



FEDERAL MEDIATION AND CONCILIATION SERVICE

Privacy Act of 1974; System of Records

AGENCY: Office of General Counsel (OGC), FMCS.

ACTION: Notice of a New System of Records.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is establishing a new system of records for Freedom of Information Act records (FOIA) and Privacy Act records processing and a FOIA and Privacy Act information technology system new to FMCS that will enable requesters to submit, receive, and appeal their FOIA and Privacy Act requests and decisions via an online portal.

DATES: This notice will go in to effect without further notice on October 28, 2020, unless otherwise revised pursuant to comments received. New routine uses will go into effect on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Office of General Counsel, 250 E Street, SW, Washington, DC 20427: foia@fmcs.gov. Comments may be submitted via email at foia@fmcs.gov or via fax at (202) 606-5444. All submissions must refer to the System Name and Number FMCS-1-FOIA/PA.

FOR FURTHER INFORMATION CONTACT: Anna Davis, Deputy General Counsel, adavis@fmcs.gov.

SUPPLEMENTARY INFORMATION: This describes a new system for receiving, processing, and storing FOIA and Privacy Act requests, responses, and appeals

SYSTEM NAME AND NUMBER: FMCS-1-FOIA/PA.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Federal Mediation and Conciliation Service, 250 E Street, SW, Washington, DC 20427; AINS 806 W. Diamond Avenue Gaithersburg, MD 20878.

SYSTEM MANAGER(S): Sarah Cudahy, General Counsel, FMCS 250 E Street, SW, Washington, DC 20427.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: Federal Mediation and Conciliation Service, 29 U.S.C. 172, et seq.; Freedom of Information Act, 5 U.S.C. 552; The Privacy Act of 1974, 5 U.S.C. 552a; 5 U.S.C. 301.

PURPOSE(S) OF THE SYSTEM: This system is maintained for the purpose of processing access requests and administrative appeals under the FOIA (including system access records for requesters and staff), and access and amendment requests and appeals under the Privacy Act; corresponding with the Office of Information Policy (OIP) in the Department of Justice regarding federal agency compliance with the FOIA; and for the purpose of assisting FMCS in carrying out any other responsibilities under the FOIA and the Privacy Act.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Individuals filing requests for access to information under the FOIA and Privacy Act, maintaining an account through which to file FOIA requests and appeals, and FMCS staff assigned to help process, consider, and respond to such requests, including any appeals.

CATEGORIES OF RECORDS IN THE SYSTEM: The system consists of records created or compiled in response to FOIA and Privacy Act requests and appeals, including: the original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, other supporting documentation, and system access records for both requesters and FMCS staff (usernames and passwords). Information collected

and maintained about individuals includes name, contact information, phone numbers, email addresses, and mailing addresses. Records may contain information about people named in them. This system also consists of records related to inquiries submitted to OIP regarding federal agency compliance with the FOIA, and all records related to the resolution of such inquiries.

RECORD SOURCE CATEGORIES: Individuals about whom the record is maintained, and agency staff assigned to help process, review, or respond to the access request, including any appeal. Records pertaining to accessing the FOIA processing system will also be included in this records system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

- (a) To a federal, state, or local agency or entity for the purpose of consulting with that agency or entity to enable FMCS to make a determination as to access to or correction of information; for the purpose of verifying the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment of information.
- (b) To a federal agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision as to access or correction of the record or information, or to a federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.
- (c) To a submitter or subject of a record or information in order to obtain assistance to FMCS in making a determination as to access or amendment.
- (d) To the National Archives and Records Administration for the purpose of adjudicating an appeal from an FMCS denial or a request.

- (e) To appropriate agencies for the purpose of resolving an inquiry regarding FMCS compliance with the FOIA.
- (f) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill responsibilities under 5 U.S.C. 552(h) to review administrative policies, procedures, and compliance with the FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.
- (g) To contractors, experts, consultants, and others performing or working on a contract service agreement, or other assignments for the federal government, when necessary to accomplish an agency function related to this system of records.
- (h) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.
- (i) To any component of the Department of Justice for the purpose of representing FMCS, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.
- (j) In an appropriate proceeding before a court, grand jury, or administrative body, when FMC determines the records are relevant to the proceeding; or in an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.
- (k) To the news media and the public, unless it is determined that the release of specific information in the context of the particular case would constitute an unwarranted invasion of privacy.

- (l) To such recipients and under such circumstances and procedures as are mandated by federal statute or regulation.
- (m) To appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (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 the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
- (n) To another Federal agency or Federal entity, when the Commission 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: Records are maintained electronically using a commercial software application run on the agency's internal servers and shared drives run on the agency's internal servers. Hardcopy records are maintained in a locked file cabinet that require two badged access points.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Indexed by name of requesting party and subject matter of request. Records can also be searched by name, address,

phone number, fax number, and email of the requesting party, subject matter of the request, requestor organization, FOIA number, and staff members assigned to the request.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with General Records Schedule 4.2, issued by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Access to nonpublic system records is restricted to FMCS personnel or contractors whose responsibilities require access. Nonpublic paper records are temporary, maintained in lockable file cabinets or offices, and destroyed once the request and appeal process is complete. Access to electronic records is controlled by a “user ID” and password combination and other electronic access or network controls (e.g., firewalls). FMCS buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES: See 29 CFR 1410.3 - Individual access requests.

Requests can be submitted via the fmcs.gov website, via email to privacy@fmcs.gov or via mail at Chief Privacy Officer at FMCS 250 E Street SW Washington, D.C. 20427.

CONTESTING RECORDS PROCEDURES: See 29 CFR 1410.6 Appeals from denials of requests can be submitted via email to privacy@fmcs.gov or via mail at Chief Privacy Officer at FMCS.

NOTIFICATION PROCEDURES: See 29 CFR 1410.3(a), et seq. Individuals who desire to know whether the agency maintains a system of records pertaining to them by submitting a written request to the Chief Privacy Officer at privacy@fmcs.gov or Chief Privacy Officer, FMCS 250 E Street, SW Washington, D.C. 20427.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: None.

Dated: October 21, 2020.

Sarah Cudahy,

General Counsel.

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