

FEDERAL MEDIATION AND CONCILIATION SERVICE

PRIVACY ACT of 1974; SYSTEM of RECORDS

AGENCY: Federal Mediation and Conciliation Service

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Federal Mediation and Conciliation Service (FMCS) proposes to create a system of records notice, titled FMCS-0007, Public Health Emergency Records System. The system will include information that FMCS collects and maintains for applicants for employment, FMCS clients, and contractors who voluntarily provide information to FMCS in return for possible employment or enrollment in FMCS programs and/or activities that will respond to the Coronavirus Disease 2019 (COVID-19), a declared public health emergency, and other high-consequence public health threat requirements.

DATES: This system of records will be effective without further notice on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** unless otherwise revised pursuant to comments received. New routine uses will be effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may send comments, identified by FMCS-0007 by any of the following methods:

- Mail: Office of General Counsel, 250 E Street, SW, Washington, DC 20427.

- E-mail: ogc@fmcs.gov. Include FMCS-0007 on the subject line of the message.
- Fax: (202) 606-5444.

FOR FURTHER INFORMATION CONTACT: Greg Raelson, Director of Congressional and Public Affairs, at graelson@fmcs.gov or 202-606-8081.

SUPPLEMENTARY INFORMATION:

In accordance with the Privacy Act of 1974, 5 U.S.C. 552(a), this system covers information necessary and relevant for federal employment and FMCS programs or activities responding to mandated requirements and mitigating COVID-19 and other high-consequence public health threats, and diseases or illnesses relating to a public health emergency. Such information may include information on applicants for federal employment, FMCS clients, and contractors who have contracted or may have been exposed to a suspected or confirmed disease or illness that is the subject of a declared public health emergency or who undergo preventative testing for or receive a vaccination to prevent a disease or illness that is the subject of a declared public health emergency, in accordance with federal, state, or local public health orders.

SYSTEM NAME AND NUMBER: FMCS-0007 Public Health Emergency Records System.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Federal Mediation and Conciliation Service, Office of General Counsel (OGC), 250 E Street, SW, Washington, DC 20427.

SYSTEM MANAGER(S): The Director of Human Resources, and the Benefits and Retirement Specialist will manage the System. The Director of Information Technology, will not access content in the internal folder, will only troubleshoot any technical issues

regarding electronic files. Send mail to Federal Mediation and Conciliation Service, 250 E Street Southwest, Washington, DC 20427.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 29 U.S.C. 172, et seq.; Occupational Safety and Health Act of 1970; 5 U.S.C. 7902; 5 U.S.C. 301; 29 U.S.C. 668; 44 U.S.C. 3101; E.O. 13994; and E.O. 14043.

PURPOSE(S) OF THE SYSTEM: The purpose of this system is to provide a system for collecting, processing, responding to, and maintaining health information regarding Coronavirus Disease 2019 (COVID-19), a declared public health emergency, and other high-consequence public health threat requirements on applicants for employment, FMCS clients, and contractors who participate in FMCS programs or activities, or visit FMCS facilities; to process, evaluate, and make decisions on requests for access to FMCS facilities (“requests”); details of requests and any supporting documentation; and to track the processing of such requests in FMCS to comply with applicable requirements in law and policy.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: The categories of individuals covered in the system of records includes applicants for employment, FMCS clients, and contractors who participate in FMCS programs or activities during COVID-19 or other high-consequence public health threats relating to a public health emergency.

CATEGORIES OF RECORDS IN THE SYSTEM: These records contain the following:

- Name;
- Status (applicant, contractor, or FMCS client);

- Contact information (addresses, phone numbers, and email addresses);
- Information directly related to the disease or illness (e.g. testing results/information (including dates), symptoms, treatments such as vaccines, and source of exposure);
- Copies of correspondence between the applicant, client, or contractor, and FMCS;
- Case processing information related to suitability determinations and appeals;
- Vaccination records, including vaccination history, the date, type, and dose of vaccine administered to the individual (for FMCS applicants for employment only);
- Any other information collected or developed in connection with vaccine requirements and exemptions for FMCS clients, applicants for employment, or contractors; and
- Appointment scheduling information, including the date, time, and location of a scheduled appointment.

RECORD SOURCE CATEGORIES: Information in this system of records is provided by the applicant, contractor, or FMCS client who participate in FMCS programs or activities who may provide information and/or FMCS Human Resources officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FMCS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

- a) To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule regulation or order where the record, either alone or in conjunction with other information creates an indication of a violation or potential violation of civil or criminal laws or regulations.
- b) To the Government Accountability Office (GAO) for oversight purposes; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.
- c) To disclose information to the National Archives and Records Administration (NARA) or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.
- d) To a former employee of the Department for purposes of responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.
- e) To the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC), or to any state or local health authorities to ensure

that all health issues potentially affecting public health and safety in the United States are being or have been adequately addressed.

- f) To appropriate medical facilities, private entities, or federal, state, local, tribal, territorial or foreign government agencies, to the extent permitted by law, for the purpose of protecting the vital interests of individual(s), including to assist the United States Government in responding to or mitigating high-consequence public health threats, or diseases and illnesses relating to a public health emergency.
- g) To disclose information to contractors, grantees, experts, consultants, detailees, and other non-Government employees performing or working on a contract, service, or other assignment for the Federal Government when necessary to accompany an agency function related to this system of records.
- h) To officials of labor organizations recognized under 5 U.S.C. Chapter 71 upon receipt of a formal request and in accordance with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.
- i) To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.
- j) To the Department of Justice, including Offices of the U.S. Attorneys; another Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body; another party in litigation before a court, adjudicative, or administrative body; or to a court, adjudicative, or administrative

body. Such disclosure is permitted only when it is relevant and necessary to the litigation or proceeding, and one of the following is a party to the litigation or has an interest in such litigation:

- 1) FMCS, or any component thereof;
 - 2) Any employee or former employee of FMCS in their official capacity;
 - 3) Any employee or former employee of FMCS in their capacity where the Department of Justice or FMCS has agreed to represent the employee;
 - 4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the FMCS General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.
- k) To any federal agency, organization, or person for the purposes of performing audit or oversight operations related to the operation of this system of records as authorized by law, but only information necessary and relevant to such audit or oversight function.
- l) To another Federal agency, including, but not limited to, the Equal Employment Opportunity Commission, Office of Personnel Management, and the Office of Special Counsel to obtain advice regarding statutory, regulatory, policy, and other requirements related to public health threat requirements.
- m) To an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator, or other duly authorized official engages in investigation or settlement of a grievance, complaint, or appeal filed by an individual who applied for

employment or needed access to FMCS facilities, programs, or activities during a public health threat.

- n) To a Federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations, or entity which require information concerning the suitability or eligibility of an individual for a license or permit.
- o) To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.
- p) To another Federal agency pursuant to a written agreement with FMCS to provide services (such as medical evaluations), when necessary, in support of public health threat requirements.
- q) To appropriate agencies, entities, and persons when (1) FMCS suspects or has confirmed that there has been a breach of the system of records, (2) FMCS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FMCS (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FMCS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
- r) To another Federal agency or Federal entity, when FMCS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and

operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: These records are maintained electronically and stored on the agency's internal servers with restricted access to authorized Human Resources staff and designated deciding officials as determined by agency policy.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: These records are retrieved by the name or other programmatic identifier assigned to an individual in the electronic database and paper filing system.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF

RECORDS: All records are retained and disposed of in accordance with General Records Schedule 2.7, issued by the National Archives and Records Administration. Records are updated as needed, retained for three years, and destroyed by shredding or deleting.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Records are stored electronically in locations only accessible to authorized personnel requiring agency security credentials. Access is restricted, and accessible to limited Human Resources officials, and/or individuals in a need-to-know capacity. FMCS buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES: Individuals wishing to request access to their records should contact the Office of General Counsel (OGC). Individuals must provide the following information for their records to be located and identified: (1) Full name, (2)

Address, and (3) A specific description of the record content requested. See 29 C.F.R. 1410.3, Individual access requests.

CONTESTING RECORDS PROCEDURES: See 29 CFR 1410.6, Requests for correction or amendment of records, on how to contest the content of any records.

Privacy Act requests to amend or correct records may be submitted to the Privacy Office at privacy@fmcs.gov, FMCS 250 E Street, SW, Washington, DC 20427. Also, see <https://www.fmcs.gov/privacy-policy/>.

NOTIFICATION PROCEDURES: See 29 CFR 1410.3(a), Individual access requests.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: None.

Dated: January 11, 2022.

Sarah Cudahy,

General Counsel.