



DEPARTMENT OF THE NAVY
SPACE AND NAVAL WARFARE SYSTEMS COMMAND
4301 PACIFIC HIGHWAY
SAN DIEGO, CA 92110-3127

SPAWARINST 5720.3C
SPAWAR 00C
10 June 1998

SPAWAR INSTRUCTION 5720.3C

From: Commander, Space and Naval Warfare Systems Command

Subj: SPACE AND NAVAL WARFARE SYSTEMS COMMAND FREEDOM OF
INFORMATION ACT (FOIA) PROGRAM

Ref: (a) 5 U.S.C. 552, as amended Freedom of Information Act
(b) DOD 5400.7-R
(c) SECNAVINST 5720.42

Encl: (1) DD Form 2086 - Record of FOIA Processing Cost
(2) DD Form 2564 - Annual FOIA Report Work Sheet

1. Purpose. To implement references (a), (b) and (c) within the Space and Naval Warfare Systems Command (SPAWAR) and the Program Executive Officer for Space, Communications and Sensors (PEO-SCS), establish policy and assign responsibilities for the disclosure of records under FOIA according to reference (c).
2. Cancellation. SPAWARINST 5720.3B is cancelled.
3. Applicability. This instruction applies throughout SPAWAR headquarters, SPAWAR activities and PEO-SCS to written requests that either explicitly or implicitly cite FOIA.
4. Policy. SPAWAR and PEO-SCS will make available to the public the maximum information concerning its operations, activities and administration. SPAWAR and PEO-SCS personnel will exert reasonable efforts to respond to requests that do not strictly meet those criteria but are consistent with the interests of the Department of the Navy policies. Any agency record requested will be deemed "releasable" and shall be released to a member of the public as a matter of right unless it is determined that the record contains matter which is exempt from disclosure per reference (c) and that the release of the information would jeopardize a governmental interest. If exempt matter in a record is "reasonably segregable" from nonexempt matter, the nonexempt portion shall be made available to the requester. A record may now include computer software and e-mail.
5. Definitions. The terms used in this instruction have the same meanings as those in reference (c).

6. Requests for Records. A request made under the FOIA for copies of records should be in conformity with the requirements of reference (c). The following applies:

a. Minimum Requirements for Request. The minimum requirements of such requests are:

(1) That they be in writing and indicate expressly or by clear implication that they are made in accordance with the FOIA or reference (c).

(2) The request may be delivered by the postal service or other delivery means, facsimile or electronically.

(3) That they contain a reasonable description of the particular record(s) requested so that SPAWAR and PEO-SCS personnel are able to identify and locate such records through reasonable effort.

(4) A clear statement that the requester is willing to pay such fees or up to a specified limit, if fees are applicable or satisfactory evidence that the requester is entitled to waiver or reduction of such fees under the guidelines outlined in reference (c).

b. Time Limits for Reply. Requests for records made pursuant to the FOIA and reference (c) require a determination within twenty working days, commencing with receipt of the request by SPAWAR, whether to release or withhold all or portions of the requested document(s). A request for a record in the possession of a Department of the Navy activity normally will not be deemed to have been received for purposes of the twenty working day time limit until it has been actually received by the cognizant activity. Upon receipt of a request for records that satisfies the minimum requirements of the instruction, an official having responsibility for making the decision to grant or deny a request for examination or for a copy of a record shall transmit that determination in writing to the requester within twenty working days. The record(s) requested shall be made available, or a copy will be furnished, as appropriate, upon or promptly after the determination has been made that the record(s) may be released in whole or part. If the twenty day time limit cannot be met, Code 00C should attempt to negotiate an informal time extension with the requester. If an informal extension cannot be negotiated, in limited circumstances a formal time extension may be sought from the SPAWAR Initial Denial Authority (IDA). See reference (c).

c. Multi-track Processing. SPAWAR Code 00C will maintain multi-track processing for FOIA requests. One queue will be maintained for simple requests (defined as less than 8 hours work). The simple queue will be on a first in..first out basis. More difficult requests (defined as more than 8 hours work) will be in the complex queue. Requesters must be given the opportunity to limit the scope of their request to qualify for the simple queue.

10 June 1998

d. Expedited Access. Requesters can seek and receive expedited access once they have established a compelling need for the information. They must demonstrate an imminent loss of substantial due process rights or humanitarian needs. Requesters must provide a certified statement. Approval for expedited access will move the request to the front of the simple queue.

e. Creating a Record. A record must exist and be in the possession of the Department of the Navy at the time of the request. It is not required that a record be created, compiled, or obtained for the purpose of furnishing information, except in limited circumstances. Mere possession of a record does not presume SPAWAR or PEO-SCS control. Such records or identifiable portions thereof shall be referred to the originating agency or activity (if under Executive Branch) for direct response to the requester. See reference (c).

f. Electronic Searches. A search now expressly includes the electronic review of records in order to respond to a FOIA request. The "action" code (code having cognizance over requested records) must make "reasonable efforts" to conduct searches for information maintained in electronic form, except when doing so would "significantly interfere" with Corporate automated systems.

g. Form or Format of Disclosure. A requester's choice among existing electronic forms or format must be honored unless there would be practical difficulty in doing so. Action code must make "reasonable efforts" to produce records in the new form or format requested.

h. Electronic Deletions. Action codes should indicate the amount of information deleted at the point in the record where the deletion is made, whenever it is "technically feasible" to do so given the complexity of the records involved.

7. Exemptions from Disclosure. No record or portion thereof shall be withheld from disclosure unless it is included within one or more of the exemptions listed in reference (c).

8. Procedures and Responsibilities. Reference (c) contains the general Department of the Navy policies and procedures governing the release of information under the FOIA. Within SPAWAR headquarters, the following additional procedures and responsibilities will apply:

a. The SPAWAR FOIA Coordinator, Office of Counsel Code 00C, will be responsible for the receipt, document control, and response to all FOIA requests directed to SPAWAR headquarters and PEO-SCS. SPAWAR and PEO-SCS codes receiving FOIA requests that have not been processed by Code 00C shall forward these requests to Code 00C immediately. Code 00C will act as the point of contact for the SPAWAR FOIA program and conduct all communications with FOIA requesters. Specifically, Code 00C will:

(1) Upon receipt of a FOIA request, date/time stamp, log request in the FOIA Historical

SPAWARINST 5720.3C

10 June 1998

Database and control the request by assigning a control number and an action suspense date.

(2) Forward the FOIA request to the SPAWAR or PEO-SCS action code.

(3) If a substantive response cannot be provided within twenty working days, negotiate an informal extension or prepare an appropriate letter notifying the FOIA requester in accordance with reference (c).

(4) Review packages prepared by SPAWAR or PEO-SCS action codes.

(5) Prepare letters granting the FOIA request, or letters for the signature of the SPAWAR IDA denying or partially denying the FOIA request.

(6) Collect FOIA fees calculated in accordance with reference (c). All fees collected will be forwarded to SPAWAR Code 01-4 for processing.

(7) Provide or ensure proper FOIA training for SPAWAR or PEO-SCS personnel.

(8) Maintain SPAWAR headquarters and PEO-SCS FOIA files.

(9) Compile the information required for the annual FOIA report to CNO (OP-09B30).

b. Action codes will:

(1) Ensure the FOIA request has been initially processed by Code 00C.

(2) Assemble all records that are responsive to the FOIA request.

(3) Notify SPAWAR 00C immediately via telephone or e-mail if the FOIA request appears to require a denial, partial denial, or additional response time.

(4) Complete the Record of FOIA Processing Cost, DD Form 2086, enclosure (1).

(5) Return the FOIA request, DD Form 2086, and responsive records to SPAWAR 00C with a recommendation for release, denial, or partial denial and the reasons therefor. Provide a point paper supporting the proposed denial or partial denial.

(6) Provide additional assistance to SPAWAR 00C as requested.

c. The Commander, SPAWAR 00; Vice Commander, SPAWAR 09; and Deputy Commander, SPAWAR 03, are SPAWAR Initial Denial Authorities.

10 June 1998

d. The Office of Counsel, SPAWAR 00C, shall review all proposed denials and partial denials and provide legal advice and assistance as requested. Action codes (SPAWAR and PEO-SCS) will be advised of recommended disposition prior to action being taken.

9. SPAWAR Systems Centers. All SPAWAR Systems Centers will designate a FOIA coordinator for the center to administer FOIA requests. The name, title, and telephone number of the designated official will be furnished to SPAWAR Code 00C within 30 days from receipt of this instruction. The official designated will:

a. Process all FOIA requests in accordance with reference (c).

b. Establish internal procedures for tracking requests.

c. Forward immediately any FOIA requests whose denial or partial denial is proposed to SPAWAR Code 00C, including a copy of the records requested, a statement of reason(s) for the proposed denial, and a written opinion from the field legal counsel (if such a position has been established) supporting the proposed denial. In the event it appears that a substantive decision (i.e., release in entirety, deny in whole or part) cannot be reached within the statutory twenty day period, immediately (within five days of receipt of request) negotiate an informal extension or prepare an appropriate letter notifying the FOIA requester in accordance with reference (c).

d. Prepare and submit Annual FOIA Reports as prescribed in reference (c) to SPAWAR Code 00C by 20 October of each year.

10. For Official Use Only. Records that are determined to be exempt from public dissemination under the exemptions should be designated or marked "For Official Use Only" or "FOUO" in accordance with reference (c). However, requested records marked "FOUO" should not be denied to a requester simply for that reason, but rather because such record is in fact exempt pursuant to one or more of the exemptions.

11. Reports and Records. Reference (c) directs submission of an annual FOIA report, enclosure (2), regarding the processing of Freedom of Information requests. Code 00C will consolidate the SPAWAR report with those of the SPAWAR activities and forward the consolidated report to CNO NLT 3 November of each year.

12. Action. All SPAWAR and PEO-SCS personnel are required to familiarize themselves with the provisions of FOIA and to conform to the requirements of reference (c) and this instruction.


ROBERT J. MARTIN
Deputy Commander

SPAWARINST 5720.3C
10 June 1998

Distribution:
SPAWAR List 6
PEO-SCS

SNDL PART II:
FKQ (SPAWARSYSCEN's)

INSTRUCTIONS FOR COMPLETING DD FORM 2086

This form is used to record costs associated with the processing of a Freedom of Information request.

1. REQUEST NUMBER - First two digits will express Calendar Year followed by dash (-) and Component's request number, i.e., 97-001.

2. TYPE OF REQUEST - Mark the appropriate block to indicate initial request or appeal of a denial.

3. DATE COMPLETED - Enter year, month and day, i.e., 19970621.

4. CLERICAL HOURS - For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search - Time spent in locating from the files the requested information.

Review/Excising - Time spent in reviewing the document content and determining if the entire document must retain its classification or segments could be excised thereby permitting the remainder of the document to be declassified. In reviews for other than classification, FOI exemptions 2 through 9 should be considered.

Correspondence and Forms Preparation - Time spent in preparing the necessary correspondence and forms to answer the request.

Other Activity - Time spent in activity other than above, such as duplicating documents, hand carrying documents to other locations, restoring files, etc.

- Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category.

5. PROFESSIONAL HOURS - For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising, and Other Activity - See explanation above.

Coordination/Approval/Denial - Time spent coordinating the staff action with interested offices or agencies and obtaining the approval for the release or denial of the requested information.

- Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category.

6. EXECUTIVE HOURS - For each applicable activity category, enter the time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising - See explanation above.

Coordination/Approval/Denial - See explanation above.

- Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category.

7. COMPUTER SEARCH - When the amount of government- owned (not leased) computer processing machine time required to complete a search is known, and accurate cost information for operation on an hourly basis is available, enter the time used and the hourly rate. Then, calculate the total cost which is fully chargeable to the requester.

- Programmer and operator costs are calculated using the same method as in Items 4 and 5. This cost is also fully chargeable to requesters as computer search time.

8. OFFICE COPY REPRODUCTION - Enter the number of pages reproduced.

- Multiply by the rate per copy and enter cost figures.

9. MICROFICHE REPRODUCTION - Enter the number of microfiche copies reproduced.

- Multiply by the rate per copy and enter cost figures.

10. PRINTED RECORDS - Enter total pages in each category. The categories are:

Forms (Include any type of printed forms)

Publications (Include any type of bound document, such as directives, regulations, studies, etc.)

Reports (Include any type of memorandum, staff action paper, etc.)

- Multiply the total number of pages in each category by the rate per page and enter cost figures.

11. COMPUTER COPY - Enter the total number of tapes and/or printouts.

- Multiply by the actual cost per tape or printout and enter cost figures.

12. AUDIOVISUAL MATERIALS - Duplication cost is the actual cost of reproducing the material, including the wages of the person doing the work.

13. FOR FOI OFFICE USE ONLY -

Search Fees Paid - Enter total search fees paid by the requester.

Review Fees Paid - Enter total review fees paid by the requester.

Copy Fees Paid - Enter the total of copy fees paid by the requester.

Total Paid - Add search fees paid and copy fees paid. Enter total in the total paid block.

Date Paid - Enter year, month, and day, i.e., 19971024, the fee payment was received.

Total Collectable Costs - Add the blocks in the cost column marked with an asterisk and enter total in the total collectable cost block. Apply the appropriate waiver for the category of requester prior to inserting the final figure. Further discussion of chargeable fees is contained in Chapter VI of DoD Regulation 5400.7-R.

Total Processing Costs - Add all blocks in the cost column and enter total in the total processing cost block. The total processing cost in most cases will exceed the total collectable cost.

Total Charged - Enter the total amount that the requester was charged, taking into account the fee waiver threshold and fee waiver policy.

Fees Waived/Reduced - Indicate if the cost of processing the request was waived or reduced by placing an "X" in the "Yes" block or the "No" block.

RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST	REPORT CONTROL SYMBOL
<i>Please read instructions on back before completing form.</i>	

1. REQUEST NUMBER	2. TYPE OF REQUEST (X one)	3. DATE COMPLETED (YYYYMMDD)			
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; text-align: center;">a. INITIAL</td> <td style="width:50%; text-align: center;">b. APPEAL</td> </tr> </table>	a. INITIAL	b. APPEAL		
a. INITIAL	b. APPEAL				
4. CLERICAL HOURS (E-9/GS-8 and below)	TOTAL HOURS (1)	HOURLY RATE (2)	COST (3)		
a. SEARCH		<input checked="" type="checkbox"/> \$12.00 =	*		
b. REVIEW/EXCISING			**		
c. CORRESPONDENCE AND FORMS PREPARATION					
d. OTHER ACTIVITY					
5. PROFESSIONAL HOURS (O-1 - O-6/GS-9 - GS-15)	TOTAL HOURS (1)	HOURLY RATE (2)	COST (3)		
a. SEARCH		<input checked="" type="checkbox"/> \$25.00 =	*		
b. REVIEW/EXCISING			**		
c. COORDINATION/APPROVAL/DENIAL					
d. OTHER ACTIVITY					
6. EXECUTIVE HOURS (O-7 - GS-16/ES 1 and above)	TOTAL HOURS (1)	HOURLY RATE (2)	COST (3)		
a. SEARCH		<input checked="" type="checkbox"/> \$45.00 =	*		
b. REVIEW/EXCISING			**		
c. COORDINATION/APPROVAL/DENIAL					
7. COMPUTER SEARCH	TOTAL HOURS (1)	HOURLY RATE (2)	COST (3)		
a. MACHINE HOURS		<input checked="" type="checkbox"/>	*		
b. PROGRAMMER/OPERATOR TIME		<input checked="" type="checkbox"/>	*		
(1) Clerical		\$12.00	*		
(2) Professional		\$25.00	*		
8. OFFICE COPY REPRODUCTION	NUMBER (1)	RATE (2)	COST (3)		
a. PAGES REPRODUCED		<input checked="" type="checkbox"/> .15 =	*		
9. MICROFICHE REPRODUCTION	NUMBER (1)	RATE (2)	COST (3)		
a. MICROFICHE REPRODUCED		<input checked="" type="checkbox"/> .25 =	*		
10. PRINTED RECORDS	TOTAL PAGES (1)	RATE (2)	COST (3)		
a. FORMS		<input checked="" type="checkbox"/>	*		
b. PUBLICATIONS		.02 =	*		
c. REPORTS			*		
11. COMPUTER COPY	NUMBER (1)	ACTUAL COST (2)	COST (3)		
a. TAPE		<input checked="" type="checkbox"/>	*		
b. PRINTOUT		=	*		
12. AUDIOVISUAL MATERIALS	NUMBER (1)	ACTUAL COST (2)	COST (3)		
a. MATERIALS REPRODUCED		<input checked="" type="checkbox"/> =	*		

13. FOR FOI OFFICE USE ONLY					
a. SEARCH FEES PAID		f. TOTAL COLLECTABLE COSTS			
b. REVIEW FEES PAID		g. TOTAL PROCESSING COSTS			
c. COPY FEES PAID		h. TOTAL CHARGED			
d. TOTAL PAID		i. FEES WAIVED/REDUCED (X one)	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; text-align: center;">Yes</td> <td style="width:50%; text-align: center;">No</td> </tr> </table>	Yes	No
Yes	No				
e. DATE PAID (YYYYMMDD)		* Chargeable to all requesters after application of all waiver criteria. ** Chargeable only to commercial requesters.			

6. NUMBER AND MEDIAN AGE OF CASES PENDING AS OF SEPTEMBER 30 OF THE PRECEDING YEAR

a. TOTAL INITIAL REQUESTS PENDING (<i>open</i>) AS OF SEPTEMBER 30		
b. MEDIAN AGE (<i>in days</i>) OF OPEN INITIAL REQUESTS		

7. TOTAL NUMBER OF INITIAL REQUESTS RECEIVED DURING THE FISCAL YEAR

	TOTAL NUMBER OF CASES	MEDIAN AGE (<i>Days</i>)
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8. TYPES OF INITIAL REQUESTS PROCESSED AND MEDIAN AGE

a. SIMPLE		
b. COMPLEX		
c. EXPEDITED PROCESSING		

9. TOTAL AMOUNT COLLECTED FROM THE PUBLIC

	\$
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10a. FOI PROGRAM COSTS

I. PERSONNEL COSTS		II. OTHER CASE-RELATED COSTS	
A. ESTIMATED MANYEARS		A. COMPUTER SEARCH TIME	\$
B. MANYEAR COSTS	\$	B. OFFICE COPY REPRODUCTION	\$
C. ESTIMATED MANHOURLY COSTS BY		C. MICROFICHE REPRODUCTION	\$
(1) Search Time	\$	D. PRINTED RECORDS	\$
(2) Review and Excising	\$	E. COMPUTER COPY	\$
(3) Coordination and Approval	\$	F. AUDIOVISUAL MATERIALS	\$
(4) Correspondence/Form Preparation	\$	G. OTHER	\$
(5) Other Activities	\$	H. SUBTOTAL (A through G)	\$
(6) Total ((1) through (5))	\$	I. OVERHEAD (25% x H)	\$
D. OVERHEAD ((B+C) x 25%)	\$	J. TOTAL (H+I)	\$
E. TOTAL (B through D)	\$		
III. COST OF ROUTINE REQUESTS PROCESSED	\$	IV. TOTAL COSTS (I through III)	\$

10b. NUMBER OF FULL TIME STAFF

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12. AGENCY

a. NAME		13. APPROVING OFFICIAL
b. ADDRESS (<i>Include ZIP Code</i>)		a. SIGNATURE
		b. TYPED NAME (<i>Last, First, Middle Initial</i>)
		c. TITLE

c. TELEPHONE NUMBER (*Include Area Code*)

**ANNUAL REPORT
FREEDOM OF INFORMATION ACT**

REPORT CONTROL SYMBOL

1. INITIAL REQUEST DETERMINATIONS									
a. TOTAL REQUESTS	b. GRANTED IN FULL	c. DENIED IN PART	d. DENIED IN FULL	e. "OTHER REASONS"	f. TOTAL ACTIONS				
(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7)	(b) (8)	(b) (9)	
2a. EXEMPTIONS INVOKED ON INITIAL REQUEST DETERMINATIONS									
1	2	3	4	5	6	TOTAL			
2b. "OTHER REASONS" CITED ON INITIAL REQUEST DETERMINATIONS									
1	2	3	4	5	6	TOTAL			
3. APPEAL DETERMINATIONS									
a. TOTAL REQUESTS	b. GRANTED IN FULL	c. DENIED IN PART	d. DENIED IN FULL	e. "OTHER REASONS"	f. TOTAL ACTIONS				
(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7)	(b) (8)	(b) (9)	
4a. EXEMPTIONS INVOKED ON APPEAL DETERMINATIONS									
(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7)	(b) (8)	(b) (9)	
4b. "OTHER REASONS" CITED ON APPEAL DETERMINATIONS									
1	2	3	4	5	6	TOTAL			
5. b (3) STATUTES INVOKED ON INITIAL AND APPEAL DETERMINATIONS (Continue on plain paper as necessary)									
(1)(b)(3) STATUTE CLAIMED	NUMBER OF INSTANCES	COURT UPHELD? (Yes or No)	CONCISE DESCRIPTION OF MATERIAL WITHHELD						