

FAQs for Arbitration Guidance

1. What if the parties requested a panel before April 22?

The guidance will not be retroactively applied. Requests for panels received on or after April 22, 2026, will be processed in accordance with the Agency's published guidance and applicable law.

2. What if the federal agency named on the panel request form is also named in the relevant Executive Orders but still consents to arbitration proceedings?

If all parties consent to the proceedings, FMCS will process the panel request and not hold the request in abeyance.

3. What if the Agency withdraws its consent to arbitration proceedings after FMCS has issued a panel?

In accordance with FMCS's arbitration guidance, FMCS considers the parties' consent at the time the panel request is processed. If a party withdraws its consent to the proceedings after the panel has been issued, FMCS does not have authority to affect the ongoing arbitration proceedings, except in rare specific circumstances. Parties withdrawing consent after FMCS has issued a panel should assert these claims in the alternative, appropriate venue.

4. What if the request was made through the online portal and the panel request is placed in abeyance? What happens to the fee that was paid online?

If the request is made through the portal instead of being submitted via email as requested, FMCS will refund or credit the requesting party.

5. How much will parties who are required under this guidance to submit panel requests via email be charged?

Parties submitting a panel request with a federal agency as a party will be charged \$100.

6. When will decisions be made concerning requests for panels held in abeyance?

When there has been a final legal determination on the merits regarding the relevant Executive Orders, FMCS will communicate the status of requests held in abeyance

to all relevant parties. In the interim, if the agency party changes its position and consents to the arbitration, FMCS will alert all parties and resume the panel selection process as normal.

7. What authority does FMCS have to determine the arbitrability of cases?

FMCS does not determine the arbitrability of cases when issuing arbitration panels. FMCS seeks to ensure compliance with all legal authorities. FMCS's authority concerns the issuance of a panel, not the merits of the matter. FMCS's authority concerning arbitration, 29 U.S.C. § 173(f), incorporates 5 U.S.C. § 572, which requires both parties consent to arbitration proceedings.

8. What authority does FMCS have to interpret collective bargaining agreements (CBAs) when assigning arbitration panels?

FMCS does not interpret CBAs. FMCS looks for the consent of the parties at the time the panel request is processed in accordance with 5 U.S.C. § 572 and 29 U.S.C. § 173.