

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

**PRIVACY ACT of 1974; SYSTEM of RECORDS**

**AGENCY:** Federal Mediation & Conciliation Service

**ACTION:** Notice of a new system of records.

**SUMMARY:** The Federal Mediation and Conciliation Service (FMCS) uses this system to process requests for arbitration panels, including payment for requests, to process annual fees for each arbitrator, to maintain a roster of qualified, private labor arbitrators to hear disputes arising under collective bargaining agreements, and provide fact finding and interest arbitration.

**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-0008, by any of the following methods:

- Mail: Office of General Counsel, 250 E Street, SW, Washington, DC 20427.
- E-mail: [register@fmcs.gov](mailto:register@fmcs.gov). Include FMCS-0008 on the subject line of the message.
- Fax: (202) 606-5444.

**FOR FURTHER INFORMATION CONTACT:** Arthur Pearlstein, Director of Arbitration Services, at [apearlstein@fmcs.gov](mailto:apearlstein@fmcs.gov), (202) 606-8103, or mail, The Office of Arbitration Services, FMCS, 250 E Street, SW, Washington, DC 20427.

**SUPPLEMENTARY INFORMATION:** The enabling legislation for FMCS provides that “the settlement of issues between employers and employees through collective bargaining may advance by making available full and adequate governmental facilities for conciliation, mediation, and voluntary arbitration ...” 29 U.S.C. 171(b). Pursuant to the statute and 29 CFR part 1404, FMCS has long maintained a roster of qualified, private labor arbitrators to hear disputes arising under collective bargaining agreements and provide fact finding and interest arbitration. The existing regulation establishes the policy and administrative responsibility for the FMCS roster, criteria, procedures for listing and removing arbitrators, and procedures for using arbitration services.

**SYSTEM NAME AND NUMBER:** FMCS-0008 Arbitration Records.

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

**SYSTEM MANAGER(S):** Arthur Pearlstein, Director of Arbitration, email [apearlstein@fmcs.gov](mailto:apearlstein@fmcs.gov), send mail to the Federal Mediation and Conciliation Service, 250 E Street, SW, Washington, DC 20427, Attn: Arthur Pearlstein, or call (202) 606-8103.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** 29 U.S.C. 172, et. seq. and 29 CFR part 1404.

**PURPOSE(S) OF THE SYSTEM:** The records in this system are used to collect, process, and maintain arbitrator panel reports, payment requests, annual fees, and arbitrator rosters. The system maintains a roster of qualified, private labor arbitrators to

hear disputes arising under collective bargaining agreements and provide fact findings and interest arbitration.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** The categories of individuals covered in the system are the public, FMCS clients, parties requesting an arbitration roster or services, arbitrators, applicants to be on the arbitration roster, and FMCS employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:** The categories of records maintained in the system include the:

- 1) Records concerning requests for arbitrators including, but not limited to, the Request for Arbitration Panel (FMCS Form R-43). This form can be found at <https://www.fmcs.gov/services/arbitration/requesting-a-panel/>.
- 2) Records pertaining to arbitrator registration, including but not limited to, Arbitrators' Personal Data Questionnaire (FMCS Form R-22), and records used to collect information from applicants submitted for consideration to the FMCS Arbitrator Review Board. This form can be found at <https://www.fmcs.gov/services/arbitration/information-joining-arbitrator-roster/>.
- 3) Records concerning case processing updates including, but not limited to, The Arbitrator's Report and Fee Statement (FMCS Form R-19). This form can be found at <https://www.fmcs.gov/services/arbitration/information-fmcs-roster-arbitrators/>.

**RECORD SOURCE CATEGORIES:** Information in this system of records is provided by:

- 1) Parties seeking to request an arbitration panel which may include the public, Federal, state, and local employees, Unions, and employers; and
- 2) Arbitrators provide information for registration and case processing updates.

**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 these 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 disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections; 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) in records management inspections.

- d) To disclose information to contractors, grantees, experts, consultants, detailers, 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.
- e) 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.
- f) 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.
- g) To disclose information when FMCS determines that the records are relevant to a proceeding before a court, grand jury, or administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.
- h) To disclose information to another Federal agency, to a court, or to a party in litigation before a court or in an administrative proceeding being conducted by a federal agency when the Government is a party to the judicial or administrative proceeding. Such disclosure is permitted only when it is relevant and necessary to the litigation or proceeding.
- i) To any 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.

- j) To disclose information 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.
- k) 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.
- l) To disclose information to arbitrators or parties to an arbitration concerning case processing, or to investigate allegations of arbitrator misconduct.
- m) To disclose to professional organizations, including but not limited to the American Arbitration Association, JAMS, or the National Academy of Arbitrators concerning application or suitability of an arbitrator.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** These records are maintained in hard copy and electronic form in locations only accessible to authorized personnel. Electronic records are stored on the agency's internal servers with restricted

access to authorized Human Resources staff and designated deciding officials as determined by agency policy. Hard copy records are stored in a locked cabinet accessible 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 OF DISPOSAL**

**OF RECORDS:** All records are retained and disposed of in accordance with General Records Schedule 4.1, issued by the National Archives and Records Administration.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:** Records are located in a locked file storage area or 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 Chief Privacy Officer at [privacy@fmcs.gov](mailto:privacy@fmcs.gov) or Chief Privacy Officer at 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: March 21, 2022.

**Anna Davis,**

*Acting General Counsel.*