



governmentattic.org

"Rummaging in the government's attic"

Description of document: Selected Federal Mediation and Conciliation Service (FMCS) Directives, 2014 (1997-2011)

Request date: 12-February-2014

Released date: 10-March-2014

Posted date: 07-September-2015

Note: See following page for included FMCS Directives.

Source of document: FOIA Program
FMCS
2100 K Street, NW
Washington, DC 20427
Fax: 202-606-5345
Email: foia@fmcs.gov
[FOIA request form](#)

The governmentattic.org web site ("the site") is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file. The public records published on the site were obtained from government agencies using proper legal channels. Each document is identified as to the source. Any concerns about the contents of the site should be directed to the agency originating the document in question. GovernmentAttic.org is not responsible for the contents of documents published on the website.

INCLUDED FMCS DIRECTIVES

- Directive 1101. Basic Legal Authorities, August 1998
- Directive 1102. Program Structure, August 1998
- Directive 1103. Description of the Organization and Function, May 1997
- Directive 1104. Overall FMCS Delegation of Authority, August 1998
- Directive 1204. Disclosure of Information, August 1998
- Directive 1301. Regional Geographical Jurisdiction, August 1998
- Directive 2201. Federal Service, August 1998, August 1998
- Directive 2202. U. S. Postal Service (39 USC 1207), August 1998
- Directive 2301. Age Discrimination Act, August 1998
- Directive 3101. General Information on the FMCS Case Administration System, August 1998
- Directive 3102. Notice Processing (NPU), August 1998
- Directive 3201. Regional Management Procedures), August 1998
- Directive 4105. Communications, August 1998
- Directive 5403. Telework Program, April 2011
- Directive 6103. Bulletins, June 2000
- Chapter 7100 - Arbitration Policies, Functions, and Procedures, June 1997

From: Bartlett Mike
Date: Jul 31, 2015 3:01:13 PM
Subject: FOIA Request

This is in response to your FOIA request of May 1, 2015, in which you seek certain specified copies of FMCS's Directives. The Directives you seek are attached with the exception of N2012, N2013, N2014, N2015, N2016, N3014 and N3015 which are not in our repository.

Since the partial absence of records is considered an "adverse decision," you have the right to appeal this decision. The enclosed regulation describes the procedures for filing any such appeal.

Michael J. Bartlett
Chief FOIA Officer
Deputy General Counsel
Federal Mediation & Conciliation Service
2100 K Street, N.W.
Washington, D.C. 20427

This email is intended only for the recipient to whom it is addressed and may contain information that is sensitive, confidential or privileged by law. If you have received this message in error, any review, use, dissemination or copying is prohibited. In case of such error, please contact the sender immediately and delete the material from your computer system.

www.fmcs.gov

DIRECTIVE 1101. BASIC LEGAL AUTHORITIES

1. The Federal Mediation and Conciliation Service is an independent Agency created by the Labor Management Relations Act, 1947, as amended. The Director is appointed by the President with the advice and consent of the Senate.
2. The mission of the Service is to prevent or minimize the impact of labor-management disputes on the US economy, excepting the railroad and airline industries. The mission also includes the provision of joint skills training for labor and management aimed at improving the work place relationship and conflict resolution services to government agencies.
3. The following are the statutory and other legal authorities which authorize the mediation, training and conflict resolution programs.
 - a. The Labor-Management Relations Act of 1947 (Public Law 80-101, 29 U.S.C. Section 173 et. seq.) directs the Service to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes through mediation. Parties are required to notify the Service 30 days prior to a contract termination or modification date so that mediation services may be proffered. Section 158.

The Act establishes a special procedure for threatened or actual strikes which in the opinion of the President imperil national health or safety. In such a situation, the President may appoint a board of inquiry to ascertain the facts with respect to the dispute. After receipt of the Board's report, the President may seek to enjoin the strike for not more than 80 days, and a court may do so if it finds that the threatened or actual strike or lockout affects a substantial part or all of an industry and would imperil the national health or safety. Section 176.

- b. The Health Care Amendment of 1974 (Public Law 93-360, 29 U.S.C. Section 158 (d)(3) amending the National Labor Relations Act) include special responsibilities to prevent or minimize work stoppages in the health care industry. In the case of the Private Sector of this industry, FMCS must be notified 60 days before the contract termination date. A 30 day notice is required in initial bargaining situations. If, in the opinion of the Director and prior to contract termination, a strike is threatened which would interrupt the delivery of health care in a locality, the Director may appoint a board of inquiry (29 U.S.C. Section 183). The board has 15 days within which to operate and file its report and recommendations; the parties must maintain the *status quo* for 15 days thereafter while further negotiations and mediation take place. The parties are required to cooperate in any mediation efforts by FMCS.
- c. The Civil Service Reform Act of 1978 (Public Law 95-454, 5, U.S.C. Section 7119(a)) directs the Service to provide mediation assistance in disputes arising from negotiations between federal agencies and the exclusive representatives of their employees.
- d. The Postal Reorganization Act of 1970 (Public Law 91-375, 39 U.S.C. Section 1207(b)) requires the Service to establish fact-finding panels and arbitration boards if disputes between the Postal Service and the exclusive representative of its employees are not resolved prior to certain statutory deadlines.
- e. Presidential Statement, March 24, 1953 The Atomic Energy Labor-Management Relations Panel was established within the Service in March 1953, by President Eisenhower, in order to ensure the uninterrupted functioning of the Atomic Energy Program without strikes or lockouts due to labor-management disputes. This Panel was moved to the Atomic Energy Commission in

March 1956 but was returned to FMCS under President Carter in April 1980 and renamed the Energy Labor-Management Relations Panel. (ELMRP)

- f. Executive Order 11374, dated October 11, 1967, transferred the responsibilities of the Missile Sites Labor Commission (created by Executive Order 10946) to FMCS.

- g. The Federal Insecticide, Fungicide and Rodenticide Act of 1978(Public Law 95-396, 7 U.S.C. 136(a)(c)(1)(f)(iii)) requires the Service to provide for the appointment of arbitrators to decide disputes concerning compensation for the use or development of pesticide registration data.

- h. The Labor-Management Cooperation Act of 1978 (Public Law 95-524, 29 U.S.C. 175 (a) amended Sections 175 and 302 of the Labor-Management Relations Act and authorizes and directs the Service to encourage and support joint labor-management activities conducted by plant, area, and industry-wide committees designed to improve labor-management relationships, employment security, and organizational effectiveness. The Act authorizes the Service to provide grant funds to assist in the establishment and operation of these labor-management committees.

- i. The Administrative Dispute Resolution Act of 1996 (Public Law 104-320) 5 U.S.C., 571, et seq. authorizes and encourages agencies to use various alternative means of dispute resolution in the federal administrative process in order to avoid the time and expense of litigation. The 1996 Act amended and permanently reenacted the Administrative Dispute Resolution Act of 1990 as well as the Negotiated Rulemaking Act of 1990. The repeal of the sunset date (expiration dates)and the reporting requirements of the Acts suggest that the ADR and regulatory-negotiation

"experiments" have become well accepted processes of federal agencies.

A lead agency or interagency committee is designated by the President to facilitate and encourage the use of alternative dispute resolution. Federal Agencies are required to consult with that lead agency or committee and are now permitted to participate in binding arbitration in some situations. Under the 1996 Act, coverage has been expanded to include additional dispute resolution techniques, such as "ombudsmen" and the use of ADR in some workplace conflicts, including Hatch Act violations, retirement, insurance, certain suspensions, removals, examinations and appointments. The 1996 Act directs the lead agency or interagency committee to develop guidelines to expedite the acquisition of neutrals and to encourage use of alternative dispute resolution in the Federal government.

Lastly, this legislation amends the Labor Management Relations Act of 1947 (Taft-Hartley) by permanently adding section 173 (f) of Title 29 of the United States Code so that FMCS may provide all forms of ADR assistance to Federal agencies. Under this legislation, FMCS continues to assist agencies in negotiated rulemaking processes as well as other ADR procedures by providing training, facilitation, mediation and other neutral skills.

- j. The U.S. Code of Federal Regulations at 45 CFR 90.43 (c) issued by the Department of Health and Human Services, implementing its authority under the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., authorizes the Service to provide mediation assistance for the resolution of age discrimination charges.

- k. Executive Order 12871, dated October 1, 1993 established a National Partnership Council in the federal sector to foster a new form of labor-management relations throughout the executive branch to promote the principles and recommendations adopted by the National Performance Review. The Director of FMCS serves as a member of this Council. The goal is to foster good government through the formation of labor-management partnerships.

Executive Order 12983, dated December 21, 1995 extends the National Partnership Council in the federal sector for two more years and continues the FMCS role.

- l. The Air Traffic Management Performance Improvement Act of 1996 Public Law 104-264, 49 U.S.C. Section 40122 (a) (z)), directs FMCS to mediate disputes between the Administrator of Federal Aviation Administration and its employee representatives if these bargaining parties fails to reach a negotiated agreement.

DIRECTIVE 1102. PROGRAM STRUCTURE

1. Introduction. The major objective of the Service is to provide the labor management community with the following services: Dispute Mediation, Preventive Mediation, Arbitration Services, Labor-Management Cooperation Grants programs, Alternative Dispute Resolution and Education, Advocacy and Outreach activities.
2. Dispute Mediation.
 - a. Private Sector. The service provides assistance in the negotiation or renegotiation of a collective bargaining contract. Added attention may be placed on disputes having the potential to effect national safety, health or commerce.
 - b. Public Sector. Dispute mediation in the public sector is comprised of federal sector bargaining and state and local sector bargaining.
 - (1) Federal Sector. The service provides assistance to federal agencies and labor organizations in the resolution of negotiation disputes. The rules and regulations governing mediation assistance are published at 29 CFR 1425.
 - (2) State and Local Sectors. In the State and Local Sectors, the Service is responsible for:
 - (a) Encouraging development of independent dispute resolution capability by state, county, and municipal governments.
 - (b) Directly participating in dispute resolution in state and local jurisdictions where adequate mediation service is not available.
 - (c) Where jurisdictions have adequate mediation services, assisting upon request by the parties, the chief executive of the jurisdiction, or the interested state or

local mediation service.

- (3) Health Care Industry. The Service, provides assistance in labor-management dispute mediation in the negotiation or renegotiation of collective bargaining contracts involving private (profit and nonprofit) health care institutions. Employees of Federal, State, and Municipal health care facilities are excluded. Where needed special attention will be given.

Boards of Inquiry Prior to contract expiration, the Service may appoint a board of inquiry in health care industry labor-management disputes where the threat of a work stoppage may interfere with the delivery of health care services. Findings of fact and recommendation must be made within 15 days.

3. Preventive Mediation.

- a. Preventive Mediation Program. Preventive mediation services promote and enhance the labor-management relationship. The objective of preventive mediation is to encourage the parties to improve their relationship and resolve problems away from and without the pressure of a strike or contract expiration.
- b. Implementation. The Service designs and implements techniques to promote peaceful labor-management relations. Programs help management and labor enter into joint approaches to effectively solve problems.

4. Arbitration Services.

- a. Providing Panels of Arbitrators. The Service provides panels of skilled outside arbitrators from which the parties select an individual arbitrator. Arbitration assists parties as the final step in resolving grievances. Through the system of voluntary arbitration, thousands of contractual disputes are resolved annually by a timesaving and inexpensive

procedure.

- b. Special Requests. The Service also responds to requests for arbitrators particularly skilled in selected industries or issues. Special requests may involve imminent or actual work stoppages with major community, state, or national impact. In such cases, the Service acts immediately in the selection of a panel or the designation an arbitrator to provide services to resolve the dispute.
5. Labor-Management Cooperation Grants Program. The Labor Management Cooperation Act of 1978 authorizes FMCS to support the establishment and operation of plant, area, and industry labor-management committees through a program of grants and contracts. The objective of this program is to promote labor-management cooperation.
6. Alternative Dispute Resolution. ADR is the application of mediation/problem solving techniques in non-labor relations situations. The Service assists other Government agencies to resolve their disputes by providing mediation and technical assistance. ADR projects range from mediation of age discrimination complaints to facilitation of regulatory negotiations. ADR projects reduce litigation costs and speed federal processes.
7. Education Advocacy and Outreach. This term is used to describe the variety of activities in which mediators and managers participate to inform the public about the Service. They include lectures, seminars, and conferences, as well as routine meetings with local leadership of the collective bargaining community. Through outreach activity, both the labor-management community and general public gain an understanding of all areas relevant to the Service, including the uses of mediation, arbitration and the collective bargaining process. The public is educated as to the growing number of services offered by FMCS that enhance labor-management cooperation. These activities benefit the community by providing an understanding of the collective bargaining process, labor-management relationships, and the value of neutral participation to dispute resolution and

relationship building.

DIRECTIVE 1103. DESCRIPTION OF THE ORGANIZATION AND FUNCTION

The FMCS is composed of a National Office structure and a Field structure, as follows.

1. The National Office.

The Director, appointed by the President with the advice and consent of the Senate, has the responsibility for establishment of policy and for the overall administration of the Service. The Director serves as agency liaison with the White House, members of the President's Cabinet and the Congress, and also provides direction for and participation in the mediation of major disputes.

The Deputy Director of Field Operations is responsible for assisting the Director in all aspects of management of the Service. The Deputy Director participates in the mediation of labor disputes of national scope and significance when necessary. The Deputy Director is responsible for the operation and implementation of FMCS policies and procedures for dispute mediation, preventive mediation activities, and other activities of the field structure of the service.

The Deputy Director for National Office Operations serves as the principal operations officer in the internal administration of the Service, responsible for managing the daily operations and implementing policies for the program and support functions of the agency. The Deputy Director serves as an advisor and provides long term planning for internal and external activities as required by the Director.

a. Director's Office.

The National Representative functions as the representative of the Director and as an agency spokesperson in various private and public sector labor-management forums. Tracks, monitors and represents the Director in labor disputes of national

scope and significance. Heads major collaborative projects with other entities, as directed.

The Director of Communications provides internal and external information about the activities of the service and acts as the public information voice for the agency in significant dispute cases, handling questions and information requests from the news media and issuing official statements from the FMCS Director. The office also coordinates the agency's communication with business and union customers, with members of congress, and provides public information and communication skills training for field mediators.

b. Deputy Directors' Office

The Office of the General Counsel provides legal support and advice necessary for the Service to carry out its mission. The General Counsel represents the agency in proceedings before the MSPB, EEOC, Special Counsel, FLRA, and other administrative bodies, and in cooperation with the Department of Justice, represents the Service in all matters arising in the Federal courts, and coordinates with the Director of Legislative Affairs regarding all activities involving legislation.

The Office of Budget and Finance develops budget estimates and supporting material for the financial needs of the Service, coordinates and assists in the presentation of the budget to the Office of Management and Budget and the Congress, and ensures that enacted appropriations are properly executed. Budget and Finance has the additional responsibility of providing an Integrated system of records and reports to meet management's needs and ensure compliance with applicable laws, rules, and regulations. (See Directives 4101-4105, Financial Management and Budget, for more detailed information.)

The Office of Human Resources is responsible for providing human resource programs to meet the Service's needs and ensuring compliance with applicable laws and regulations. Major programs include hiring of qualified employees, classification of all positions, implementation and monitoring of appraisal systems, and coordination of employee relations programs. Additional responsibilities include administering the agency's payroll system.

The Office of Arbitration Services provides the labor-management community with lists of qualified outside arbitrators to settle disputes arising during the life of a labor contract. Functions of this Division include the developments of improved roster maintenance techniques, establishment of case administrative services, and responses to new developments in the arbitration process. Additional functions include providing permanent umpires to meet the needs of the parties. Outside education advocacy and outreach to the arbitrator and arbitration customers is provided as well.

The Office of Labor-Management Grants and Projects administers the Labor-Management Cooperative Program of the Service. This program established in Fiscal Year 1981 under the authority of the Labor-Management Cooperation Act of 1978 (PL 95-524), the program provides grants to support the establishment and operation of joint labor-management committees at the plant level, on a community or area-wide basis, within a particular industry, and for public sector employees.

The Office of Alternative Dispute Resolution (ADR)/International Affairs provides training and technical assistance in conflict resolution to domestic organizations and foreign governments. Services include systems design, facilitation, mediation and evaluation services in ADR which includes rulemaking and

regulatory activities.

The ADR/International Affairs Office serves as liaison with the international labor-management community, embassy officials and visiting dignitaries and coordinates the Service's international programs.

This includes hosting briefings and training programs in Washington, DC for labor-management and government leaders from other nations as well as coordinating the activities of mediators traveling abroad to provide technical expertise and international training.

The Office of Education and Training supports and drives a continuous learning environment for mediators, managers, and the national office staff consistent with the FMCS vision. The office identifies and develops training materials and programs that support the professional staff acquiring core competencies and national office staff the highest levels of competencies in their jobs.

The Office of Information Systems and Administrative Services has responsibility for the implementation of the agency's technology plan and the operation and maintenance of current equipment. This office also administers all of the ADP programs of the agency and is also responsible for work of the notice processing unit which screens and enters all official collective bargaining notices into the FMCS information system, and transmit this information to the regions. The office provides technology support for all FMCS facilities throughout the country. Other responsibilities of this office include providing space, records and forms management, supplies, printing and reproduction, mail and distribution services. It assists the Director and Deputy Directors by compiling program statistics and reports, as requested.

2. The Field.

The Field structure of the Service consists of five Regions, encompassing the entire United States. Within this structure are some seventy-five field stations employing approximately 200 Federal mediators. For a detailed description of locations of FMCS facilities please refer to Directive 1301.

The Regional Directors are the managers of the Field structure. They are the channel of communication between the Field and the National Office. They report to the Deputy Director for Field Operations and through the Deputy to the Director of the Service. The Regional Directors are responsible for leadership within the Region; customer outreach, developing working relationships with appropriate members of Congress, state and local government representatives, professional associations and educational institutions; executive oversight of the human resource and supervisory functions of the region's Directors of Mediation Services (DMS); case administration by working through the regional DMS and administrative staff on case assignment, data entry and various other administrative and clerical functions of the region; dispute mediation activity on significant cases where involvement of the Regional Director can make a positive contribution in a dispute; and serves as a policy advisor to the Director.

The Directors of Mediation Services (DMS) As the immediate supervisor of field mediators they will work closely with them to assure high quality performance, productivity and customer satisfaction with FMCS mediation services. They provide counseling/advice and support to mediators for dispute mediation, preventive mediation, alternative dispute resolution and education advocacy and outreach. The DMS will panel with mediators to make observations on the delivery of services and assess the knowledge and skill levels of mediators in order to provide feedback and coaching on their performance. They will review and discuss the quality of mediation services with a representative sample of FMCS

customers to assure satisfaction and to learn how to improve services and performance. Their supervisory human resource function includes recruitment, selection, education, training and professional development, performance evaluation and case assignment and management.

The Regional Administrative Staff supports the operation of the Region by providing secretarial, clerical, and administrative assistance in case management, program preparation, liaison with the national office for, human resources, financial, equipment and physical surrounding needs.

The Federal Mediators are the essential component, upon which all operations of FMCS depend. It is the work of the Mediators, dealing directly each day with labor and management disputants, that upholds the mission and the success of the Service.

DIRECTIVE 1104. OVERALL FMCS DELEGATION OF AUTHORITY

1. Introduction. The Labor Management Relations Act of 1947 (Taft-Hartley Act) establishes the Federal Mediation and Conciliation Service and gives the Director the overall authority and responsibility for the establishment of policy and the general administration of the Service. The Director may, by order subject to revocation at any time, delegate any authority and discretion conferred upon this official by the Act to any officer or employee of the Service.
2. Purpose. The purpose of this directive is to state the overall FMCS delegation of authority.
3. Authority.
 - a. Director. The Director has overall authority for the establishment of policy and the general administration of the Service.
 - b. Deputy Director(s). The Deputy Director(s) have the authority to implement established Service policy and to ensure that the operations and programs of the Service are carried out in accordance with those policies. If the position of Director is vacant, or in the absence of the Director, all authority and discretion, not otherwise delegated, is delegated to the Deputy Director(s).
 - c. Other FMCS Officials. As may be specified within this Directives Manual, subordinate FMCS officials are delegated certain authorities to administer and fulfill operational and administrative functions of the Service as deemed appropriate by the Director or a Deputy Director.

Directive 1204. DISCLOSURE OF INFORMATION

1. Introduction. This directive establishes the policy of the Service for determining the availability of information about its activities, consistent with the requirements of the Freedom of Information Act, 5 U.S.C. 552, as amended and Part 1401 of FMCS regulations, published in Title 29, Chapter XII, Code of Federal Regulations.
2. Places Where Information May be Obtained. Any individual desiring information regarding the operations of the Service should communicate with the office of the Service nearest his/her location. The request will be referred to the appropriate office for response.
3. General Policy on Information. It is the policy of the Service to make available general and factual information to the public. The Service releases information to the fullest extent possible in compliance with state and federal laws while maintaining the confidentiality of the mediation process, the neutrality of the mediator, and the neutrality of the Service. Any brochures or general information shall be furnished, free of charge, so long as the supplies shall last. FMCS Form F-7 notices filed pursuant to Sections 8(d) and (9) of the Taft-Hartley Act (29 U.S.C. 158 et seq.) will be available in accordance with federal law.
4. Confidentiality of Mediation. It is the mandate of the Service to keep information learned during the course of a mediation process confidential. This policy is crucial to labor and management's confidence in the mediation process, the neutrality of the mediator and the neutrality of the Service. Likewise, fulfillment of the Service's mission requires neutrality of both the Service and the mediator. Accordingly, all information learned by a mediator in the course of a mediation is confidential and the mediator shall keep it confidential. The mediator shall maintain the confidentiality even after leaving the Service. Disclosure of information regarding information learned during the mediation process will only be authorized if compelled by lawful process and authorized by the Director pursuant to 29 CFR Part 1401.2.
5. Responding to Subpoenas. No employee, former employee, or other person connected in any capacity with the Service, currently or formerly shall, in response to a subpoena, subpoena duces tecum, or other judicial or administrative order, produce any material contained in or related to the files of the Service, disclose any information acquired in

connection with their official duties or status, or testify in any matter pending whatsoever, including any judicial,

arbitral or administrative proceeding, without the prior approval of the Director pursuant to 29 CFR, Part 1401.2 . In the event any such person is served with a subpoena or subpoena duces tecum, they must immediately forward the subpoena to the Office of General Counsel, and if an employee, also provide a copy to his/her manager. Pursuant to law and these directives, the Service will attempt to prevent the individual from testifying. In the event the Service is unsuccessful, the individual will be so notified by the Director in writing. In no event shall the employee, former employee or other individual produce any information in response to a subpoena without prior written approval from the Director.

6. Former Employee Subpoenas or Requests for Dispute Case Material or Other Official Papers. All information, whether written or not, obtained in the course of official duties, or by virtue of the employee's official capacity, shall upon termination of the employee's connection with the Service, be treated by former employees with the same confidentiality as if they were still connected with the Service. Employees terminating their employment with the Service are required to turn in to their supervisor all documents, files, records and other materials and papers prepared while employed by the Service. If a former employee is subpoenaed, they must take the actions set forth in paragraph 5 above.
7. Telephone Monitoring. In the absence of lawful process, telephone monitoring is prohibited unless all parties to the conversation consent or are on notice.
8. Tape Recordings. The use of tape recordings or recorded transcripts of joint conferences are discouraged by the Service where likely to inhibit free discussion, or impede sound collective bargaining. Where one or all of the parties insist on recording joint conferences, or the mediator believes tape recordings or recorded transcripts are necessary for the purpose of mediation, education or training, the mediator should consult with his or her supervisor as to whether recording will be allowed.
9. Policy on Audio-Visual Material. Audio-visual materials and film sequences are to be used only in connection with programs conducted by or in conjunction with FMCS. They shall not be loaned to any outside group absent approval by a Regional Director.
10. Requests for Information on Internal Operations. With regard to requests for information on the Service's internal operations, employees shall:

-
- a) make general and factual information available in the form of brochures, annual reports, and other such materials published by the Service for general dissemination; and
 - b) forward to their supervisors for reply or approval requests for information such as:
 - 1) Questionnaires or surveys concerning any matter relating to the Service including requests arising under the Freedom of information Act (''FOIA''). Such matters may include FMCS' budget, FMCS' employees, and mediation;
 - 2) Requests for expressions of opinion on matters of Service policy in all areas; and
 - 3) Requests for expressions of opinions or attitudes on controversial matters or issues.
11. Labor-Management Reporting and Disclosure Act of 1959. The policy of the Service on handling inquiries concerning the Labor-Management Reporting and Disclosure Act of 1959 is that no employee of the Service shall attempt to interpret or furnish information concerning the application, implementation, or operation of the Act, or facts concerning compliance or noncompliance therewith. To all such inquiries, employees in the field should refer the party to the Department of Labor in Washington, or in accordance with the agreement between the Service and the Labor Management Services Administration (LMSA).

DIRECTIVE 1301. REGIONAL GEOGRAPHICAL JURISDICTION

1. Introduction. The Service is divided into five regions within the United States. Each region has a number of field stations. The Regional Office is usually located in a principal city. There are no overlapping field stations. The specific states, counties, and territories served by each FMCS field office are detailed in the Service's document entitled County Designations by Field Office or Assignment Area. There is a further division of offices into sub-regional locations. They are designated as 1A, 1B, 2A, 2B, etc. Five (5) of the ten (10) sub-regional offices are co-located in Regional offices. The five (5) shared locations, (with Cleveland having two (2) sub-regions), are: Newark, Cleveland, Minneapolis, and Los Angeles. The remaining sub-regional offices locations are; Philadelphia, St. Louis, Orlando, Chicago, and Seattle.

2. FMCS Regional Offices**REGION 1 (NEWARK, NJ)****1A Sub-Region (NEWARK, NJ)**

Albany, New York
Boston, Massachusetts
Hartford, Connecticut
Newark, New Jersey
New York, New York
Portland, Maine
Providence, Rhode Island
Woodbridge, New Jersey
Worcester, Massachusetts

REGION 2 (CLEVELAND, OHIO)**2A Sub-Region (Cleveland, Ohio)**

Amherst, New York
Detroit, Michigan
Erie, Pennsylvania

1B Sub-Region (Philadelphia, Pennsylvania)

Baltimore, Maryland
Harrisburg, Pennsylvania
Philadelphia, Pennsylvania
Syracuse, New York
Trenton, New Jersey
Wilkes Barre, Pennsylvania

Grand Rapids, Michigan
Kalamazoo, Michigan
Pittsburgh, Pennsylvania
Saginaw, Michigan

2B Sub-Region (Cleveland, Ohio)

Cincinnati, Ohio
Cleveland, Ohio
Columbus, Ohio
Dayton, Ohio
Parkersburg, West Virginia
Toledo, Ohio

REGION 3 (ATLANTA, GEORGIA)

3A Sub-Region (Birmingham, Alabama)

Atlanta, Georgia
Baton Rouge, Louisiana
Charleston, West Virginia
Chesapeake, Virginia
Houston, Texas
Knoxville, Tennessee
Miami, Florida
Orlando, Florida
San Antonio, Texas
Washington, DC

3B Sub-Region (St. Louis, Missouri)

Birmingham, Alabama
Dallas, Texas
Kansas City, Missouri
Louisville, Kentucky
Memphis, Tennessee
Springfield, Missouri
St. Louis, Missouri
Wichita, Kansas

REGION 4 (MINNEAPOLIS, MINNESOTA)

4A Sub-Region (Chicago,
Illinois)

Chicago, Illinois
Indianapolis, Indiana
Milwaukee, Wisconsin
Peoria, Illinois
Rockford, Illinois
South Bend, Indiana

4B Sub-Region (Minneapolis,
Minnesota)

Cedar Rapids, Iowa
Des Moines, Iowa
Green Bay, Wisconsin
Minneapolis, Minnesota
Omaha, Nebraska

REGION 5 (ORANGE, CALIFORNIA)

5A Sub-Region (Seattle,
Washington)

Boise, Idaho
Oakland, California
Portland, Oregon
San Francisco, California
Seattle, Washington
Spokane, Washington

5B Sub-Region (Orange,
California)

Denver, Colorado
Honolulu, Hawaii
Las Vegas, Nevada
Long Beach, California
Los Angeles, California
Orange, California
Phoenix, Arizona
San Diego, California
Tucson, Arizona

DIRECTIVE 2201. FEDERAL SERVICE

1. Introduction. The Federal Service Labor-Management Relations Statute gives FMCS jurisdiction over labor-management relations in the Federal Service. 5 U.S.C. 7119 states:

"The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance."

2. Policy.

- a. The Service, through its national and regional management, shall assist all mediators in their attempt to service and accommodate both sides in the process of negotiations in achieving an agreement.
- b. Mediators, upon the request of the parties, or by unilateral action by the Service, shall convene meetings as are deemed necessary, both in the matter of negotiations and grievance mediation.
- c. Grievance mediation shall be handled by the Service based on the availability of the Service to provide mediation at that time.

3. Procedures.

- a. Thirty-Day Dispute Notice. After the Federal Mediation and Conciliation Service receives the 30-day dispute notice from the parties, which is required by 29 CFR Part 1425, a mediator will be assigned to the case.
- b. Time Limits. Mediators may set time limits for the Service's participation and may make recommendations for settlement to the parties where appropriate. Such actions shall be taken after consultation with appropriate district management.
- c. Referral. When mediation efforts have been exhausted, the mediator shall notify the Director of Mediation

Services. The Director of Mediation Service's responsibility is to notify the Federal Service Impasses Panel that "the Service" has completed its work with the parties. The Panel is then free to assume jurisdiction over the case once the parties have requested impasse assistance.

4. National Office Assistance. Assistance to the mediators will be furnished by the Director of Mediation Services.

DIRECTIVE 2202. U. S. Postal Service (39 USC 1207)

1. Introduction. In the event the parties are unable to reach a new agreement, Section 1207 of the Postal Reorganization Act provides a method for resolving the labor dispute by establishment of a fact-finding panel and an arbitration board.
2. Policy. The Service shall assist the parties in their attempt to achieve an agreement.
3. Procedures.
 - a. Ninety-Day Dispute Notice. Section 1207(a) of the Act provides for a 90-day notification of intent to terminate prior to the expiration of the existing agreement. FMCS is to be notified of the existence of the labor-management dispute 45 days before the expiration of the contract.
 - b. Fact-finding Panel. Section 1207(b) provides that if the parties do not reach agreement or adopt procedure for a binding resolution by the expiration date, the Director of the FMCS shall direct the establishment of a three-member fact-finding panel. The Director submits a list of not less than 15 names from which each party within 10 days selects one person. The two selected then choose a third from that list who serves as chairperson. If either party fails to select a person or if the two chosen fail to select a third within three days, the Director shall make the selection.
 - c. Fact-finding Report. After investigation, the fact-finding panel issues a report of its findings, with or without recommendations, to the parties no later than 45 days from the date the list of names is submitted.
 - d. Arbitration Board. Section 1207(c)(1) provides that if no agreement is reached within 90 days after expiration of the contract, or if the parties agree to go to arbitration but do not agree on procedures, an arbitration board is to be

established. It shall consist of three members, none of whom were members of the fact-finding panel; one to be selected by the Postal Service, one by the bargaining representative, and the third by the two selected. If either party fails to select a member, or if the two chosen fail to select a third within five days after their first meeting, the Director of FMCS or his designee will make the selection. If the parties cannot agree on framing the issues for submission, the fact-finding panel shall do so.

- e. Arbitration Decision. Section 1207(c)(2) provides for the parties to get a full and fair hearing, including the opportunity to present evidence and the case in person or by counsel. The arbitration board is to render a binding decision within 45 days after appointment.
- f. Section 1207(c)(3) provides that the costs of fact-finding and arbitration are to be shared equally by both parties.

DIRECTIVE 2301. AGE DISCRIMINATION ACT

1. Introduction. The Age Discrimination Act (ADA) of 1975 (42 USC 6101-6107) prohibits discrimination on the basis of age in Federally funded programs (excluding employment, which is covered in a separate statute). Government-wide regulations provide that all age discrimination complaints will be sent to mediation in an attempt to reach a prompt and acceptable settlement. The Secretary of the Department of Health and Human Services, with the agreement of the Director, has designated FMCS as the Agency to carry out this task. There are twenty-nine Federal funding agencies which are required to refer ADA complaints to FMCS for mediation, although to date not all agencies have done so.
2. FMCS Policy.
 - a. Designation of ADA Mediators. It shall be the policy of FMCS to mediate ADA cases with designated FMCS mediators. Depending upon program needs, an appropriate number of such mediators will be nominated by the Field Directors and approved by the Deputy Director.
 - b. National Office ADA Program Coordination. Coordination of the ADA program at the national level shall be the responsibility of the ADR/International Services Office. The ADA Coordinator will be responsible for service-wide case administration procedures, including agency relationships with funding agencies. In addition, the Coordinator will be available to consult with mediators concerning mediation aspects of case assignments.
 - c. Field Coordination of ADA Program. Directors of Mediation Services shall be responsible for the administration and coordination of ADA activities within their respective sub-regions. At their discretion, the operating responsibility for the program may be delegated to an ADA mediator.

- d. Release of Information on FMCS Mediated ADA Cases.
Consistent with the FMCS policy of Mediator Confidentiality, information of FMCS mediated cases will be provided only to funding agencies. All reports and information given to the mediator during the course of mediation is confidential.

DIRECTIVE 3101. GENERAL INFORMATION ON THE FMCS CASE
ADMINISTRATION SYSTEM

1. Description. The FMCS Case Administration System is a set of computer-based operations, managed by the Automated Information Services branch, which: (1) receives information from parties involved in collective bargaining contract expirations or modifications and transforms it into electronically recorded data which become the basis for work assignments for mediators, and (2) records and transmits reports from mediators which provide data on the disposition and control of their work assignments.
2. Purpose. The FMCS Case Administration System, and the reports generated from it, serves to:
 - a. Provide information to the Director and other managers by which they can determine the level of effectiveness of the agency's assignment policies and procedures in executing the FMCS statutory mission(s).
 - b. Provide information necessary for operations planning, budget and staffing functions, and organizational reviews.
 - c. Implement the transmittal of assignment-related data among the mediators and the various levels of supervision.
 - d. Provide information for reporting Service activity to Congress, the Office of Management and Budget, and the public.
 - e. Provide a record of Service activity in labor-management affairs.
 - f. Provide information which may identify emerging changes in the labor-management relations environment.

DIRECTIVE 3102. NOTICE PROCESSING (NPU)

1. Description. Notice Processing (NPU) is the primary receiving point of the FMCS for all written notifications of potential labor-management disputes received pursuant to the Labor Management Relations Act of 1947, as amended and such other legislation which has assigned statutory responsibilities to the agency. (NPU is located in the Office of Information Systems and Administrative Services and is linked by the computer system to each of the Regional Offices.)
2. Purpose. Notice Processing (NPU) serves to:
 - a. Perform the desk-review procedures for transforming all written notifications into viable data for the field.
 - b. In accordance with the Office of General Counsel's direction, respond to inquiries from the public made pursuant to FOIA (29 CFR, part 1400) as appropriate.
 - c. Give certain written notifications priority for entry into the system by industry or stage of dispute.
 - d. Work with Regional Management and others as appropriate to create consolidated case assignments consisting of multi-employer and/or multi-union parties, and/or area or industry-wide bargaining situations.
 - e. Key-in data in order to electronically transmit the notifications to the appropriate Regional office locations for disposition.
 - f. Maintain all written communications received and served as a repository for such communications.

DIRECTIVE 3201. REGIONAL MANAGEMENT PROCEDURES

1. Introduction. From the time the Service becomes aware of a labor-management dispute to the time it is closed, the dispute case reporting procedure of the Service permits regional management continuous review and analysis of developments which take place during the assignment.
 2. Procedures. These procedures shall serve as a guide for regional management in their reviews of dispute case reports, and shall supplement the general instructions for the completion of the reports by the mediators.
 3. Actions To Be Taken By Regional Management. Upon review of the dispute, Initial Report, regional district management shall either:
 - a. Permit the mediator to proceed with mediation.
 - b. Consolidation. Cases shall be consolidated when it is known that a group of employers bargain together with one or more unions or locals, or that a group of unions or locals bargain together with a single employer.
 - c. Divide out cases from a consolidation. Cases usually shall be divided when it is known that a group of employers bargain separately with one or more unions or locals, or that a group of unions or locals bargain separately with a singular employer.
 - d. If no action is taken within five days after receiving the Initial Report to notify the mediator to close an assigned case, the mediator is automatically authorized to proceed, as required, until the case is satisfactorily brought to a conclusion.
 5. Actions To Be Taken By Regional Management In Closing
-

Dispute Case Assignments.

- a. Labor-management dispute cases should normally not be closed before a contract expiration date, unless there has been a settlement achieved. Regional management shall determine the length of time the case assignment can be retained by the mediator following the contract expiration date. Each decision depends upon the facts of the case concerned.
- b. Mediators who recommend closing case assignments after the contract expiration date, but before settlement, should offer cogent reasons for supporting such a recommendation. Regional management must review and concur with the recommendation before authorizing the closing.
- c. Since the Final Report form is used for statistical summaries of Service activity, a careful review is essential to insure correctness and uniform compliance with established procedures.

DIRECTIVE 4105. COMMUNICATIONS

1. Introduction. This directive provides information pertaining to the Service's policies and procedures with respect to the procurement, use, and certification of charges for official communication equipment and services. Government-provided communication services include local and long distance telephone, the Federal Telecommunications System (FTS), commercial telegram, and telecopier. Communication devices include telephone and telecopier/fax equipment and communication lines.

This directive is intended to assist employees who are involved in the procurement process and who use these services and equipment in the performance of official duties. It is also intended to assist those who are required to certify billing documents prior to payment.

The term "certification" is used in this directive to describe the process by which billing documents are reviewed for propriety and legality. The process results in a certification, or assurance, by a designated official that the charges contained in the billing document were incurred for the conduct of official business.

2. Authority. The Service is delegated the authority and responsibility, under the Federal Property Management Regulations (FPMRs) issued by the General Services Administration, to procure and use certain communication services and devices for the conduct of official business within the parameters established in the FPMRs. This directive discusses those applicable to all employees of the Service.
3. General Provisions.
 - a. Official Business.

While the conduct of official business often necessitates the use of long-distance telephone services, the employee is expected to use sound judgment and prudence in the use of such facilities. This includes the requirement that FTS facilities be used instead of commercial long distance facilities whenever possible. Government-provided long distance telephone services are to be used to conduct official business. No

other calls may be placed (except in circumstances presented later in this directive) even if the employee's intention is to reimburse the Government for the cost of the call.

The use of vendor/Government-issued telephone credit cards is encouraged when FTS services are unavailable and the employee is away from the official FMCS duty station.

The use of mobile telephones is to be limited to urgent communications at locations where landline facilities are unavailable.

The use of telegram services is to be limited to urgent written transmissions that must be received sooner than mail deliveries would provide. Employees must receive approval prior to using telegram services.

b. Other Than Official Business (Personal).

The following are examples of allowable uses of Government telephone systems. They are allowable if the use: does not adversely affect the performance of official duties; is of reasonable duration and frequency; and reasonably could not have been made at another time.

- (1) Calls to notify family, doctor, etc., when an employee is injured on the job.
- (2) An employee traveling on Government business is delayed due to official business or transportation delay, and calls to notify family of a schedule change.
- (3) An employee traveling for more than one night on Government business in the U. S. makes a brief call to his/her residence (but not more than an average of one short call per day).
- (4) An employee is required to work overtime without advance notice and calls within the local commuting area (the area from which the employee regularly commutes) to advise his/her family of the change in schedule or to make alternate transportation or

child care arrangements.

- (5) An employee makes a brief daily call to locations within the local commuting area to speak to spouse or minor children (or those responsible for them, e.g., school or day-care center) to see how they are.
- (6) An employee makes brief calls to locations within the local commuting area that can be reached only during working hours, such as a local government agency or physician.
- (7) An employee makes brief calls to locations within the local commuting area to arrange for emergency repairs to his/her residence or automobile.

Employees should be particularly sensitive to the use of Government telephone facilities. If possible, such calls should be made during lunch, break, or other off-duty periods.

Abuse of government telephone systems, including abuse of the above privileges may result in disciplinary action.

Personal calls that must be made during working hours for reasons other than those listed above may be made over commercial long distance facilities, if the call is charged to the employee's home phone number; made to an 800 toll-free number; charged to the called party if a non-government number; or charged to a personal telephone credit card.

4. Delegations of Authority and Documentation.

a. Delegations of authority.

- (1) The Director of Information Systems and Administrative Services is authorized to:
 - (a) approve or disapprove all proposed installations or changes in existing equipment and service levels; and
 - (b) certify communications-related billing
-

documents for work previously approved by him/her prior to payment.

- (2) National Office and field managers, from whose office long-distance telephone calls originated or are billed, are delegated the authority and responsibility to:
 - (a) certify billing documents reflecting toll charges within their area of responsibility;
 - (b) clearly annotate such billings to indicate those charges which were for official business, unidentified, and personal;
 - (c) collect reimbursements, including applicable Federal excise taxes, from employees responsible for personal toll calls billed to the Government, and
 - (d) ensure the prompt submission/return of documentation and reimbursements to B&F.
- (3) Field managers are responsible for overseeing the billing review and for investigating any toll charges or other questionable charges that cannot be identified.
- (4) Field managers are delegated the authority to pay (by IMPAC card or check) telephone bills after proper review.
- (5) Field managers are authorized to approve all requests to use telegram service by employees within their respective districts.
- (6) Each employee is personally liable for charges levied on the Service for their personal or unauthorized use of communication services.

b. Documentation.

- (1) Telephone billings. B&F and field managers will send a copy of billing(s) which include itemized toll call(s) to the appropriate offices for certification prior to payment. Each employee within that office will certify, by their signature (or initials), each toll call that was made for official business. Toll call charges NOT incurred for official business must be clearly identified as either personal or unidentified. When unidentified charges are noted, the local FMCS official will ask the GSA or local telephone company office to investigate and identify the call. Unidentified calls will be investigated by the appropriate office responsible for payment. Annotations that an investigation is underway should be made on the billing document. Investigations will be performed expeditiously and a written report on the results for the record.

In those instances when a personal call was made, a check for the amount of the charge plus applicable Federal excise tax will be made payable to "FMCS" and promptly forwarded with the annotated, a copy of certified billing document to B&F.

The following certification, manually signed by a designated official, must also appear on the invoice/other billing document when toll charges are involved:

"Charges for long-distance tolls were necessary in the interest of the Government."

Signature _____

Title _____ Date _____

- (2) Telegram billings. As soon as the employee authorized to issue a telegram has done so, they will provide the authorizing official with a copy of the telegram. The authorizing official will then ratify his/her approval by annotating the copy as follows:

"Approved for Payment"

CHAPTER 4100 - FINANCIAL MANAGEMENT AND BUDGET 4105:6

Signature _____

Title _____ Date _____

The authorizing official will then promptly send the annotated copy to B&F. Other invoices received should be similarly certified and promptly forwarded to B&F with another copy of the telegram(s) for which the billing is being made.

REVISED
AUGUST 1998

DIRECTIVE 5403. TELEWORK PROGRAM

1. Purpose. The Federal Mediation and Conciliation Service (FMCS) Telework Program is established in an effort to realize increased productivity, improvements in employee morale, job satisfaction, and reduced absenteeism. Telework has the potential to improve the quality of worklife for employees by reducing commute time and increasing the amount of time available for family and personal activities. Telework is expected to reduce air pollution, traffic congestion, and the costs associated with travel to the workplace. Telework will help to maintain productivity and continuity of operations during snow and other emergencies without compromising the safety of our employees or the general public.

Telework provides management flexibility—it is not an employee benefit or entitlement. Granting or denying telework in accordance with operational needs of FMCS is within the sole discretion of FMCS management. Employees who have been approved to telework do not have an automatic right to continue to telework. Telework schedules or arrangements may be modified or terminated at any time by FMCS management.

2. Scope. The provisions of this directive apply to all FMCS employees, as noted. A position may be considered eligible for telework only where the employee's fully successful performance of work does not require:
 - a. daily use of specialized equipment or technology that is available only at the official duty station;
 - b. face-to-face contacts with co-workers, managers, and/or customers at the official duty station;
 - c. the employee to provide office coverage, answer phones, receive visitors, sort mail, or provide on-site computer or other technical support; or

- d. use of work processes or methods that can be more efficiently performed at the employee's official duty station.

3. Authorities.

Telework Enhancement Act of 2010 (Public Law 111-292)

Public Law 106-346

5 U.S.C. Section 610

4. Responsibilities.

- a. The Director, Human Resources, will appoint a Telework Managing Officer (TMO) who will serve as the primary point of contact for telework matters.
- b. Supervisors are responsible for establishing tours of duty for each employee and for ensuring office coverage during official agency hours.

5. Definitions.

- a. Telework is a program that permits employees to work at home or at other approved locations remote to the conventional office site.
- b. A Recurring Telework Schedule typically incorporates a consistent amount of telework as part of the employee's biweekly work schedule. In most cases, a recurring telework schedule will be limited to one day of telework per week. However, if an employee using recurring telework also has an Alternative Work Schedule (AWS), the employee may work only one telework day per pay period. The employee's telework day and AWS day off must be scheduled so that the employee is out of the office only one day per week.
- c. Ad-Hoc Telework may be infrequent or situational based on special assignments, health concerns, hazardous

weather, or other emergencies.

6. Eligibility and Participation

- a. FMCS management will review positions and make a determination of eligibility for participation in the telework program. Eligibility for telework depends on the specific nature and content of the job rather than on the job series and title.
- b. If a position is deemed eligible for telework, the individual in the position may be denied telework based on the performance of the employee, the needs of FMCS or for other reasons solely within the discretion of the Agency.
- c. Participation in the Telework Program by eligible employees is voluntary.
- d. All employees who telework must have an approved written telework agreement.
- e. To the extent that the time and attendance tracking system and procedures allow for it, all employees who telework must record it as such.
- f. Employees must meet the following criteria in order to be eligible to participate in the telework program:
 - (1) The employee's performance must currently be at an acceptable level or better and his or her most recent rating of record must be at an acceptable level or better.
 - (2) The employee must not be on a performance improvement plan (PIP.)
 - (3) The employee must have good time and attendance and not be subject to a leave restriction.
 - (4) The employee must not be serving a probationary

period or trial period, and must not occupy a student or trainee position.

- g. Employees are barred from participation in the telework program if:
- (1) The employee has been officially disciplined for being absent without permission for more than 5 days in any calendar year.
 - (2) The employee has been found to have violated subpart G of the Standards of Ethical Conduct of Employees of the Executive Branch for reviewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

7. Selection Process.

- a. Employees may apply for telework at any time.
- b. Employees may request to participate in the telework program by submitting a Telework Agreement Form (Attachment 1), a Safety Checklist (Attachment 2), and a Request to Establish or Change Work or Telework Schedule form (Attachment 3) to their immediate supervisor. Ongoing arrangements will typically last for 6 months to a year and may be renewed using the same forms.
- c. A telework arrangement may be appropriate to accommodate an employee with a temporary illness or disability if the employee is capable of performing the job at home or at a telework center. If the employee's request to telecommute is to accommodate a disability or illness, the employee may be required to provide a medical certification or other relevant information.
- d. Normally, the request will be acted upon within ten calendar days. An employee whose request is

disapproved may request that the next higher level official reconsider the request.

- e. Telework will not be approved if it will result in insufficient qualified staff to provide adequate office coverage.
 - f. If the approval of all requests in the same work unit would result in insufficient qualified staff to provide adequate office coverage, or if FMCS-owned equipment is required in order to allow all qualified employees to participate in the telework program and equipment is not available, the supervisor will discuss the matter with the affected employees and attempt to reach a mutually agreeable resolution. If all parties do not reach a mutually agreeable resolution, the supervisor may consider the employee's FMCS Entrance on Duty (EOD) date and/or Service Computation Date (SCD) as a factor in granting or denying the requests.
 - g. Supervisors may make an exception to the above provisions on a case-by-case basis. Exceptions must be approved by the employee's second-level supervisor.
8. Official Duty Station, Duty Hours, Time and Attendance.
- a. Participants in the Telework Program shall request a work schedule in accordance with Directive 5401, Hours of Duty.
 - b. The employee's timekeeper will be given a copy of the approved schedule for use in preparing the biweekly "Time and Attendance Reports."
 - c. The official duty station of an employee participating in the flexible work program is the employee's FMCS office.
 - d. The supervisor has the right to direct an employee who is in telework status to report to his or her FMCS office at any time due to special circumstances,

including, but not limited to, office assignments, meetings, and/or training classes. The supervisor will make every effort to give the employee notice in time to travel to the office during the regular commuting time. When sufficient prior notice is given, time spent traveling will not be considered hours of work. When the employee is scheduled for a full day tour of duty at the alternative work site and receives notification to report to the office too late to travel during the normal commuting time, the supervisor may, at his or her discretion, allow travel time to be counted as hours of work.

- e. During scheduled hours of work, employees in the telework program must be as available to supervisors, coworkers, and customers, by telephone, e-mail, voice mail, or other communications media, as if working at their FMCS office.
- f. Overtime and compensatory time must be approved in advance by an authorized official.
- g. Policies and procedures for requesting and using leave shall be in accordance with established procedures.
- h. Employees participating in the Telework Program will not be excused from work because workers at the official duty station are dismissed or not required to work due to an emergency if the emergency does not substantially affect the work being performed at the alternative work site.
- i. The employee is expected to work on official FMCS business during the hours designated for telework. Telework is not to be used to provide medical care or oversight of others, e.g., child or elder care or caring for sick family members. Any indication that an employee is engaging in activities other than FMCS official business while in telework status will be grounds for the supervisor to revoke the employee's telework authorization.

9. Space, Equipment and Services.

- a. FMCS will make a good faith effort to provide, within reason and Agency discretion, the necessary equipment, supplies, and services required for employees to participate in the Telework Program. Employees may provide their own compatible equipment consistent with FMCS network requirements and the availability of technical support and services.
- b. The decision to provide computers or other equipment for use in employees' homes is at the discretion of the supervisor and the second level supervisor. Management may make the decision on a case-by-case basis, considering such criteria as the nature of the work, availability of existing and/or excess equipment, and funding constraints or flexibilities.
- c. Employees may not remove classified material from their official duty stations without prior approval from appropriate authorities.
- d. Alternate work sites used by telecommuters must have adequate work space, lighting, telephone service, power, and adequate security. Employees must complete and submit to their supervisors the Safety Checklist, Attachment 2, prior to the start of telework.
- e. FMCS has the right to inspect home work sites on an ongoing basis to ensure suitability. In most cases, FMCS will provide notice of not less than one workday in advance of the inspection.
- f. Employees must comply with all security measures and disclosure provisions, including password protection and data encryption, so that the Privacy Act and other security standards are not compromised.
- g. Employees must protect all government records and data against unauthorized disclosure, access, mutilation,

obliteration, and destruction.

- h. Employees must take reasonable care in operating all equipment. The servicing and maintenance of government owned equipment is the responsibility of the FMCS.
- i. FMCS will not be responsible for operating costs, home maintenance, or any other incidental costs (e.g., utilities) associated with the use of the telework work site, telephone lines, or electrical modifications. The employee does not relinquish any entitlement to reimbursement for appropriately authorized expenses incurred while conducting business for the Agency as provided for by law and regulations; e.g., long distance telephone calls, faxes, copying. If possible, Agency equipment and services should be used.
- j. Supervisors must ensure that equipment assigned to telework participants is properly accounted for.

10. Termination of participation

- a. The telework agreement may be cancelled at any time by the employee by the submission of a new Request to Establish or Change Work or Telework Schedule form.
- b. The telework agreement may be cancelled at anytime by the supervisor.
- c. The telework agreement terminates if the employee transfers from one FMCS office to another. The transferred employee must request a telework agreement from his or her new supervisor in order to continue his or her telework schedule.

11. Other Provisions

- a. Telework agreements must be reviewed by supervisors annually on or about the anniversary of the approval date.

- b. FMCS will provide training to all new telework participants and new supervisors.
- c. Supervisors will give employees approved for telework instructions for obtaining technical support.
- d. Employees who telecommute will be covered by applicable provisions of the Federal Employees Compensation Act and Federal Tort Claims Act.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Telework Agreement

The following constitutes an agreement between the Federal Mediation and Conciliation Service (FMCS)

and _____
(Employee's name)

on the terms and conditions for the employee's participation in the FMCS Telework Program as provided in Directive 5403.

Type of telework: Ad Hoc Regularly Scheduled Regularly Scheduled & AWS

1. The employee who volunteers to participate in the Telework Program agrees to provisions of Directive 5403 and the provisions of this agreement.

2. The employee's official duty station is: _____

3. The employee's primary alternate work site is (include street, city, state, zip code and phone number):

4. Regardless of the telework schedule, the employee agrees to report to his or her FMCS office as directed for training, conferences, mandatory meetings, and to receive assignments and review completed work. The employee may be required to report exclusively to his or her FMCS office for some short duration to perform work that cannot otherwise be performed at the alternate work site.

5. By signing this agreement, the employee agrees to follow established procedures for requesting and obtaining approval of leave. Failure to follow these procedures may result in the termination of this agreement.

6. The employee will be in a pay status while working at the approved alternate work site.

7. The employee's job performance will be appraised in accordance with the employee's performance plan.

8. The employee agrees to perform only official FMCS business while teleworking.

9. The Standards of Conduct continue to apply to employees at their approved alternate work site.

10. The employee will apply approved safeguards to protect government records from unauthorized disclosure or damage and will comply with the Privacy Act requirements set forth in the Privacy Act of 1974 (5 USC 552a).

11. If the alternate work site is the employee's residence, the employee is responsible for ensuring that it is safe and adequate and for ensuring it meets applicable building and safety codes. This includes, but is not limited to; ensuring his or her home's electrical system and telephone equipment is adequate for the use of government equipment, and safeguarding government equipment from children and pets.

12. Provided the employee is given not less than one day advance notice, the employee agrees to permit periodic home inspections by FMCS during the employee's normal working hours to ensure proper maintenance of government owned property and work site conformance with safety standards and other specifications in this agreement and Directive 5403.

13. The employee agrees that FMCS will not be responsible for home maintenance, or any other incidental cost, e.g., utilities, telephone lines, associated with the use of the employee's residence if the residence is the approved alternate work site.

14. The employee agrees to report any problems at his or her alternative work location that interfere with his or her ability to work to his or her supervisor immediately. IT problems should be reported to 1-888-538-3339. If the problem cannot be resolved in a reasonable amount of time, the employee is to report to his or her FMCS office or request leave.

15. An employee suffering from work-related injuries and/or equipment or property damages at the alternate work site is covered to the extent provided by the Federal Tort Claims Act, or the Federal Employees Compensation Act (workers' compensation). The employee understands that the employee may be covered under the Federal Employee's Compensation Act if injured in the course of actually performing official duties at the official duty station or the approved alternate work site.

16. The employee understands that if they have either an established recurring telework day(s) or had been previously approved to telework on day(s) work is curtailed (e.g., hazardous weather), they are required to telework on the day(s) of curtailment, provided they are able to do so. If there is a specific reason (e.g., no electricity, no internet service, etc.) that prevents the employee from working on their recurring telework day(s)/pre-approved telework day(s), they must inform their supervisor so that their time and attendance is recorded correctly.

17. The employee understands that on any day(s) when work is officially curtailed, that, if they have been approved for ad hoc telework, they should telework, provided they are able to do so, on the day(s) of curtailment. For appropriate time and attendance purposes, employee understands they must advise their supervisor of the number of hours worked on that day/those days.

18. The employee understands that this agreement may be terminated by the employee at any time.

19. The employee understands that the FMCS may terminate this agreement for cause such as:

- (a) The employee's failure to meet the eligibility requirements set forth in Telework Program Directive 5403,
- (b) The employee's failure to adhere to the provisions of this agreement,
- (c) Changes in work requirements or performance expectations by the supervisor.

20. Telework is not to be used to provide medical care or oversight of others (e.g. child or senior care, or tending to sick family members). Employee is expected to be working on official FMCS business during the time he/she is teleworking.

21. This agreement will be considered for renewal one year from the date approved.

I AGREE TO THE TERMS AND PROVISIONS OF THIS AGREEMENT:

Employee's Signature: _____ Date: _____

ON BEHALF OF FMCS:

Supervisor's Name: _____ Title: _____

Signature: _____ Date: _____

File original with Time and Attendance Records; send copies to the employee and Human Resources

FEDERAL MEDIATION AND CONCILIATION SERVICE

Telework Safety Checklist

This checklist is designed to assess the overall safety of the designated work area of the alternate workplace. Each telework applicant should read and complete the self-certification safety checklist to be sure the telework space is free from recognized hazards that would cause physical harm to you or to your computer or other equipment. Upon completion, sign and date the checklist.

1. Is all electrical equipment free of hazards? (frayed wires, bare conductors, loose wires, flexible wires running through the walls, exposed wires, over-loaded outlets, etc.)
2. Are the phone lines, electrical and extension cords secured away from the traffic pattern?
3. Are carpets well-secured to the floor and free of frayed or worn seams? Are floor surfaces clean and dry?
4. Is the furniture in good condition and appropriate for use in a home office? (i.e., is there: a chair with sturdy rungs and legs and back support; sufficient work space on desk or table top; space for phones, printers and other equipment; file cabinets and storage closets arranged so drawers and doors do not open into walkways, etc.)
5. Is the room free of excess heat or moisture?
6. Is there sufficient light for reading?

I hereby certify that I have reviewed this checklist and that I will take all necessary corrective actions to eliminate any hazard, including any hazard identified in this checklist, before I begin to telework.

Employee's Signature: _____

Date: _____

File original with official time and attendance records; send copies to employee and Human Resources

FEDERAL MEDIATION AND CONCILIATION SERVICE

Request to Establish or Change Work or Telework Schedule

Employee's Name: _____ **Date:** _____

I formally request to establish/change my hours of duty and/or work location to work the schedule described below beginning on (date) _____.

- Official Hours of Operation:** 8:30 a.m. to 5:00 p.m., Monday through Friday
- Modified Flexitour** from _____ a.m. to _____ p.m. (See Directive 5401, "Hours of Duty.")
- Ad Hoc or Situational Telework** (See Directive 5403, "Telework Program.")
- 5-4-9 Alternative Work Schedule (AWS)** Please indicate 8 9-hour days, 1 8-hour day and one day off. (See Directive 5401, "Hours of Duty.")
- Telework Work Schedule** (Please indicate Telework day not to exceed one day per week. See Directive 5403, "Telework Program.")
- 5-4-9 AWS and Telework** (You must be in the office at least 4 days per week.)
- Part-time Work Schedule** (for employees with approval to work a part-time schedule.)

1st Week	Monday	Tuesday	Wednesday	Thursday	Friday
Location	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home
Starting times					
Ending times					
2nd Week	Monday	Tuesday	Wednesday	Thursday	Friday
Location	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home	<input type="checkbox"/> Office <input type="checkbox"/> Home
Starting times					
Ending times					

I approve disapprove the above schedule.

Signature of Supervisor

Date

File original with official Time and Attendance records; send copies to the employee and Human Resources

DIRECTIVE 6103. BULLETINS

1. Introduction. Bulletins are used to inform employees of agency wide policy and procedural changes. Where appropriate, the agency's Directives Manual will be updated to reflect these changes.

2. Numbering and Dating.
 - a. Numbering. The Records Management Officer is responsible for the numbering system of all FMCS bulletins. The number of each bulletin will consist of three parts:
 - (1) The calendar year.
 - (2) The initials "BUL."
 - (3) A number starting with the number "1" for each year.

Example: **00-BUL-3** would be the third bulletin issued in 2000. Numbers are assigned consecutively by the Records Management Officer.
 - b. Dating. The Records Management Officer will date all bulletins prior to distribution. Preparing offices will not date bulletins.

3. Signature. Because bulletins reflect an agency-wide policy or procedural change, all bulletins are distributed under the Director's name.

4. Preparation.
 - a. Preparing offices will type bulletins on plain white bond paper or as a Word document and attach to an e-mail. The placement of the subject, number, and date lines will be the responsibility of the Records Management Officer to conform to the electronic masthead.
 - b. The preparing office is also responsible for insuring that the Directives are updated or cancelled, as appropriate.
 - c. The Records Management Officer will determine the format and layout of all agency bulletins.

DIRECTIVE 6103. BULLETINS

5. Submission. After preparation is completed and bulletins are ready for processing by the Records Management Officer, the originating office should submit a paper copy of the bulletin or route the Word document via e-mail to the Director (or his/her designee) for approval. Approval is indicated to the Records Management Officer by the Director's (or his designee's) signature on the paper copy or by forwarding that approval via e-mail to the Records Management Officer. (If transmitted electronically, the Records Management Officer will print a paper copy of the approval and archive for preservation.
6. Distribution.
 - a. The Records Management Officer will format bulletins and electronically distribute them to all employees.
 - b. All electronic mail (e-mails) transmitting bulletins to employees will begin with "BULLETIN."
7. Retention. Employees are encouraged to develop and maintain electronic folders to retain information regarding policy and procedural changes. The Records Management Officer is the official repository for all bulletins issued.

Authority:

29 U.S.C. 172 and 29 U.S.C. 173 et seq.

Subpart A -- Arbitration Policy; Administration of Roster

1404.1 Scope and Authority

This chapter is issued by the Federal Mediation and Conciliation Service (FMCS) under Title II of the Labor Management Relations Act of 1947 (Pub L. 80-101) as amended. It applies to all arbitrators listed on the FMCS Roster of Arbitrators, to all applicants for listing on the Roster, and to all persons or parties seeking to obtain from FMCS either names or panels of names of arbitrators listed on the Roster in connection with disputes which are to be submitted to arbitration or fact-finding.

1404.2 Policy

The labor policy of the United States promotes and encourages the use of voluntary arbitration to resolve disputes over the interpretation or application of collective bargaining agreements. Voluntary arbitration and fact-finding are important features of constructive employment relations as alternatives to economic strife.

1404.3 Administrative Responsibilities

(a) *Director.* The Director of FMCS has responsibility for all aspects of FMCS arbitration activities and is the final agency authority on all questions concerning the Roster and FMCS arbitration procedures.

(b) *Office of Arbitration Services.* The Office of Arbitration Services (OAS) maintains a Roster of Arbitrators (the Roster); administers Subpart C of this part (Procedures for Arbitration Services); assists, promotes, and cooperates in the establishment of programs for training and developing new

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES

7100 2

arbitrators; and provides names or panels of names of listed arbitrators to parties requesting them.

(c) *Arbitrator Review Board.* The Arbitrator Review Board shall consist of a chairman and members appointed by the Director who shall serve at the Director's pleasure. The Board shall be composed entirely of full-time officers or employees of the Federal Government and shall establish procedures for carrying out its duties.

(1) *Duties of the Board.* The Board shall:

(i) Review the qualifications of all applicants for listing on the Roster, interpreting and applying the criteria set forth in Section 1404.5;

(ii) Review the status of all persons whose continued eligibility for listing on the Roster has been questioned under subsection 1404.5;

(iii) Recommend to the Director the acceptance or rejection of applicants for listing on the Roster, or the withdrawal of listing on the Roster for any of the reasons set forth in this part;

(iv) At the request of the Director of FMCS, review arbitration policies and procedures, including all regulations and written guidance regarding the use of the FMCS arbitrators, and make recommendations regarding such policies and procedures to the Director.

(2) [Reserved]

Subpart B -- Roster of Arbitrators; Admission and Retention

1404.4 Roster and Status of Members

**ORIGINAL ISSUANCE
JUNE 1997**

(a) *The Roster.* FMCS shall maintain a Roster of labor arbitrators consisting of persons who meet the criteria for listing contained in 1404.5 and who remain in good standing.

(b) *Adherence of Standards and Requirements.* Persons listed on the Roster shall comply with FMCS rules and regulations pertaining to arbitration and with such guidelines and procedures as may be issued by the OAS pursuant to Subpart C of this part. Arbitrators shall conform to the ethical standards and procedures set forth in the Code of Professional Responsibility for Arbitrators of Labor Management Disputes, as approved by the National Academy of Arbitrators, Federal Mediation and Conciliation Service, and the American Arbitration Association.

(c) *Status of Arbitrators.* Persons who are listed on the Roster and are selected or appointed to hear arbitration matters or to serve as factfinders do not become employees of the Federal Government by virtue of their selection or appointment. Following selection or appointment, the arbitrator's relationship is solely with the parties to the dispute, except that arbitrators are subject to certain reporting requirements and to standards of conduct as set forth in this Part.

(d) *Role of FMCS.* FMCS has no power to:

- (1) Compel parties to appear before an arbitrator;
- (2) Enforce an agreement to arbitrate;
- (3) Compel parties to arbitrate any issue;
- (4) Influence, alter, or set aside decisions of arbitrators on the Roster;
- (5) Compel, deny, or modify payment of compensation to an arbitrator.

(e) *Nominations and Panels.* On request of the parties to an agreement to arbitrate or engage in fact-finding, or where arbitration or fact-finding may be provided for by statute, OAS will provide names or panels of names for a nominal fee. Procedures for obtaining these services are outlined in Subpart

C of this part. Neither the submission of a nomination or panel nor the appointment of an arbitrator constitutes a determination by FMCS that an agreement to arbitrate or enter fact-finding proceedings exists; nor does such action constitute a ruling that the matter in controversy is arbitrable under any agreement.

(f) *Rights of Persons Listed on the Roster.* No person shall have any right to be listed or to remain listed on the Roster. FMCS retains its authority and responsibility to assure that the needs of the parties using its services are served. To accomplish this purpose, FMCS may establish procedures for the preparation of panels or the appointment of arbitrators or factfinders which include consideration of such factors as background and experience, availability, acceptability, geographical location, and the expressed preferences of the parties. FMCS may also establish procedures for the removal from the Roster of those arbitrators who fail to adhere to provisions contained in this part.

1404.5 Listing on the Roster; Criteria for Listing and Retention

Persons seeking to be listed on the Roster must complete and submit an application form that may be obtained from OAS. Upon receipt of an executed application, OAS will review the application, assure that it is complete, make such inquiries as are necessary, and submit the application to the Arbitrator Review Board. The Board will review the completed application under the criteria in paragraphs (a), (b), and (c) of this section, and will forward to the FMCS Director its recommendation as to whether or not the applicant meets the criteria for listing on the Roster. The Director shall make all final decisions as to whether an applicant may be listed on the Roster. Each applicant shall be notified in writing of the Director's decision and the reasons therefor.

(a) *General Criteria.* Applicants for the Roster will be listed on the Roster upon a determination that they are

experienced, competent, and acceptable in decision-making roles in the resolution of labor relations disputes.

(b) *Proof of Qualification.* Qualifications for listing on the Roster may be demonstrated by submission of five (5) arbitration awards prepared by the applicant while serving as an impartial arbitrator of record chosen by the parties to labor disputes arising under collective bargaining agreements. The Board will consider experience in relevant positions in collective bargaining or as a judge or hearing examiner in labor relations controversies as a substitute for such awards.

(c) *Advocacy.* Any person who at the time of application is an advocate as defined in paragraph (c)(1) of this section, must agree to cease such activity before being recommended for listing on the Roster by the Board. Except in the case of persons listed on the Roster as advocates before November 17, 1976, any person who did not divulge his or her advocacy at the time of listing or who becomes an advocate while listed on the Roster, shall be recommended for removal by the Board after the fact of advocacy is revealed.

- (1) *Definition of Advocacy.* An advocate is a person who represents employers, labor organizations, or individuals as an employee, attorney, or consultant, in matters of labor relations, including but not limited to the subjects of union representation and recognition matters, collective bargaining, arbitration, unfair labor practices, equal employment opportunity, and other areas generally recognized as constituting labor relations. The definition includes representatives of employers or employees in individual cases or controversies involving worker's compensation, occupational health or safety, minimum wage, or other labor standards matters. This definition of advocate also includes a person who is directly associated with an advocate in a business or professional relationship as, for example, partners or employees of a law firm. Consultants engaged only in joint education or training or other non-adversarial activities will not be deemed as advocates.

(d) *Duration of Listing, Retention.* Listing on the Roster shall be by decision of the Director of FMCS based upon the recommendations of the Arbitrator Review Board. The Board may recommend, and the Director may remove, any person listed on the Roster, for violation of this part and/or the Code of Professional Responsibility. Notice of cancellation or suspension shall be given to a person listed on the Roster whenever a Roster member:

- (1) No longer meets the criteria for admission;
- (2) Has become an advocate as defined in paragraph (c) of this section;
- (3) Has been repeatedly or flagrantly delinquent in submitting awards;
- (4) Has refused to make reasonable and periodic reports in a timely manner to FMCS, as required in Subpart C of this part, concerning activities pertaining to arbitration;
- (5) Has been the subject of complaints by parties who use FMCS services, and the Board after appropriate inquiry, concludes that just cause for cancellation has been shown;
- (6) Is determined by the Director to be unacceptable to the parties who use FMCS arbitration services; the Director may base a determination of unacceptability on FMCS records which show the number of times the arbitrator's name has been proposed to the parties and the number of times it has been selected. Such cases will be reviewed for extenuating circumstances, such as length of time on the Roster or prior history.

(e) The Board may, at its discretion, conduct an inquiry into the facts of any proposed removal from the Roster. An arbitrator listed on the Roster may only be removed after 60-day notice and an opportunity to submit a response or information showing why the listing should not be canceled. The Board may recommend to the Director whether to remove an arbitrator from the Roster. All determinations to remove an arbitrator from the

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES**7100.7**

Roster shall be made by the Director. Removals may be for a period of up to two (2) years, after which the arbitrator may seek reinstatement.

(f) The director of OAS may suspend for a period not to exceed 180 days any person listed on the Roster who has violated any of the criteria in paragraph (d) of this section. Arbitrators shall be promptly notified of a suspension. They may appeal a suspension to the Arbitrator Review Board, which shall make a recommendation to the Director of FMCS. The decision of the Director of FMCS shall constitute the final action of the agency.

1404.6 Inactive Status

A member of the Roster who continues to meet the criteria for listing on the Roster may request that he or she be put in an inactive status on a temporary basis because of ill health, vacation, schedule, or other reasons.

1404.7 Listing Fee

All arbitrators will be required to pay an annual fee for listing on the Roster as set forth in the Appendix to this part.

Subpart C -- Procedures for Arbitration Services**1404.8 Freedom of Choice**

Nothing contained in this part should be construed to limit the rights of parties who use FMCS arbitration services to jointly select any arbitrator or arbitration procedure acceptable to them. Once a request is made to OAS, all parties are subject to the procedures contained in this part.

1404.9 Procedures for Requesting Arbitration Lists and Panels

(a) The Office of Arbitration Services (OAS) has been delegated the responsibility for administering all requests for arbitration services. Requests should be addressed to the Federal Mediation and Conciliation Service, Office of

**ORIGINAL ISSUANCE
JUNE 1997**

Arbitration Services, Washington, DC 20427.

(b) The OAS will refer a panel of arbitrators to the parties upon request. The parties are encouraged to make joint requests. In the event, however, that the request is made by only one party, the OAS will submit a panel of arbitrators. However, the issuance of a panel -- pursuant to either joint or unilateral request -- is nothing more than a response to a request. It does not signify the adoption of any position by the FMCS regarding the arbitrability of any dispute or the terms of the party's contract.

(c) As an alternative to a request for a panel of names, OAS will, upon written request, submit a list of all arbitrators and their biographical sketches from a designated geographical area. The parties may then select and deal directly with an arbitrator of their choice, with no further involvement of FMCS with the parties or the arbitrator. The parties may also request FMCS to make a direct appointment of their selection. In such a situation, a case number will be assigned.

(d) The OAS reserves the right to decline to submit a panel or make appointments of arbitrators, if the request submitted is overly burdensome or otherwise impracticable. The OAS, in such circumstances, may refer the parties to an FMCS mediator to help in the design of an alternative solution. The OAS may also decline to service any requests from parties with a demonstrated history of non-payment of arbitrator fees or other behavior which constrains the spirit or operation of the arbitration process.

(e) The parties are required to use the Request for Arbitration Panel (Form R-43), which has been prepared by the OAS and is available in quantity upon request to the Federal Mediation and Conciliation Service, Office of Arbitration Services, Washington, DC 20427, or by calling (202) 606-5111 or at www.fmcs.gov. Requests that do not contain all required information requested on the R-43 in typewritten form may be rejected.

(f) Requests made by only one party, for a service other

than the furnishing of a standard list or panel of seven (7) arbitrators, will not be honored unless authorized by the applicable collective bargaining agreement. This includes unilateral requests for a second or third panel or for a direct appointment of an arbitrator.

(g) The OAS will charge a nominal fee for all requests for lists, panels, and other major services. Payments for these services must be received with the request for services before the service is delivered and may be paid by either labor or management or both. A schedule of fees is listed in the Appendix to this part.

1404.10 Arbitrability

The OAS will not decide the merits of a claim by either party that a dispute is not subject to arbitration.

1404.11 Nominations of Arbitrators

(a) The parties may also request a randomly selected panel containing the names of seven (7) arbitrators accompanied by a biographical sketch for each member of the panel. This sketch states the background, qualifications, experience, and all fees as furnished to the OAS by the arbitrator. Requests for a panel of seven (7) arbitrators, whether joint or unilateral, will be honored. Requests for a panel of other than seven (7) names, for a direct appointment of an arbitrator, for special qualifications or other service will not be honored unless jointly submitted or authorized by the applicable collective bargaining agreement. Alternatively, the parties may request a list and biographical sketches of some or all arbitrators in one or more designated geographical areas. If the parties can agree on the selection of an arbitrator, they may appoint their own arbitrator directly without any further case tracking by FMCS. No case number will be assigned.

(b) All panels submitted to the parties by the OAS, and all letters issued by the OAS making a direct appointment, will have

an assigned FMCS case number. All future communications between the parties and the OAS should refer to this case number.

(c) The OAS will provide a randomly selected panel of arbitrators located in state (s) in proximity of the hearing site. The parties may request special qualifications of arbitrators experienced in certain issues or industries or that possess certain backgrounds. The OAS has no obligation to put an individual on any given panel or on a minimum number of panels in any fixed period. In general:

(1) The geographic location of arbitrators placed on panels is governed by the site of the dispute as stated on the request received by the OAS.

(2) If at any time both parties request that a name or names be included, or omitted, from a panel, such name or names will be included, or omitted, unless the number of names is excessive. These inclusions/exclusions may not discriminate against anyone because of age, race, gender, ethnicity or religious beliefs.

(d) If the parties do not agree on an arbitrator from the first panel, the OAS will furnish a second and third panel to the parties upon joint request and payment of an additional fee. Requests for a second or third panel should be accompanied by a brief explanation as to why the previous panel(s) was inadequate. If parties are unable to agree on a selection after having received three panels, the OAS will make a direct appointment upon joint request.

1404.12 Selection by Parties and Appointments of Arbitrators

(a) After receiving a panel of names, the parties must notify the OAS of their selection of an arbitrator or of the decision not to proceed with arbitration. Upon notification of the selection of an arbitrator, the OAS will make a formal appointment of the arbitrator. The arbitrator, upon notification of appointment, is expected to communicate with the parties within 14 days to arrange for preliminary matters, such as the date and place of hearing. Should an arbitrator be

notified directly by the parties that he or she has been selected, the Arbitrator must promptly notify the OAS of the selection and his or her willingness to serve. If the parties settle a case prior to the hearing, the parties must inform the arbitrator as well as the OAS. Consistent failure to follow these procedures may lead to a denial of future OAS service.

(b) If the parties request a list of names and biographical sketches rather than a panel, they may choose to appoint and contact an arbitrator directly. In this situation, neither the parties nor the arbitrator is required to furnish any additional information to FMCS and no case number will be assigned.

(c) Where the parties' collective bargaining agreement is silent on the manner of selecting arbitrators, the parties may wish to consider any jointly determined method or one of the following methods for selection of an arbitrator from a panel:

(1) Each party alternately strikes a name from the submitted panel until one remains, or

(2) Each party advises the OAS of its order of preference by numbering each name on the panel and submitting the numbered lists in writing to the OAS. The name that has the lowest combined number will be appointed.

(3) In those situations where the parties separately notify the OAS of their preferred selections, once the OAS receives the preferred selection from one party, it will notify the other party that it has fourteen (14) days in which to submit its selections. If that party fails to respond within the deadline, the first party's choice will be honored. If, within 14 days, a second panel is requested and is allowed by the collective bargaining agreement, the requesting party must pay a fee for the second panel.

(d) The OAS will make a direct appointment of an arbitrator only upon joint request unless authorized by the applicable collective bargaining agreement.

(e) The issuance of a panel of names or a direct

appointment in no way signifies a determination of arbitrability or an interpretation of the terms and conditions of the collective bargaining agreement. The resolution of such disputes rests solely with the parties.

1404.13 Conduct of Hearings

All proceedings conducted by the arbitrators shall be in conformity with the contractual obligations of the parties. The arbitrator shall comply with 1404.4(b). The conduct of the arbitration proceeding is under the arbitrator's jurisdiction and control, and the arbitrator's decision shall be based upon the evidence and testimony presented at the hearing or otherwise incorporated in the record of the proceeding. The arbitrator may, unless prohibited by law, proceed in the absence of any party who, after due notice, fails to be present or to obtain a postponement. An award rendered in an ex parte proceeding of this nature must be based upon evidence presented to the arbitrator.

1404.14 Decision and Award

(a) Arbitrators shall make awards no later than 60 days from the date of the closing of the record as determined by the arbitrator, unless otherwise agreed upon by the parties or specified by the collective bargaining agreement or law. However, failure to meet the 60 day deadline will not invalidate the process or award. A failure to render timely awards reflects upon the performance of an arbitrator and may lead to removal from the FMCS Roster.

(b) The parties should inform the OAS whenever a decision is unduly delayed. The arbitrator shall notify the OAS if and when the arbitrator (1) cannot schedule, hear, and render decisions promptly, or (2) learns a dispute has been settled by the parties prior to the decision.

(c) Within 15 days after an award has been submitted to the parties, the arbitrator shall submit an Arbitrator's Report and Fee Statement (Form R-19) to OAS showing a breakdown of the fee

and expense charges so that the OAS may review conformance with stated charges under Section 1404.11(a). The Form R-19 is not to be used to invoice the parties.

(d) While FMCS encourages the publication of arbitration awards, arbitrators should not publicize awards if objected to by one of the parties.

1404.15 Fees and Charges of Arbitrators

(a) FMCS will charge all arbitrators an annual fee to be listed on the Roster. All arbitrators listed on the Roster may charge a per diem and other predetermined fees for services, if the amount of such fees have been provided in advance to FMCS. Each arbitrator's maximum per diem and other fees are set forth on a biographical sketch, which is sent to the parties when panels are submitted. The arbitrator shall not change any fee or add charges without giving at least 30 days advance written notice to FMCS. Arbitrators with dual business addresses must bill the parties for expenses from the least expensive business address to the hearing site.

(b) In cases involving unusual amounts of time and expenses relative to the pre-hearing and post-hearing administration of a particular case, an administrative charge may be made by the arbitrator.

(c) Arbitrators shall divulge all charges to the parties and obtain agreement thereto immediately after appointment.

(d) The OAS requests that it be notified of any arbitrator's deviation from the policies expressed in this part. While the OAS does not resolve individual fee disputes, repeated complaints concerning the fees charged by an arbitrator will be brought to the attention of the Arbitrator Review Board for consideration. Similarly, repeated complaints by arbitrators concerning non-payment of fees by the parties may lead to the denial of services or other actions by the OAS.

1404.16 Reports and Biographical Sketches

CHAPTER 7100 - ARBITRATION POLICIES, FUNCTIONS, AND PROCEDURES

7100 14

(a) Arbitrators listed on the Roster shall execute and return all documents, forms and reports required by the OAS. They shall also keep the OAS informed of changes of address, telephone number, availability, and of any business or other connection or relationship which involves labor-management relations or which creates or gives the appearance of advocacy as defined in Section 1404.5 (c) (1).

(b) The OAS will provide biographical sketches on each person admitted to the Roster from information supplied by applicants. Arbitrators may request revision of biographical information at later dates to reflect changes in fees, the existence of additional charges, or other relevant data. The OAS reserves the right to decide and approve the format and content of biographical sketches.

Appendix Schedule of Fees

Annual listing fee for all arbitrators	\$100 for the first address; \$50 for second address
Request for panel of arbitrators:	\$30 for each panel request (includes subsequent appointment)
Direct appointment of arbitrator when a panel is not used	\$20 per appointment
List and biographical sketches plus of arbitrators in a specific area	\$10 per request \$.10 per page