

SUMMARY: This notice solicits public comment on three documents created by subcommittees of the Interagency ADR Working Group Steering Committee (“Steering Committee”), a group of federal subject matter experts. The first document, “Protecting the Confidentiality of Dispute Resolution Proceedings: A Guide for Federal Workplace ADR Program Administrators” (“Confidentiality Guide”), provides practical guidance to program administrators on the application of the confidentiality provisions of the Administrative Dispute Resolution Act of 1996 (“the ADR Act”; 5 U.S.C. § 574) to federal workplace dispute resolution programs. The other two documents (“Supplementation and Annotation documents”), consist of: (1) “A Guide for Federal Employee Mediators,” a supplementation and annotation of the 2005 Model Standards of Conduct for Mediators issued by the American Arbitration Association (“AAA”), American Bar Association (“ABA”), and the Association for Conflict Resolution (“ACR”), for use by federal employee mediators; and (2) “A Guide for Federal Employee Ombuds,” a supplementation and annotation of the Standards for the Establishment and Operations of Ombuds Offices issued on February 9, 2004 by the ABA, prepared by the Steering Committee in conjunction with the Coalition for Federal Ombudsmen (“CFO”) for use by federal employee ombuds. Complete versions of each of the three documents can be found at [www.adr.gov/draftguides.html](http://www.adr.gov/draftguides.html) or may be requested in hard copy from Hon. Richard C. Walters at 202-273-6747.

The Steering Committee invites all interested individuals or organizations to submit comments on these documents for its consideration before they are posted in final form.

DATES: All comments must be postmarked or emailed by 30 days from the date of this notice, in order to receive consideration.

ADDRESSES: Please address all comments to Hon. Richard C. Walters, Administrative Judge, U.S. Department of Veterans Affairs Board of Contract Appeals (09), 810 Vermont Avenue, N.W., Washington, D.C. 20420 *and* sent by e-mail to [Rich.Walters@va.gov](mailto:Rich.Walters@va.gov). Electronic transmission is preferred to ensure full distribution.

SUPPLEMENTARY INFORMATION:

**Authority:** The Administrative Dispute Resolution Act of 1996 (ADR Act), 5 USC Sections 571-584, requires each Federal agency to promote the use of ADR and calls for the establishment of an interagency committee to assist agencies in the use of ADR. Under this Act, a Presidential Memorandum, dated May 1, 1998, created the Interagency ADR Working Group, chaired by the Attorney General, to “facilitate, encourage, and provide coordination” for Federal agencies. In the Memorandum, the President charged the Working Group with assisting agencies with training in “how to use alternative means of dispute resolution”. The three documents are designed to serve this goal.

**Executive Overview of the Confidentiality Guide:** This document, directed primarily toward managers of federal ADR programs, describes in practical, non-legal terms, the nature and limits of confidentiality in federal ADR proceedings. This document extends the guidance issued by the Federal ADR Council, *Report on the Reasonable Expectations of Confidentiality Under the Administrative Dispute Resolution Act of 1996*, 5 Federal Register 83085, December 29, 2000 (“the 2000 ADR Guidance”), which may be found at <http://www.adr.gov/pdf/confid.pdf>, the IADRWG website. This guide is designed to be used in concert with the confidentiality provisions of the ADR Act as well as agency confidentiality policies and guidance.

This Confidentiality Guide contains information to assist the program manager in taking the steps necessary to assure that both internal and external neutrals understand the confidentiality provisions that apply to federal ADR programs and that parties are adequately informed of these provisions. While the Confidentiality Guide is aimed primarily at federal workplace disputes, it should be valuable to all dispute resolution professionals in the government and private sector.

Each chapter of the Confidentiality Guide includes a description and discussion of the issues, a legal analysis, and questions and answers related to confidentiality as it pertains to an aspect of a federal workplace ADR program. The first chapter discusses issues applicable throughout a dispute resolution proceeding. This chapter covers the various stages – before, during, and after the actual dispute resolution session – of a dispute resolution proceeding. The remaining five chapters discuss particular issues regarding confidentiality – *i.e.*, confidentiality agreements, record-keeping, program evaluation, access requests, and non-party participants.

**Executive Overview of the Guide for Federal Employee Mediators:** This document builds upon the 2005 Model Standards of Conduct for Mediators (“Model Standards”) issued by a joint committee of three major nationwide dispute resolution organizations, the AAA, ABA and ACR in order to establish for federal employee mediators ethical standards of conduct tailored to mediation practice within the federal government. It sets out the Model Standards in their entirety and accompanies those standards with Federal Guidance Notes that provide practical guidance for federal employee mediators. In particular, Federal Guidance Notes are appended to the Model Standards for

“Impartiality,” “Conflicts of Interest,” “Confidentiality,” “Quality of the Process,”  
“Advertising and Solicitation,” and “Fees and Other Charges.”

**Executive Overview of the Guide for Federal Employee Ombuds:** This document builds upon the February 9, 2004 ABA Standards for the Establishment and Operations of Ombuds Offices (“Ombuds Standards”) issued by the ABA in order to establish for federal employee ombuds standards of conduct tailored to federal ombuds practice. It sets out the Ombuds Standards in their entirety and accompanies those standards with Federal Guidance Notes that provide practical guidance for federal employee ombuds. In particular, Federal Guidance Notes are appended to the Ombuds Standards for “Establishment and Operations,” “Independence, Impartiality and Confidentiality,” “Limitations on the Ombuds’ Authority,” “Notice,” and “Executive Ombuds.”

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