

SUBCHAPTER N—FREEDOM OF INFORMATION ACT PROGRAM

PART 285—DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

- Sec.
285.1 Purpose.
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AUTHORITY: 5 U.S.C. 552.

SOURCE: 62 FR 61013, Nov. 14, 1997, unless otherwise noted.

§ 285.1 Purpose.

This part:

- (a) Updates policies and responsibilities for the implementation of the DoD FOIA Program under 5 U.S.C. 552.
(b) Continues to delegate authorities and responsibilities for the effective administration of the FOIA program.

§ 285.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”).

(b) National Security Agency/Central Security Service records are subject to this part unless the records are exempt under section 6 of Pub. L. 86-36 (1959), codified at 50 U.S.C. 402 note. The records of the Defense Intelligence Agency, National Reconnaissance Office, and the National Imagery and Mapping Agency are also subject to this part unless the records are exempt under 10 U.S.C. 424.

§ 285.3 Policy.

It is DoD policy 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 Department of Defense, consistent with DoD

responsibility to ensure national security.

(b) Allow a requester to obtain agency records from the Department of Defense that are available through other public information services without invoking the FOIA.

(c) Make available, under the procedures established by 32 CFR part 286, those agency records that are requested by a member of the general public who explicitly or implicitly cites the FOIA.

(d) Answer promptly all other requests for information, agency records, objects, and articles under established procedures and practices.

(e) Release agency records to the public unless those records are exempt from mandatory disclosure as outlined in 5 U.S.C. 552. Make discretionary disclosures of exempt records or information whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption.

(f) Process requests by individuals for access to records about themselves contained in a Privacy Act system of records under procedures set forth in DoD 5400.11-R,¹ and procedures outlined in this part amplified by 32 CFR part 286.

§ 285.4 Responsibilities.

(a) The Assistant Secretary of Defense for Public Affairs shall:

(1) Direct and administer the DoD FOIA Program to ensure compliance with policies and procedures that govern the administration of the program.

(2) Issue a DoD FOIA regulation and other discretionary instructions and guidance to ensure timely and reasonably uniform implementation of the FOIA in the Department of Defense.

(3) Internally administer the FOIA Program for OSD, the Chairman of the Joint Chiefs of Staff and, as an exception to DoD Directive 5100.3,² the Combatant Commands.

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

²See footnote 1.

(4) As the designee of the Secretary of Defense, serve as the sole appellate authority for appeals to decisions of respective Initial Denial Authorities within OSD, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, and the DoD Field Activities.

(b) The General Counsel of the Department of Defense shall provide uniformity in the legal interpretation of this part.

(c) The Heads of the DoD Components shall:

(1) Publish in the FEDERAL REGISTER any instructions necessary for the internal administration of this part within a DoD Component that are not prescribed by this Directive or by other issuances of the Assistant Secretary of Defense (Public Affairs). For the guidance of the public, the information specified in 5 U.S.C. 552(a)(1) shall be published in accordance with DoD Directive 5400.9.³

(2) Conduct training on the provisions of this part, 5 U.S.C. 552, and 32 CFR part 286 for officials and employees who implement the FOIA.

(3) Submit the report prescribed in subpart G of 32 CFR part 286.

(4) Make available for public inspection and copying in an appropriate facility or facilities, in accordance with rules published in the FEDERAL REGISTER, the records specified in 10 U.S.C. 552(a)(2), unless such records are published and copies are offered for sale. These records shall be made available to the public in hard copy, by computer telecommunications, or other electronic means.

(5) Maintain and make available for public inspection and copying current indices of all (a)(2) records as required by 10 U.S.C. 552(a)(2).

§ 285.5 Information requirements.

The reporting requirements in subpart G of 32 CFR part 286 have been assigned Report Control Symbol DD-PA(A) 1365.

PART 286—DOD FREEDOM OF INFORMATION ACT PROGRAM REGULATION

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APPENDIX C TO PART 286—DD FORM 2086, “RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST”
APPENDIX D TO PART 286—DD FORM 2086-1, “RECORD OF FREEDOM OF INFORMATION

³See footnote 1.