



AFRH AGENCY DIRECTIVE 1-4

Issue Date: August 27, 2009

Review Date: September 2012

Authority(s): Presidential
Memorandum
of January 21, 2009
Attorney General
Memorandum of
of March 19,
2009
Title 5, USC Section
552, as amended
Executive Order 13392
of December 14, 2005

Subject: AFRH Freedom of Information Act (FOIA) Program

- 1. Purpose:** To establish policies and procedures for processing Freedom of Information Act (FOIA) requests forwarded to the Armed Forces Retirement Home (AFRH).
- 2. Cancellation:** USNH Instruction 5720.1 dated March 20, 1990
- 3. Applicability:** Applies to all requests forwarded to the AFRH requesting the release of information under the provisions of FOIA.
- 4. Definitions:**
 - a. **Agency** means the Armed Forces Retirement Home.
 - b. **Facility or facilities** refer to AFRH-Gulfport and AFRH-Washington Continuing Care Retirement Communities.
 - c. **Duplication** means the process of making a copy of a record and sending it to the requestor.
 - d. **Freedom of Information Act or FOIA** means Section 552 of Title 5, United States Code, as amended.
 - e. **Freedom of Information Act Officer** means an Armed Forces Retirement Home official who has been

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delegated authority to release or withhold records in response to FOIA requests.

f. **Record** means any handwritten, typed, or printed documents, or computer-stored documents.

g. **Request** means asking for the record(s).

h. **Review** means examining records to determine what portions, if any, may be withheld, and any other processing to prepare the records for release.

i. **Search** means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

j. **Reviewing Official** means the official (FOIA Officer) at the Agency-level and/or the FOIA officials at AFRH Gulfport and AFRH Washington facilities.

5. Policy:

The AFRH FOIA policy is to:

a. Promote public trust by making the maximum amount of information available to the public, in both hard copy and electronic formats, on the operation and activities of the AFRH, consistent with the Agency's responsibility to ensure the privacy of personal information pursuant to the Privacy Act.

b. Allow a requestor to obtain Agency records that are available through other information services without invoking the FOIA.

c. Make available those records that are requested by a member of the public who cites the FOIA, and to release records in part whenever they cannot be released in full.

d. Answer promptly all requests with the format requested, if the record is readily reproducible in that form. AFRH is not compelled to create new records solely to accommodate a request for records.

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e. Respond within twenty (20) days (excepting Saturdays, Sundays, and legal public holidays) after receipt of request. A tracking number will be assigned for any request that will take longer than ten days to process. The determination to release records under FOIA will be made within ten (10) working days of receipt of the request (interim reply) and the records will be provided as soon as possible after the determination has been made. In "unusual circumstances," FOIA Officers may extend the time limits up to ten (10) working days after receipt of the request. "Unusual circumstances" are described as situations such as:

(1) Search for and collection of records from locations other than the office processing the request.

(2) Search for, collection and examination of a large volume of records in response to a single request.

(3) Consultation with another Agency that has substantial interest in the determination of the request.

(4) The conduct of negotiations with requestors of information to determine the nature and extent of non-disclosable material.

Fees:

A fee for document search, review and reproduction will be charged. Fee categories are as follows:

a. Commercial use requests are requests for information from an individual or entity seeking information to further the commercial, trade, or profit interests of the requestor. Commercial use requests are subject to the full direct costs for search, review, and reproduction associated with processing the request, even if no records are disclosed.

b. Non-commercial requests are requests for records not sought for commercial use, requested by an educational or non-commercial scientific institution, whose purpose is scholarly or scientific research, or by a representative of the news media. These requests are exempt from the assessment of search and review fees. Duplication fees may be charged

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for this type of request; except the first 100 pages are provided free of charge.

c. All other requests are subject to reasonable charges for document search and duplication, except that the first two hours of search time and the first 100 pages of duplication are provided free of charge.

- Search Fees:** For each quarter hour spent by clerical personnel in searching for and retrieving a requested record, the fee will be \$5.50. Where a search and retrieval cannot be performed entirely by clerical personnel, the fee for the use of professional personnel the fee will be \$9.00 for each quarter hour of search time spent by professional personnel. When the time of managerial personnel is required, the fee will be \$17.50 for each quarter hour of time spent by those personnel. For electronic searches of records, requestors will be charged the direct costs of conducting the search, including the costs of operator/programmer staff time apportionable to the search.
- Duplication Fees:** For a standard paper photocopy of a record (no more than one copy needs to be supplied) the fee will be 25 cents per page. For copies produced by computer, direct costs will be charged, including staff time, of producing the copy.
- Review Fees:** Review fees will be charged to requestors who make a commercial use request, and the fees will be charged at the same rates as those charged for a search.
- No search fee will be charged for requests made by educational institutions, non-commercial scientific institutions, or representatives of the news media.
- Fee Waivers:** Fees will be waived or reduced if disclosure of the information is in the public interest, because it would contribute significantly to public understanding of operations or activities of the organization, and is not primarily in the commercial interest of the requestor.

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**Records of
General
Interest:**

Records such as Inspector General Reports, Annual Reports, AFRH Local Board Minutes and Agency Budget Submissions are posted online and are available for review at www.afrh.gov.

**Withholding
Records:**

FOIA provides for nine exemptions to the mandatory disclosure of records. However, no records will be withheld merely because the records fall within the scope of a FOIA exemption. The nine exemptions are:

(1) Documents specifically authorized under criteria established by the Executive Order to be kept secret in the interest of National Defense.

(2) Records related solely to the internal personnel rules and practices of an Agency.

(3) Records specifically exempted from disclosure by other statutes.

(4) Trade Secrets and Confidential Commercial or Financial Information. Trade secrets are described as a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding, or processing of trade commodities that can be said to be the end product of either innovative or substantial effort. Confidential commercial or financial information is described as information, if disclosed would impair the Agency's ability to obtain necessary information in the future; substantially harm the competitive position of the person who submitted the information; impair the Agency's interests; or impair the other private interests such as an interest in controlling availability of intrinsically valuable records, which are sold in the market by their owner.

(5) Inter – or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

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(7) Law Enforcement – Records that the Agency has compiled for law enforcement purposes that would cause harm in at least one of the following situations including records of investigations, records whose release would deprive a person of a fair trial; records whose release would involve an unwanted invasion of personal privacy; records involving confidential sources of information; records reflecting special techniques or procedures not generally known to the public; and records whose disclosure could reasonably be expected to endanger the life or physical safety of any individual.

(8) Records contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Geological and geophysical information and data, including maps, concerning wells.

- Release of Records:** After a determination has been made by the FOIA officer to release records, the Agency will provide the best photocopy possible in the format requested.
- Denial of Requests:** All denials will be in writing signed by the FOIA officer, identifying the reviewing official and will describe in general terms the reasons for denial, citing as applicable, a reference to a specific exemption.
- Appeal of Denial:** An appeal of a partial or full denial of a FOIA request should be in writing and sent to the reviewing official identified in the denial letter. The appeal will include reasons why the exemptions cited in the denial letter do not pertain to the original request. Appeals must be made within thirty days of the receipt of the denial letter and may include an explanation of the reasons for the request.

The Reviewing Official will consult with a legal advisor to ensure that the rights and interests of all parties affected by the request are protected.

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If the appeal is granted, the records will be forwarded within a reasonable time. If the appeal is denied, the reasons for the decision will be forwarded in writing, stating the FOIA provisions for judicial review.

The Reviewing Official's decision on an appeal will constitute the Agency's final action on the FOIA request.

6. Procedures for Processing FOIA Requests:

FOIA requests should be made in writing (by mail, fax, or electronically) to the Freedom of Information Act Officer, 3700 North Capitol Street, NW, PO Box 1303, Washington, DC 20011-8400. The words "Freedom of Information Act Request" should be written, typed, or stamped on the envelope and correspondence. Requests should include sufficient detail to identify the records being requested.

7. Responsibilities:

Chief Operating Officer (COO)

Establishes written policy and ensures the FOIA Program is effectively implemented within the Agency.

**Deputy COO/
Chief Financial Officer:**

The Deputy COO/CFO provides Agency-level specific guidance and policy interpretation regarding high-visibility, unresolved AFRH FOIA Act issues.

Provides broad Agency oversight in ensuring that the AFRH FOIA Act is implemented at each facility of the AFRH.

Recommends AFRH FOIA Act policy modifications to the Agency's FOIA Officer and the COO.

In the absence of the COO, performs the COO's duties and responsibilities relating to FOIA.

Agency FOIA Act Officer:

Responsible for the effective administration of the FOIA Program throughout the AFRH Agency.

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Oversees day-to-day implementation of FOIA requirements and guidance.

Maintains appropriate files and FOIA data for the AFRH Agency. Satisfies established FOIA reporting requirements.

Recommends modifications/changes to the COO regarding the AFRH FOIA Program.

Director(s):

Ensures the AFRH FOIA Act is fully implemented at their facility following the guidance provided in this Directive. Ensures that FOIA Act Program at their facility meets regulatory requirements and monitors FOIA requests to ensure program implementation consistency.

The facility Director will work with the Agency's FOIA Officer and the Deputy COO/Chief Financial Officer and interested parties to bring closure to unresolved FOIA issues.

**Facility
Administrative
Officer:**

The facility's lead Administrative Officer will work with his or her Director and the Agency's FOIA Officer to satisfy and resolve FOIA related issues.

**Residents/
Employees:**

Residents and employees who have questions or concerns regarding the AFRH FOIA Program should contact the Agency's FOIA Officer.

8. Action:

Individuals assigned responsibilities outlined in paragraph 7, above, will ensure their duties are carried out promptly and consistently.



TIMOTHY C. COX
Chief Operating Officer

Distribution:
Chair, RAC
All AFRH Employees (electronic copy)