

seeking to obtain from FMCS either names or panels of names of neutrals listed on the Registry of Neutrals in connection with disputes which are submitted to an alternate dispute resolution procedure (ADR).

§ 1480.2 Policy.

FMCS was established in accordance with the labor policy of the United States, which promotes and encourages the amicable resolution of employment disputes between the parties, rather than submitting such disputes through the adversarial processes. Submission of employment disputes through alternate dispute resolution procedures is an important feature of constructive employment relations as alternatives to adversarial processes. FMCS is establishing the Access to Neutrals Initiative (ANI) in accordance with its mandate concerning the labor policy of the United States.

§ 1480.3 Administrative responsibilities.

The Director of the FMCS has responsibility for all aspects of FMCS's ANI and is the final agency authority on all questions concerning the ANI and the procedures associated with it.

§ 1480.4 Definitions.

For purposes of this part:

Advocacy: An advocate is a person who represents employers, labor organizations, or individuals as an employee, attorney, or consultant in matters of employment, including but not limited to, equal employment opportunity claims, workplace disputes, subjects of union representation, collective bargaining, unfair labor practices, and other areas generally recognized as constituting labor relations. This 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 also includes individuals who are "of counsel" with a law firm which engages in the type of activities set forth in this definition, or individuals who are affiliated with consulting firms who engage in those activities. Consultants who engage only in joint education or training or other non-adversarial activities are excluded from the definition of an advocate under this part.

Alternative Dispute Resolution: Any dispute procedure that is used in lieu of adjudication to resolve issues in controversy including, but not limited to, settlement negotiations, conciliation, facilitation, mediation, fact-finding,

mini-trials or any combination thereof. For the purpose of this part arbitration is specifically excluded from the definition of alternative dispute resolution.

Neutrals Committee: The Director of the Agency shall establish a Neutrals Committee to be selected by the Director and shall include, but is not limited to, the Director of the ANI, FMCS Commissioners and private ADR specialists. The Director and/or his designee shall convene the Neutrals Committee meetings, as often as he/she deems necessary. A process for selecting applicants to be placed on the Registry of Neutrals shall be developed by the Office of the Access to Neutrals Initiative (OANI). The Neutrals Committee may review the qualifications of the applicants who have been awarded the minimum number of points under the system set forth in subpart D of this part to determine the applicants who should be recommended to the Director of FMCS for inclusion on the Registry of Neutrals.

Office of the Access to Neutrals Initiative: The Director of FMCS shall appoint the Director of the ANI who is in charge of the OANI. The OANI maintains a Registry of Neutrals; administers the Procedures for Selection of Neutrals; assists, promotes, and cooperates in the establishment of programs for training and developing neutrals; oversees the computerized selection system utilized by customers; assists customers in utilizing the computerized selection system and provides names or panels of names of neutrals from the Registry of Neutrals to parties requesting them. The OANI shall be responsible for accepting complaints from users of the Registry of Neutrals and for the investigation of such complaints when appropriate.

Subpart B—Registry of Neutrals; Selection and Retention

§ 1480.5 Registry and status of members.

(a) *Registry of Neutrals:* FMCS shall establish and maintain a Registry of Neutrals consisting of persons who meet the criteria for listing contained in subpart B of this part.

(b) *Adherence to standards and requirements:* Persons listed on the Registry of Neutrals shall be required to comply with the rules and regulations, established by FMCS, pertaining to ADR processes and such guidelines and procedures as may be issued by OANI pursuant to subpart B of this part. Neutrals shall conform to the ethical standards and procedures established by FMCS.

(c) *Status of Neutrals:* Persons who are listed on the Registry of Neutrals and are selected or appointed to conduct an ADR process do not become employees of the Federal Government by virtue of their selection or appointment. Following selection or appointment, the neutral's relationship is solely with the parties to the dispute except that neutrals 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 a neutral;
- (2) Enforce an agreement to submit a dispute to an ADR process;
- (3) Compel parties to submit any issue to an ADR process;
- (4) Influence, alter, or set aside agreements made by the parties during an ADR process;
- (5) Compel, deny, or modify payment of compensation to a neutral.

(e) *Nominations and panels:* On request of the parties to an agreement to utilize ADR processes to settle their disputes, or where ADR processes may be provided for by statute, the parties may select a neutral utilizing the computerized selection process without a fee being assessed or, upon request from the parties, FMCS may provide the name or a list of names of neutrals for a nominal fee. Procedures for obtaining these services are outlined in subpart C of this part. The parties selection of a neutral from the computerized system, the submission of a list of neutrals to the parties by FMCS, or the selection of a neutral by FMCS for the parties shall not constitute a determination by FMCS that an agreement exists between the parties to resolve their disputes through the utilization of an ADR process; nor does such action constitute a ruling that the matter in controversy should be submitted for resolution under an ADR process. The OANI will not decide the merits of a claim by either party that a dispute is not subject of any agreement to utilize alternative dispute resolution processes.

(f) *Rights of persons listed on the Registry of Neutrals:* No person shall have any right to be listed or to remain listed on the Registry of Neutrals. FMCS retains its authority and responsibility to assure that the needs of the parties using its services are met. To accomplish this purpose, FMCS may establish procedures for the selection of neutrals, either through a computerized selection system to be utilized by the parties or the selection of a neutral or panel of neutrals by FMCS; factors to be considered in such selection may