DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON, TN 38055-0000

BUPERSINST 5720.7E
PERS-00J
30 SEP 2011

BUPERS INSTRUCTION 5720.7E

From: Chief of Naval Personnel

Subj: IMPLEMENTATION OF THE FREEDOM OF INFORMATION ACT IN ACTIVITIES UNDER THE COMMAND OF THE CHIEF OF NAVAL PERSONNEL

Ref: (a) 5 U.S.C. 552 (1966), as amended by the Freedom of Information Reform Act of 1986 and the Electronic Freedom of Information Act Amendments of 1996
(b) SECNAVINST 5720.42F

1. Purpose. To provide instructions governing the release of records to the public under reference (a), as implemented by reference (b). This instruction is a complete revision and should be reviewed in its entirety.

2. Cancellation. BUPERSINST 5720.7D.

3. Background. Reference (b), paragraphs 6(d), (e), and (f) task each activity with implementing the Freedom of Information Act (FOIA), and provide that each activity may grant requests for the release of records under its cognizance. The authority to deny requests is more limited.

4. Applicability. The provisions of this instruction apply to echelon 2 personnel under the Bureau of Naval Personnel (BUPERS), and all echelon 3, 4, and 5 commands under Chief of Naval Personnel (CHNAVPERS).

5. FOIA Request. In order for a request to be processed under FOIA, the following conditions must be met:

a. Request must be in writing, and must either explicitly or implicitly invoke the FOIA, or reference (b);

b. Request must be for a copy of existing records;

c. Records requested must be reasonably described; and

d. Requests must state that the requesters are willing to pay all fees, or fees up to a specified amount, if the fees are expected to exceed the minimum fee waiver threshold, or provide satisfactory evidence that they are entitled to a waiver or reduction of fees.

6. Action. Each echelon 3, 4, and 5 command under the command of CHNAVPERS will prepare and maintain local directives that identify procedures for processing FOIA requests. A copy of the local directive will be furnished to Navy Personnel Command (NAVPERSCOM), Office of Legal Counsel (PERS-00J). The local directive should provide for procedures to respond to the requester within 20 working days. All CHNAVPERS subordinate commands shall follow the denial procedures set forth below.

7. Denial Procedures

a. The authority to deny requests under FOIA is held only by those authorized below. Reference (b), paragraphs 6(e)(1) and 6(e)(4) delegate the authority to deny requests for records under FOIA to the Chief of Naval Operations and respective vice commanders, deputies and those principal assistants specifically designated. Those officials specifically authorized to deny request for records in BUPERS are: CHNAVPERS; Deputy Chief of Naval Personnel (DEPCHNAVPERS); and NAVPERSCOM (PERS-00J). The following echelon 3 commands under the command of CHNAVPERS are authorized to deny requests for records pertaining to their activity: Commander, Navy Personnel Command, Commander, Navy Recruiting Command, and Commanding Officer, Navy Manpower Analysis Center.

b. Each CHNAVPERS subordinate command must establish procedures whereby a proposed denial is promptly forwarded to the correct denial authority. Prior to forwarding a proposed denial, subordinate commands should consult with their FOIA coordinator. After consultation with the FOIA coordinator, the subordinate command shall expeditiously forward the original request letter, a copy of the requested records, and a memorandum stating the exemptions relied upon in recommending denial.

c. Activities under the command of COMNAVCRUITCOM will submit proposed denials to the appropriate denial authority per procedures established in directives issued by those denial authorities.

8. Records Management. Records created as a result of this instruction, regardless of media and format, shall be managed per SECNAV M-5210.1 of November 2007.

9. Report and Forms

a. The Annual FOIA Report is assigned report control symbol DD-PA(A)1365 (5720) and is exempt from reporting requirements per Secretary of the Navy (SECNAV) Manual M-5214.1 of December 2005. All subordinate commands under CHNAVPERS shall provide to their denial authority by 20 October of each year information for the previous calendar year required for the annual report under reference (b), enclosure 8, paragraph 2.

b. DD 2086 Record of Freedom of Information (FOI) Processing Cost, DD 2086-1 Record of Freedom of Information Act (FOI) Processing Cost for Technical Data; DD 2564 Annual Report Freedom of Information Act, FOIA Case Worksheet, and Annual Report Compilation Worksheet are downloadable from the Navy FOIA website at http://www.foia.navy.mil or http://www.dtic.mil/whs/directives/infomgt/forms/index.htm.

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