

## PART 9901—DISCLOSURE OF RECORDS AND INFORMATION

### FREEDOM OF INFORMATION ACT

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AUTHORITY: National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112-239, Subtitle H, 126 Stat. 1632, 1787 (2013) (amended by National Defense Authorization Act for Fiscal Year 2014, Pub. L. 113-66, Sec. 1095, 127 Stat. 672, 878 (2013)); 5 U.S.C. 552.

SOURCE: 79 FR 54567, Sept. 12, 2014, unless otherwise noted.

### FREEDOM OF INFORMATION ACT

#### § 9901.1 Authority, purpose, and scope.

(a) *Authority.* This information is furnished for the guidance of the public and in compliance with the requirements of the Freedom of Information Act (FOIA), 5 U.S.C. 552. This subpart should be read in conjunction with FOIA.

(b) *Purpose.* (1) The National Defense Authorization Act for Fiscal Year 2013, Public Law 112-239, Subtitle H, 126 Stat. 1632, 1787 (2013) (amended by National Defense Authorization Act for Fiscal Year 2014, Pub. L. 113-66, Sec. 1095, 127 Stat. 672, 878 (2013)), established the Military Compensation and Retirement Modernization Commission (MCRMC). MCRMC's purpose, pursuant to its enabling statute, is to conduct a review of the military compensation and retirement systems and to make recommendations to modernize those systems to:

(i) Ensure the long-term viability of the All-Volunteer Force by sustaining the required human resources of that force during all levels of conflict and economic conditions;

(ii) Enable the quality of life for members of the Armed Forces and the other uniformed services and their families in a manner that fosters successful recruitment, retention, and careers for members of the Armed Forces and the other uniformed services; and

(iii) Modernize and achieve fiscal sustainability for the compensation and retirement systems for the Armed Forces and the other uniformed services for the 21st century.

(2) The Commission will make its recommendations only after it examines all laws, policies and practices of the Federal Government that result in any direct payment of authorized or appropriated funds to current and former members (veteran and retired) of the uniformed services, including the reserve components of those services, and the spouses, family members, children, survivors, and other persons authorized to receive such payments as a result of their connection to Service members.

(c) *Agency.* MCRMC is an independent establishment of the Federal government as defined by Sections 104 and 105 of Title 5 of the U.S. Code, and a temporary organization under section 3161 of such title. The Commission is composed of nine members, appointed by the President and Congressional leadership. Members of this Commission are deemed to be Federal employees. MCRMC maintains its headquarters in Arlington, Virginia.

(d) *Records on individuals.* MCRMC does not maintain any of its own systems of records on individuals. Pursuant to a Memorandum of Understanding between the Department of Defense, Director of Administration & Management and MCRMC, the Department of Defense, Washington Headquarters Services is responsible for MCRMC personnel records management including compliance with the Privacy Act.

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#### § 9901.2 Proactive disclosure of records.

(a) *Proactive disclosure.* Subject to the application of FOIA exemptions, 5 U.S.C. 552(b), records that are required by FOIA to be made available for public inspection and copying and records identified by the agency as records of interest to the public, including Commission hearing schedules, testimony, minutes, press releases, and documents

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provided to the Commission, are available on the MCRMC Web site at <http://www.mcrmc.gov>.

(b) *Final report.* The Commission's final report will be available on its Web site.

(c) *Released records.* The Commission will post records released in response to FOIA requests on its Web site.

#### § 9901.3 Requests for records.

(a) *Generally.* Many documents are available on the MCRMC Web site and MCRMC encourages requesters to visit the Web site before making a request for records pursuant to this subpart. MCRMC will provide records to individual requesters in response to FOIA requests for records not available on its Web site.

(b) *Electronic or written requests required.* For records not available on the Web site, requesters wishing to obtain information from MCRMC should submit a request on the MCRMC Web site. If a computer is not available to the requester, a written request may be made to the MCRMC FOIA Officer. Such requests should be addressed to: FOIA Officer, Military Compensation and Retirement Modernization Commission, Post Office Box 13170, Arlington, VA 22209. As there may be delays in mail delivery, it is advisable to send the request via facsimile to (703) 697-8330 or email to [foia@mcrmc.gov](mailto:foia@mcrmc.gov). MCRMC will communicate with the requester by email unless he or she specifies otherwise.

(c) *Contents of request.* Requests must include the following:

(1) A statement that the request is being made under FOIA, the requester's full name and address, a telephone number at which the requester can be reached during normal business hours, and an email address for the requester, if the requester has one;

(2) A description of the records sought in enough detail to allow the records to be located with a reasonable amount of effort. The request must identify/describe the records sought and include information such as date, title or name, author, recipient, and subject matter of the records sought, where possible;

(3) If submitting the request as an *educational institution*, a *non-commercial*

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*scientific institution*, or a *representative of the news media*, the request must specifically identify the organization on which the status is based, and if a freelance representative of the news media, the requester should submit a history of past publications and/or demonstrate a solid basis for expecting publication through a news-media entity;

(4) A fee waiver, if applicable; and

(5) If the request is made by mail, the words "FOIA REQUEST" or "REQUEST FOR RECORDS" must be clearly marked on the cover letter, letter, and envelope.

(d) *Perfected requests.* MCRMC will process only perfected requests. A perfected request must meet all of the requirements of this subpart.

[79 FR 63498, Oct. 24, 2014]

#### § 9901.4 Timing.

(a) *Acknowledgment of request.* MCRMC will provide an acknowledgment notice with an individualized tracking number and a summary of the records requested to each requester within 10 working days after receiving a request.

(b) *Response time.* Every effort will be made to respond to the request within 20 days (excluding Saturdays, Sundays, and legal public holidays) of receiving the request.

(c) *Appeal.* MCRMC will make a decision with respect to an appeal of a denial of a request for records within 20 days (excluding Saturdays, Sundays, and legal public holidays) after receipt of the appeal.

(d) *Clarification/Additional information.* If a request for records does not reasonably describe the records sought, MCRMC will contact the requester to seek additional information. Requesters may discuss their request with the MCRMC FOIA Public Liaison and modify the request. The MCRMC FOIA Public Liaison may be reached via telephone at (703) 692-2080 or by U.S. Mail at FOIA Public Liaison, Military Compensation and Retirement Modernization Commission, Post Office Box 13170, Arlington, VA 22209. As there may be delays in mail delivery, it is advisable to send the request via facsimile to (703) 697-8330 or email to [foia@mcrmc.gov](mailto:foia@mcrmc.gov). MCRMC may make one