

FEDERAL MEDIATION AND CONCILIATION SERVICE

PRIVACY ACT of 1974; SYSTEM of RECORDS

AGENCY: Federal Mediation and Conciliation Service

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Federal Mediation and Conciliation Service (FMCS) proposes to amend and reissue a current system of records notice, titled FMCS-0006, Ethics Records. The system will cover the Executive Branch Confidential Financial Disclosure Reports, and agency ethics guidance to employees and FMCS clients. The notice amendment includes significant updates to refine details published under the system manager, authority for maintenance of the system, the purpose, categories of individuals covered, categories of records, record source categories, routine uses, record access procedures, contesting records, and history. These sections are amended to refine previously published information about the system of records. The addresses, system name and number, security classification, system location, policies and practices for storage, policies and practices for retrieval, policies and practices for retention, administrative safeguards, notification procedures, and exemptions remain unchanged. This amended SORN deletes and supersedes the SORN published on the Federal Register on October 27, 2021.

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-0006 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-0006 on the subject line of the message.
- Fax: (202) 606-5444.

FOR FURTHER INFORMATION CONTACT: Alisa Zimmerman, Designated Agency Ethics Official and Acting General Counsel, at azimmerman@fmcs.gov or 202-606-5488.

SUPPLEMENTARY INFORMATION:

In accordance with ethics laws, regulations, and the Code of Professional Conduct for Labor Mediators, FMCS will collect, store, evaluate, and disclose, when necessary, information pertaining to ethics and mediators. FMCS may disclose information pertaining to FMCS parties or clients to address impartiality concerns or explain mediator reassignments. Pursuant to the Code of Professional Conduct and FMCS's mission, the FMCS ethics system may include additional documents pertaining to mediator assets and client notices concerning those assets. This system of records supplements the Office of Government Ethics GOVT-2 system. This system will collect information from FMCS employees serving as mediators and federal employees serving in mediators' supervisory chain. In evaluating ethics concerns, FMCS may also gather information from internal agency sources and departments and store information as part of this system.

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SYSTEM NAME AND NUMBER: FMCS-0006 Ethics Records.

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): Alisa Zimmerman, Designated Agency Ethics Official and Deputy General Counsel, email azimmerman@fmcs.gov, or send mail to Federal Mediation and Conciliation Service, Office of General Counsel (OGC), 250 E Street Southwest, Washington, DC 20427, Attn: Alisa Zimmerman.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 29 U.S.C. 172, et seq. as it pertains to providing mediation and conflict resolution services to clients; Ethics in Government Act of 1978, 5 U.S.C. app. 101, et seq.; E.O. 12674 (as modified by E.O. 12731); 5 C.F.R. part 2634; 5 C.F.R. part 2635; and 29 C.F.R. part 1400.735-20.

PURPOSE(S) OF THE SYSTEM: This amended system will reflect mediator obligations under the Code of Professional Conduct for Labor Mediators as referenced in 29 C.F.R. 1400.735-20. This system of records supplements the Office of Government

Ethics GOVT-2 system and may contain records collected and maintained to meet the requirements of Executive Order 12674, as modified, 5 CFR part 2634, and subsequent agency regulations, as well as section 107 of the Ethics in Government Act of 1978, as amended. This system includes the additional collection, documentation, and disclosure of mediator ethical concerns regarding financial conflicts of interest and impartiality, including but not limited to, ethics waivers and authorizations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Individuals in this system include FMCS employees serving as mediators and in the mediator supervisory chain, and employees designated to file public, confidential, or alternative financial disclosure forms in accordance with 5 C.F.R. 2634.904 and 5 U.S.C. app. 107. It also includes FMCS employees conducting or assigning conflict management cases, including but not limited to, mediations. The system of records includes both current and former Federal employees in these categories.

CATEGORIES OF RECORDS IN THE SYSTEM: These records contain statements and amended statements of personal and family holdings and other interests in property, income, gifts, reimbursements, liabilities, agreements, arrangements, outside positions, retirement products, pensions, and other information related to conflict-of-interest determinations. These statements include completed copies of the Office of Government Ethics (OGE) Form 450 and alternative confidential disclosure forms reflecting more detailed information pertaining to mediator pensions and supplemental agency ethics documents including, but not limited to cautionary memos, recusals, firewalls, waivers, authorizations, acknowledgment of duty to contact the Office of General Counsel, and any statements or certifications concerning no conflicts of interest.

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

1. The Federal employee or a designated person such as a trustee, accountant, banker or relative.
2. Federal officials who review the statements to make conflict-of-interest determinations.
3. Persons alleging conflicts of interest or other violations of ethics laws and persons contacted during any investigation of the allegations.
4. FMCS clients, in accordance with 5 C.F.R. 2635.502 and the Code of Professional Conduct for Labor Mediators, acknowledging notice of impartiality concerns.

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 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 agency for purposes of responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable agency regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the agency requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.
- e) 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 accomplish an agency function related to this system of records.
- f) 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.

- g) 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.
- h) 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.
- i) 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.
- j) 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 to the Office of Government Ethics in response to an ethics program audit, questionnaire, survey, or any other compliance inquiry directed to FMCS.
- m) To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: These records are maintained in paper and electronic form in locations only accessible to authorized personnel.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: These records are retrieved by the name or other programmatic identifier assigned to an individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF

RECORDS: In accordance with the NARA's General Records Schedule (GRS) 2.8 Employee Ethics Records, these records are retained for six years after filing, except when filed by or with respect to a nominee and the nominee ceases to be under consideration for the position. If any records are needed in an ongoing investigation, they will be retained for the duration of the investigation. Records are destroyed by shredding or deleting.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Records are located in a locked file storage area or stored electronically in locations requiring agency network access via username and password. 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 reasonably identifying description of the record content requested. See 29 C.F.R. 1410.3, Individual access requests.

CONTESTING RECORDS PROCEDURES: Records are updated on a periodic basis; most record corrections can be handled through established administrative procedures. Contact the Office of General Counsel (OGC) for contesting records under the provisions of the Privacy Act. See 29 CFR 1410.6, Requests for correction or amendment of records, on how to contest the content of any records.

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

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: This amended SORN deletes and supersedes the SORN published on the Federal Register on October 27, 2021, at 86 FR 59387.

Dated: August 23, 2022.

Anna Davis,

Deputy General Counsel.