July 18-19, 2017, they attended a training course entitled, “Freedom of Information Act for Attorneys and Access Professionals,” presented by the Office of Information Policy (OIP), Department of Justice (DOJ). This was a comprehensive offering that included the following topics, inter alia:

- Procedural Requirements
- Exemptions
- Litigation Considerations
- Proactive Disclosure
- Fees and Waivers
- Privacy Act Interface
- Appeals and Mediation Services

FMCS intends to have its FOIA staff attend at least one similar training program again this year.

B. Outreach

The FMCS FOIA staff did not engage in any outreach during this reporting year.

C. Other Initiatives

While not engaged in any formal initiatives, the CFO has initiated numerous informal conversations with non-FOIA professionals of the Agency – principally, IT personnel, mediators and mediator supervisors, and Regional Directors with geographical field responsibility – to educate them as to their responsibilities under the FOIA.

Section II: Steps Taken to Ensure that FMCS Has an Effective System in Place for Responding to Requests

A. Processing Procedures

The FMCS received 2 expedited requests in FY2017, and the average processing time for these requests was 7 days.

B. Self-Assessment

The FMCS did not conduct a self-assessment of its program in FY 2017.

C. Requestor Services

The Agency's Public Liaison received one request for services during FY2017 to date.

The FMCS maintains a form, which can be accessed by selecting the "Feedback" tab in the upper right corner of the Homepage, which the Agency uses to receive comments and other information pertaining to the FOIA, as well as other operations.

The Agency's Public Liaison assisted one requester during FY2017.

The FMCS maintains a comprehensive electronic FOIA reference guide that can be utilized to make requested records electronically available to the public. The guide can be found at <https://www.fmcs.gov/wp-content/uploads/2015/07/YourRightToFederalRecords.pdf>.

Section III: Steps Taken to Increase Proactive Disclosures

The Chief FOIA Officer periodically reviews the FOIA log to determine whether any "frequently requested" records can be identified for the purpose of creating a proactive disclosure. No more formal system is required in view of the relatively few (80) requests received this fiscal year.

The Agency proactively discloses the following information: (1) Work Stoppage Data (strikes and lockouts) recorded annually, and during the past two (2) years by month, from 1984 through January 2018, and (2) a document containing extensive questions and answers on the Freedom of Information Act and the Privacy Act, entitled "Your Right to Federal Records", which can be found at <https://www.fmcs.gov/wp-content/uploads/2015/07/YourRightToFederalRecords.pdf>.

The Work Stoppage Data is posted in a user friendly manner, and this data is heavily used by members of the public.

FMCS does not publicize its proactive disclosures but has not encountered any particular challenge to its posting of records.

Section IV: Steps Taken to Greater Utilize Technology

In addition to steadily increasing the use of email to correspond with requesters during the processing of requests, FMCS has greatly expanded the use of email to provide a final response with the documents sought as attachments. This has cut some three (3) days from the average response time utilizing the U.S. mail.

The FMCS posted in its website all four (4) quarterly reports during FY2017. However, we recently discovered that there is a problem capturing the information on FOIA.gov due to a change in the URL. FMCS is working with the Office of Information Policy to solve this issue.

The FOIA Improvement Act of 2016 requires agencies to post the raw statistical data used to compile their Annual FOIA Reports. This link provides the raw data for the FY 2016 FOIA Annual report: <https://www.fmcs.gov/wp-content/uploads/2018/03/2016-FOIA-Annual-Report-Raw-Data.pdf>

Section V. Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

A. Simple Track

The FMCS utilizes a separate track for simple requests. The average number of days for the Agency to process simple requests in FY2017 was 32. Simple requests represent (48/56) 86 percent of total requests.

B. Backlogs Requests and Appeals; and Backlog Reduction Plan

The Agency had two (2) backlogged requests as of the close of FY 2016. The backlog increased at the close of FY2017 to twenty (22). The backlog represents more than a quarter of the requests. We are evaluating the program to determine the reason for the increased backlog, but see a correlation with the increase of incoming requests from 58 in FY 2016 to 80 in FY 2017. We have also received complex requests that required extensive work.

The FMCS had no backlogged appeals as of the close of either FY2016 or FY2017.

The FMCS is not required to implement a backlog reduction plan because its current backlog is 22 requests and the threshold for a backlog reduction plan is 1,000 backlog requests. Nevertheless, the FOIA program is working on strategies to reduce its current backlog.

C. Status of Ten Oldest Requests

The FMCS had two (2) pending perfected requests as of the close of FY2016, and those requests were closed. None of these cases were closed because the request was withdrawn.

D. Ten Oldest Appeals and Consultations

The Agency had no pending appeals or consultations as of the close of FY 2017.

E. Additional Information on Oldest Requests

The number of FOIA requests has increased and that may require more time of the personnel assigned to process these requests. We are currently prioritizing these old requests, and expect to process them within the next three months.

F. Success Story

A party seeking to renegotiate its expiring collective bargaining agreement must by statute give the opposite party 60 days advanced notice and give FMCS notice within 30 days thereafter. Most parties file online with FMCS using a form known as an “F-7”. The filing party is not required to serve the F-7 on its opponent. The Agency extracts the information on the F-7s and enters it on a spreadsheet, which is available on the FMCS website.

Some parties who are not served, as well as government agencies, need an original F-7 document, for example, in litigation. Hence, FMCS has adopted a policy of providing F-7s to any party to the collective bargaining agreement, contract, or to a government agency, upon request and without requiring the requesting party to file a FOIA. Most of these requests require expedited treatment and FMCS is able to respond on either the same or the next day. In the context of litigation, which is where most of these requests arise, this policy leading to same day response prevents information requests from causing delay in the legal proceedings.