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the National Capital Region (NCR). The NCR includes the District of Columbia; Montgomery and Prince George's Counties in Maryland; Arlington, Fairfax, Loudon, and Prince William Counties in Virginia; and all cities in Maryland and Virginia in the aforementioned counties.

(b) Pursuant to the Planning Act, 40 U.S.C. 8701 et seq., the NCPC's primary mission includes:

(1) Preparation of the "Comprehensive Plan for the National Capital: Federal Elements" (Comprehensive Plan). The Comprehensive Plan sets forth the principles, goals and planning policies that guide federal government growth and development of the NCR, and it serves as the foundation for all other plans prepared by the NCPC.

(2) Review of Federal and District of Columbia Agency Plans and Projects. The Commission reviews, and takes appropriate action on, federal and District government agency plans and projects to ensure compliance with, among others, the Comprehensive Plan, principals of good planning and urban design, and federal environmental and historic preservation policies mandated by the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA).

(3) Preparation of the "Federal Capital Improvement Program for the National Capital Region" (FCIP). The FCIP is an annual, six year program of prioritized federal government capital projects prepared by the NCPC for the Office of Management and Budget (OMB).

(c) The Commission is comprised of five citizen members, three of whom are appointed by the President of the United States without Senate approval, including the Chairman, and two of whom are appointed by the Mayor of the District of Columbia. Ex-officio members of the Commission include:

(1) The Secretary of Defense;

(2) The Administrator of the General Services Administration;

(3) The Mayor of the District of Columbia;

(4) The Chairman of the Council of the District of Columbia;

(5) The Chairman of the Senate Committee of Homeland Security and Governmental Affairs; and

(6) The Chairman of the House Committee on Oversight and Government Reform or their designated alternates.

(d) A professional staff, headed by an Executive Director, assists the Commission and is organized as described on the NCPC Web site (www.ncpc.gov).

§ 456.3 Definitions.

For purposes of this part, the following definitions shall apply:

(a) *Act and FOIA* mean the Freedom of Information Act, 5 U.S.C. 552, as amended.

(b) *Adverse Determination or Determination* shall include a determination to withhold, in whole or in part, Records requested in a FOIA Request; the failure to respond to all aspects of a Request; the determination to deny a request for a Fee Waiver; or the determination to deny a request for expedited processing. The term shall also encompass a challenge to NCPC's determination that Records have not been described adequately, that there are no responsive Records, or that an adequate Search has been conducted.

(c) *Agency Record or Record* means any documentary material which is either created or obtained by a federal agency (Agency) in the transaction of Agency business and under Agency control. Agency Records may include without limitation books; papers; maps; charts; plats; plans; architectural drawings; photographs and microfilm; machine readable materials such as magnetic tape, computer disks and electronic data storage devices; electronic records including email messages; and audiovisual material such as still pictures, sound, and video recordings. This definition generally does not cover records of Agency staff that are created and maintained primarily for a staff member's convenience, exempt from Agency creation or retention requirements, and withheld from distribution to other Agency employees for their official use.

(d) *Confidential Commercial Information* means commercial or financial information obtained by the NCPC from a Submitter that may be protected from disclosure under Exemption 4 of

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the FOIA. Exemption 4 of the FOIA protects trade secrets and commercial or financial information obtained from a person which information is privileged or confidential.

(e) *Controlled Unclassified Information* means unclassified information that does not meet the standards for National Security Classification under Executive Order 13536, as amended, but is pertinent to the national interests of the United States or to the important interests of entities outside the federal government, and under law or policy requires protection from unauthorized disclosure, special handling safeguards, or prescribed limits on exchange or dissemination.

(f) *Commercial Use Request* means a FOIA Request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the Requester or the person on whose behalf the Request is made.

(g) *Direct Costs* means those expenditures that the NCPD incurs in searching for, duplicating, and reviewing documents to respond to a FOIA Request. Direct Costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of the rate to cover benefits) and the cost of operating duplicating machinery. Direct Costs do not include overhead expenses such as costs of space, and heating or lighting the facility in which the Records are stored.

(h) *Duplication* means the process of making a copy of a document necessary to respond to a FOIA Request in a form that is reasonably usable by a Requester. Copies can take the form of, among others, paper copy, audio-visual materials, or machine readable documents (*i.e.*, computer disks or electronic data storage devices).

(i) *Educational Institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research. To be classified in this category, a Requester must show that the

Request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

(j) *Expedited Processing* means giving a FOIA Request priority because a Requester has shown a compelling need for the Records.

(k) *Fee Waiver* means a waiver in whole or in part of fees if a Requester can demonstrate that certain statutory requirements are satisfied including that the information is in the public interest and is not requested for commercial purposes.

(l) *FOIA Public Liaison* means an NCPD official who is responsible for assisting in reducing delays, increasing transparency and understanding the status of Requests, and assisting in the resolution of disputes.

(m) *FOIA Request or Request* means a written Request made by an entity or member of the public for an Agency Record submitted via the U.S. Postal Service mail or other delivery means to include without limitation electronic-mail (email) or facsimile.

(n) *Freelance Journalist* means a Representative of the News Media who is able to demonstrate a solid basis for expecting publication through a news organization, even though not actually employed by that news organization. A publication contract or past evidence of a specific freelance assignment from a news organization may indicate a solid basis for expecting publication.

(o) *Frequently Requested Documents* means documents that have been Requested at least three times under the FOIA. It also includes documents the NCPD anticipates would likely be the subject of multiple Requests.

(p) *Multi-track Processing* means placing simple Requests requiring relatively minimal work and/or review in one processing track, more complex Requests in one or more other tracks, and expedited Requests in a separate track. Requests in each track are processed on a first-in/first-out basis.

(q) *Noncommercial Scientific Institution* means an institution that is not operated for commerce, trade or profit, but is operated solely for the purpose of

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conducting scientific research the results of which are not intended to promote any particular product or industry. To be in this category, a Requester must show that the Request is authorized by and is made under the auspices of a qualifying institution and that the Records are not sought for commercial use but are sought to further scientific research.

(r) *Privacy Act Request* means a written (paper copy with an original signature) request made by an individual for information about himself/herself that is contained in a Privacy Act system of records. The Privacy Act applies only to U.S. citizens and aliens lawfully admitted for permanent residence such that only individuals satisfying these criteria may make Privacy Act Requests.

(s) *Reading Room Materials* means Records, paper or electronic, that are required to be made available to the public under 5.U.S.C. 552(a)(2) as well as other Records that the NCPC, at its discretion, makes available to the public for inspection and copying without requiring the filing of a FOIA Request.

(t) *Representative of the News Media* means any person or entity that gathers information of potential interest to a segment of the population, uses his/her/its editorial skills to turn raw material into a distinct work, and distributes that work to an audience. News media entities include television or radio stations broadcasting to the public at large; publishers of periodicals that qualify as disseminators of news and make their products available for purchase or subscription by the general public; and alternative media to include electronic dissemination through telecommunication (internet) services. To be in this category, a Requester must not be seeking the Requested Records for a commercial use.

(u) *Requester* means an entity or member of the public submitting a FOIA Request.

(v) *Requester Category* means one of the five categories NCPC places Requesters in for the purpose of determining whether the Requester will be charged for Search, Review and Duplication, and includes Commercial Use Requests, Educational Institutions, Noncommercial Scientific Institutions,

Representatives of the News Media, and all other Requesters.

(w) *Review* means the examination of Records to determine whether any portion of the located Record is eligible to be withheld. It also includes processing any Records for disclosure, i.e., doing all that is necessary to excise the record and otherwise prepare the Record for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(x) *Search* means the process of looking for material, by manual or electronic means that is responsive to a FOIA Request. The term also includes page-by-page or line-by-line identification of material within documents.

(y) *Submitter* means any person or entity outside the federal government from whom the NCPC directly or indirectly obtains commercial or financial information. The term includes, among others, corporations, banks, state and local governments, and agencies of foreign governments who provide information to the NCPC.

(z) *Unusual Circumstances* means, for purposes of § 456.7(c), and only to the extent reasonably necessary to the proper processing of a particular Request:

(1) The need to Search for and collect the Requested Agency Records from establishments that are separate from the Commission's offices;

(2) The need to Search for, collect and appropriately examine and Review a voluminous amount of separate and distinct Agency Records which are demanded in a single Request; or

(3) The need for consultation with another Agency having a substantial interest in the determination of the FOIA Request.

(aa) *Workday* means a regular Federal workday. It does not include Saturdays, Sundays, and legal public holidays.

§ 456.4 General policy.

(a) It is the NCPC's general policy to facilitate the broadest possible availability and dissemination of information to the public through use of the NCPC's Web site, *www.ncpc.gov*, and physical distribution of materials not available electronically. The NCPC