

**FEDERAL MEDIATION AND CONCILIATION SERVICE
UNITED STATES GOVERNMENT
WASHINGTON, DC 20427**

Office of the General Counsel

**Chief FOIA Officer Report to Department of Justice
Pursuant to the Attorney General's FOIA Guidelines**

I. Steps Taken to Apply the Presumption of Openness

The Federal Mediation and Conciliation Service is a small, independent Agency composed of 249 employees. Commensurate with its size, FMCS received 130 FOIA requests in FY 2009, only five of which were denied in whole or part, and none of which were pending at the end of the year. FMCS has a FOIA Officer and a Chief FOIA Officer, but no other formal FOIA structure. Under these circumstances, the vast majority of the AG's FOIA guidelines have either previously been implemented or are not applicable to an agency of this size.

1. FMCS applies the presumption of openness to all requests except those which seek information specifically exempt under FOIA. Even as to exempt information, the Agency may balance the need for disclosure against the interest protected by the exemption and determine that disclosure is appropriate in the interest of openness, although FMCS had no occasion to engage in this balancing process during FY 2009. However, in the interest of openness, FMCS has responded to questions directed to the Agency – which it had no obligation to answer under FOIA – as if a proper FOIA request had been made. For example, as recently as March 10, 2010, where a person requested an answer as to whether a specific strike notice had been filed, FMCS treated the inquiry as a FOIA request and, as a matter of discretion, disclosed responsive documents. Finally, since FOIA issues are only considered by a single FOIA Officer and a Chief FOIA Officer, publication and training beyond these individuals, pertaining to the AG's Guidelines, were deemed unnecessary.

2. Since FMCS has applied an "openness" standard prior to the issuance of the 2009 Guidelines, the number of releases in whole or in part shows no substantial variation in FY 2009 compared to previous years. For example, of 91 requests received in FY 2008, 62 or 68% were granted in full and 2 or 2% were granted in part. Similarly, in FY 2009, of 130 requests received, 83 or 64% were granted in full and 5 or 4% were granted in part.

II. Steps Taken to Ensure that This Agency has an Effective System for Responding to Requests

Since FMCS is a small agency, the number of FOIA requests it processes are few and, because they are centrally processed, the Agency does not require complex systems to operate effectively and efficiently. The same FOIA Officer processes all FOIA requests. The Chief FOIA Officer reviews and/or determines the appropriate response in about one-half the cases. FMCS uses a variety of systems to ensure efficiency and effectiveness including, for example, dedicated electronic filing, log in/out, and request tracking. Two IT personnel have been specially designated to provide information support.

III. Steps Taken to Increase Proactive Disclosures

Beginning in FY 2005, FMCS has made major additions to the information available to the public in its “reading room” located on the Agency’s website. This includes frequently sought data concerning notices of contract termination, arbitration data, and work stoppages reports. These new reading room postings, which were completed prior to FY 2009, have resulted in a reduction of Agency FOIA requests of more than 70% since FY 2004. No additional categories of information were identified during FY 2009 which, if added to the FMCS reading room, would have further reduced FOIA requests to the Agency.

IV. Steps Taken to Greater Utilize Technology

1. FMCS receives requests electronically.
2. N/A.
3. FMCS tracks requests electronically.
4. N/A.
5. FMCS uses technology to process requests.
6. N/A.
7. FMCS utilizes technology to prepare its Annual FOIA Report.
8. N/A.

The Agency uses off-the-shelf Microsoft Word, Excel, and Outlook to perform these tasks.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

- 1.,2. FMCS had no backlogged requests and no backlogged administrative appeals as of the end of FY 2008* and FY 2009. FMCS responded to all requests within the statutory time period of 20 days in FY 2009.

* Three initial requests were pending prior to the expiration of the 20-day responsive period.

3. FMCS responded to all requests within the statutory time period of 20 days in FY 2009.

Michael J. Bartlett
Chief FOIA Officer
Federal Mediation and Conciliation Service
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