

§ 1404.9

29 CFR Ch. XII (7–1–13 Edition)

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 Arbitration Services, 2100 K Street, NW., 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 parties' 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 to make an appointment of an arbitrator 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 request from a party based on the party's non-payment of arbitrator fees or other behavior that 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 upon re-

quest to the Federal Mediation and Conciliation Service, Office of Arbitration Services, Washington, DC 20427, or by calling (202) 606-5111. Form R-43 is also available on the FMCS Internet Web site, <http://www.fmcs.gov>. Requests that do not contain all required information requested on Form R-43 in typewritten form or legible handwriting may be rejected.

(f) Parties may submit requests for any standard geographical arbitration panels electronically by accessing the agency's Internet Web site, <http://www.fmcs.gov>, and receive panels via e-mail, fax or mail. Panel requests that contain certain special requirements may not be processed via the agency's internet system. Parties must provide all required information and must pay the cost of such panels using methods of payment that are accepted by the agency.

(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.

(h) The OAS will charge a 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.

[62 FR 34171, June 25, 1997, as amended at 70 FR 76398, Dec. 27, 2005; 75 FR 30705, June 2, 2010]

§ 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 report 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