

December 26, 2022

FOIA Program, FMCS
One Independence Square
250 E Street, SW,
Washington, DC 20427
foia@fmcs.gov

Dear Records Custodian,

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552 et seq., I request copies of the following records:

1) Database records describing the general characteristics of all FMCS-tracked work stoppages

For many years, FMCS proactively published data (first as PDFs and later also as Excel files) on the general characteristics of individual work stoppages, via the agency's website.¹ Those records included the following information for each ongoing and recently ended stoppage:

- Employer
- Union
- Union Local
- Case Number
- BU ("number of workers in the Bargaining Unit")
- NAICS
- Industry
- City, State
- # Idled
- Start Date
- End Date
- Duration

¹ Federal Mediation and Conciliation Service, "Documents and Data: Work Stoppage Data," as archived in the Wayback Machine January 5, 2021.
<https://web.archive.org/web/20210105232710/https://www.fmcs.gov/resources/documents-and-data/#fusion-tab-workstoppagedata>.

FMCS, however, appears to have ended this practice of proactive disclosure in late 2020. The section of the FMCS's website that originally hosted the data has been removed,² and the files do not appear to be available elsewhere, other than through archiving websites.

FMCS is unlikely to have stopped collecting this information. It is central to FMCS's core mission and, moreover, FMCS appears to have continued supplying such information to the Bureau of Labor Statics, which republishes a subset of it online through the BLS's Work Stoppages Program.³

I request database records describing the general characteristics of all FMCS-tracked work stoppages — records that should, at *minimum*, include the characteristics listed above. If FMCS tracks additional structured information about individual work stoppages that is disclosable without the need for manual redaction, this request encompasses those records as well.

I request these records in their native digital format, or as close to it as possible — for example, as CSV or Excel files, rather than PDFs or Word documents. If converting the native digital format to another format, please take care not to introduce formatting inconsistencies or errors, which can occur in the conversion process (for example, encoding errors or the inclusion of internal unescaped quotation marks in CSV files).

The relevant records are likely contained in FMCS-0004, a System of Records described in a recent Federal Register notice, which describes “a case records management system new to FMCS to enable mediators and managers to manage cases, manage reporting requirements, provide data for research and training, store recorded trainings and meetings, and collect information on Agency operations.”⁴ The notice also mentions that “the case records management system will store records electronically using a commercial software application run on the Customer Relationship Management (CRM) platform, Microsoft Dynamics.” That software, Microsoft Dynamics, makes it possible to export comprehensive sets of records to Excel.⁵

² See, e.g., Federal Mediation and Conciliation Service, “Documents and Data: Work Stoppage Data,” as archived in the Wayback Machine January 31, 2022.

<https://web.archive.org/web/20220131155752/https://www.fmcs.gov/resources/documents-and-data/>.

³ Bureau of Labor Statistics, “Work Stoppages: Questions and Answers,” accessed December 26, 2022. <https://www.bls.gov/wsp/questions-and-answers.htm>. Question: “How are the data collected?” Answer: “Information on work stoppages is obtained from reports from the [Federal Mediation and Conciliation Service](#), state labor market information offices, [BLS Strike Report](#) from the Office of Employment and Unemployment Statistics, and from media sources. [...]”

⁴ Federal Mediation and Conciliation Service, 87 FR 14855, March 16, 2022.

<https://www.federalregister.gov/documents/2022/03/16/2022-05544/privacy-act-of-1974-system-of-records>.

⁵ See, e.g., depending on the particular system, Microsoft, “Microsoft Dynamics 365 Customer Engagement (on-premises) Help, version 9.x: Export data to Excel,” accessed December 27, 2022. <https://learn.microsoft.com/en-us/dynamics365/customerengagement/on-premises/basics/export-data-excel>.

Given that this request seeks a comprehensive export of database records, I do not believe it is necessary to specify a time period for the requested records. If, however, specifying such a time period *is* necessary for your process, please use the following: January 1, 2000, to the date the records export is performed.

I request that the responsive records be provided by email or digital file transfer, rather than by postal mail. If it helps, I can supply the digital transfer folder.

2) All documentation of System of Records FMCS-0004

Additionally, I request all records documenting FMCS-0004, the system cited above, excluding generic Microsoft documentation that is not specific to FMCS's processes. These documentation records should include (but not necessarily be limited to) all relevant record layouts, database schemas, entity relationship diagrams, database diagrams, data dictionaries, glossaries, and user guides. To clarify:

- A “record layout” (also known as a “database schema”) is a technical document that describes the structure of a database. Here is a publicly-available example from the Centers for Medicare and Medicaid Services:
https://www.cms.gov/Medicare/Prescription-Drug-Coverage/DrugCoverageClaimsData/Downloads/FileFormat_020806.pdf
- An “entity relationship diagram” (also known as a “database diagram”) is a technical document that describes the relationships between a database's various tables and columns. Here is a publicly-available example from the Department of Justice:
https://www.justice.gov/sites/default/files/usao/pages/attachments/2014/12/08/erd_cio_ns11_05_08_2009.pdf
- A “data dictionary” is a document that defines the meaning of each field (and possible values, where necessary) in a database. Here is a publicly-available example from the Bureau of Labor Statistics: <https://www.bls.gov/tus/atuscpscodebk15.pdf>
- A “glossary” is a document that defines various terms used in the database and associated documentation. Here is a publicly-available example from the Department of Transportation: <https://www.transit.dot.gov/ntd/national-transit-database-ntd-glossary>
- A “user guide” is a document that instructs users of a database or computer system how to interact with it. Here is a publicly-available example from the National Institutes of Health: https://www.era.nih.gov/files/AMS_user_guide.pdf

Your agency may use different terminology for similar kinds of documents. Please consider any such documentation within the scope of this request.

I request all such records produced or in use between January 1, 2000, and the date that the search for such records is conducted.

Production of Responsive Records on a Rolling Basis

In the event that a portion of the present request is completed before the full request is completed, I ask that the records be produced on a rolling basis.

Fee Waiver Request

A waiver of search and review fees is appropriate here because disclosure of the requested information is in the public interest under 5 U.S.C. § 552(a)(4)(A)(iii) and 45 C.F.R. § 5.54(a), (b)(1)-(2), and because the request is not primarily in my commercial interest, 45 C.F.R. §§ 5.45(a), (b)(3)(ii).

Disclosure Is in the Public Interest

The disclosure of these records is firmly in the public interest.

Disclosure of the requested records would allow the public to analyze and evaluate the state of work stoppages in the US, as well as FMCS's mediation efforts and outcomes. Although the BLS's Work Stoppages Program provides some data on individual work stoppages, it does so only for individual work stoppages involving 1,000 or more workers. Indeed, to members of the public who ask, "Where do I find data on work stoppages with less than 1,000 workers?" BLS responds, "The [Federal Mediation and Conciliation Service \(FMCS\)](#) issues a monthly report showing all private industry work stoppages."⁶

As recently as late 2020, FMCS clearly saw the public interest in publishing such records, which it did proactively and on a regular basis. It is difficult to ascertain what would have reduced the public-interest value in those records in the intervening time.

"Preventing and minimizing the impact of work stoppages by assisting parties to settle their disputes through mediation in a timely manner" is the first item in the FMCS's list of its activities supporting

⁶ BLS, "Work Stoppages: Questions and Answers."

its core mission.⁷ Records on the characteristics of the individual work stoppages FMCS tracks is essential to allowing the public to evaluate the degree to which FMCS is succeeding. (Annual or aggregate figures provide insufficient details for many analyses.)

The database documentation serves at least two public-interest goals: to support the accurate interpretation of the data records requested, and to enable the public to construct productive, efficient Freedom of Information Act requests for narrow slices of non-exempt database material in the future.

This Request is Not Primarily in My Commercial Interest

The requested information is *not* being sought for commercial purposes. 45 C.F.R. § 5.54(a). I am a news media requester that can and will “effectively convey information to the public.” 45 C.F.R. § 5.54(b)(2)(ii). I am doing so on behalf of the Data Liberation Project, a new initiative to bring more datasets of public value into the public domain, especially for journalistic purposes.⁸ My “past publication record[,]” 5 U.S.C. § 552(a)(4)(A)(ii), includes serv[ing] from 2014 to early 2022 as the data editor for BuzzFeed News, where I helped to make many datasets available to the public;⁹ before that, I worked as a reporter and computer programmer at The Wall Street Journal, where I was named a Pulitzer Prize co-finalist for National Reporting.¹⁰

Because I have demonstrated that the information will shed light on the operations or activities of the government in relation to FMCS’s role mediating labor-management disputes, 45 C.F.R. § 5.54(b)(1), and this information is not already in the public domain, 45 C.F.R. § 5.54(b)(2)(i), this request is “not primarily in the commercial interest of the requester.” 45 C.F.R. § 5.54(b)(3)(ii).

As such, and because disclosure “is likely to contribute significantly to public understanding of the operations or activities of the government” (5 U.S.C. § 552(a)(4)(A)(iii)), I respectfully request that you waive all applicable fees.

Limitation of Fees

I am also entitled to a limitation of fees because I am a member of the news media. 45 C.F.R. § 5.53(b); 5 U.S.C. § 552(a)(4)(A)(ii)(II). Accordingly, even if my application for a waiver of all fees is denied, I am entitled to a limitation of fees. As a news media requester, I am “entitled to search time,

⁷ FMCS, “Mission & Values,” accessed December 26, 2022.
<https://www.fmcs.gov/aboutus/mission-values/>.

⁸ The Data Liberation Project. <https://www.data-liberation-project.org/>.

⁹ BuzzFeed News, “An index of all our open-source data, analysis, libraries, tools, and guides.”
<https://github.com/BuzzFeedNews/everything>.

¹⁰ The Pulitzer Prizes, “Finalist: John Emshwiller and Jeremy Singer-Vine of The Wall Street Journal.”
<https://www.pulitzer.org/finalists/john-emshwiller-and-jeremy-singer-vine>.

review time, and up to 100 pages of duplication” and can be charged only duplication fees after the first 100 pages or its cost equivalent. 45 C.F.R. § 5.53(b). I request that the information be provided in its native electronic format, and thus there should be no duplication fees.

Request for Explanation of Withholdings and Redactions

If this request is denied in whole or in part, please provide a reasonable description of any withheld materials and a justification for all such withholdings that includes reference to the specific FOIA exemptions authorizing withholding and specific reasons why such exemptions apply. 45 C.F.R. § 5.31. An agency shall withhold information only if “the agency reasonably foresees that disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.” 5 U.S.C. § 552(a)(8)(A)(i). (Per Attorney General Garland’s March 15, 2022 memorandum, “In case of doubt [regarding foreseeable harm or legal bar to disclosure], openness should prevail.”¹¹) I therefore request that if the agency determines that an exemption applies, specific reasons be provided as to why disclosure would harm any interest protected by such exemption. An agency shall also “consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible” and “take reasonable steps necessary to segregate and release nonexempt information.” *Id.* at § 552(a)(8)(A)(ii). I therefore request that the agency release all segregable portions of otherwise exempt material.

I look forward to your reply within the FOIA-specified timeframe of 20 working days. Please let me know if there are any clarifications I can make to make this request easier and/or quicker to complete.

Sincerely,

Jeremy Singer-Vine

The Data Liberation Project

Email: jsvine@gmail.com

Phone: Available upon request

Mailing address: Available upon request

¹¹ Merrick Garland, "Memorandum for Heads of Executive Departments and Agencies" (Subject: "Freedom of Information Act Guidelines"), March 15, 2022. <https://www.justice.gov/ag/page/file/1483516/download>.