

FEDERAL MEDIATION AND CONCILIATION SERVICE
2020 CHIEF FOIA OFFICER REPORT
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Section 1: Steps Taken to Apply the Presumption of Openness

A. FOIA Leadership

FOIA requires that the agency designate a Chief FOIA Officer who is a senior at least at the Assistant Secretary or equivalent level.

1. FMCS's Chief FOIA Officer is at or above the Assistant Secretary or equivalent level.
2. FMCS's Chief FOIA Officer is Sarah Cudahy, General Counsel.

B. FOIA Training

The Federal Mediation and Conciliation Service (FMCS or Agency) administers its FOIA program through the Office of General Counsel. The FOIA program is serviced by a staff consisting of one attorney, who devotes approximately 20% of her time to performing the Chief FOIA Officer (CFO) functions, and a Paralegal Specialist, who also spends about 20% of her time on FOIA matters.

The CFO started at FMCS on September 5, 2019.

Also, the Paralegal Specialist attended a FOIA and Privacy Act training with the USDA Graduate School, from November 5-7, 2018 (FY 2019). Approximately 30% of the FOIA staff attended FOIA training during FY 2019.¹

FMCS intends to have its FOIA staff attend the DOJ training again in the summer of 2020.

C. Outreach

The FMCS FOIA staff did not engage in any outreach during this reporting year. The FOIA staff is currently drafting new FOIA orientation materials to use in 2020.

D. Other Initiatives

The CFO started the processing for acquiring an electronic processing system for FOIA reports that is compatible with online submissions and pay.gov. While not engaged in any formal initiatives, the CFO has initiated numerous informal conversations with non-FOIA professionals of the Agency – principally, IT personnel, mediators and mediator supervisors, and Regional Directors with geographical field responsibility – to educate them as to their responsibilities under the FOIA.

¹ The other two staff members of OGC's FOIA Office joined FMCS in September and December of 2019.

Section II: Steps Taken to Ensure that FMCS Has an Effective System in Place for Responding to Requests

1. Agency processing time adjudicating expedited requests

The FMCS received one expedited request in FY 2019. The average time to respond to an expedited processing request is 41.5 days.

2. Steps taken to address delay in adjudicating expedited requests

The FMCS addressed logging in protocols and will continue to address and monitor requests for expedited processing when the new online FOIA processing system is in place.

3. Self-Assessment

The FMCS did not conduct a self-assessment of its program in FY 2019.

4. Notification to Requesters about FMCS's FOIA Public Liaison Services

The Agency's Public Liaison did not receive any requests in FY 2019.

5. Best Practices to ensure that our FOIA system operates efficiently and effectively

The FMCS maintains a form, which can be accessed by selecting the "Feedback" tab in the upper right corner of the Homepage, which the Agency uses to receive comments and other information pertaining to the FOIA, as well as other operations.

The FMCS maintains a comprehensive electronic FOIA reference guide that can be utilized to make requested records electronically available to the public. The guide can be found at: <https://www.fmcs.gov/wp-content/uploads/2015/07/YourRightToFederalRecords.pdf>.

Section III: Steps Taken to Increase Proactive Disclosures

1. The Agency proactively discloses the following information:

(a.) Work Stoppage Data (strikes and lockouts) recorded annually, and by month, from 1984 through December 2019, which are available at:

<https://www.fmcs.gov/resources/documents-and-data/>

(b) a document containing extensive questions and answers on the Freedom of Information Act and the Privacy Act, entitled “Your Right to Federal Records”, which can be found at

<https://www.fmcs.gov/wp-content/uploads/2015/07/YourRightToFederalRecords.pdf>.

(c) Agency FOIA log from 2010 – 2019, which can be found under Reports at:

<https://www.fmcs.gov/resources/documents-and-data/>

2. Describe how the agency identifies records that have been requested and released three or more times and required to be proactively disclosed

The Chief FOIA Officer periodically reviews the FOIA log to determine whether any “frequently requested” records can be identified for the purpose of creating a proactive disclosure. No more formal system is required in view of the relatively few (41) requests received this fiscal year.

3. Additional Steps to make the posted information more useful

We are making sure that the main document requested by the members of the public, the Work stoppages and strikes report, is posted monthly.

Section IV: Steps Taken to Greater Utilize Technology

In addition to steadily increasing the use of email to correspond with requesters during the processing of requests, FMCS has greatly expanded the use of email to provide a final response with the documents sought as attachments. This has cut some three (3) days from the average response time utilizing the U.S. mail.

The FMCS successfully posted all four (4) quarterly reports during FY 2019 with information appearing on FOIA.gov.

FMCS regularly reviews its public FOIA page and has posted 40 records to this page over the past year. The raw data for FOIA reports is available on FMCS’ public website here:

<https://www.fmcs.gov/resources/documents-and-data/>.

FMCS will be implementing a new electronic processing system for FOIAs in 2020.

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

A. Simple Track

The FMCS utilizes a separate track for simple requests. The average number of days for the Agency to process simple requests in FY 2019 was 114. Simple requests represent (15/54) 27.8% of the overall processed requests.

B. Backlogs Requests and Appeals; and Backlog Reduction Plan

The Agency had 14backlogged requests as of the close of FY 2018. The backlog decreased at the close of FY 2019 zero.

The FMCS had no backlogged appeals as of the close of either FY 2018 or FY 2019.

The FMCS is not required to implement a backlog reduction plan because currently there is no backlog and the threshold for a backlog reduction plan is 1,000 backlog requests.

C. Status of Ten Oldest Requests

The FMCS closed 10 of the 10 oldest requests pending in FY 2019. None of these cases were closed because the request was withdrawn.

D. Ten Oldest Appeals and Consultations

The Agency had no pending appeals or consultations as of the close of FY 2019.

E. Additional Information on Oldest Requests

At the close of FY 2019, we did not have any pending requests.

F. Success Story

FMCS started FY 2019 with a backlog of 14 requests. By the end of FY 2019, we did not have any backlogged requests despite a complete change of attorneys in the Office of General Counsel.

The Agency posted its FOIA log for the years 2010-2018. The 2019 FOIA log will be posted before March 31, 2019.