

Chapter 15 – FOIA and Public Affairs Media Queries

Table of Contents

15.1	The Freedom of Information Act (FOIA)	15-3
15.2	Public Affairs Media Queries	15-4
15.3	Ceremonies	15-4
15.4	Information and Photographs	15-5
15.4.1	General	15-5
15.4.2	Photographs of Nuclear-Powered Ships and Nuclear Support Facilities	15-6
15.5	Commercial Advertising/Information	15-6
	Appendix 15-A: Acronyms	15-8

References

- (a) 5 USC 552, Freedom of Information Act (FOIA)
- (b) NAVSEA Policy Memorandum, Ser 00D3/04-01P of 5 January 2004
- (c) Federal Acquisition Regulations (FAR)
- (d) SECNAVINST 5720.42F, DoN Freedom of Information Act
- (e) NAVSEAINST 5720.5, Freedom of Information Act (FOIA) Program
- (f) NAVSEAINST 5727.1B, Public Affairs Coordination within NAVSEA
- (g) SECNAVINST 5720.44C, Public Affairs Policy and Regulations
- (h) SECNAVINST 5031.1C, Ship Naming, Keel Layings, Christenings, Commissionings and Decommissionings
- (i) NAVSEAINST 7303.3C, Financing of Keel Laying, Launching, Commissioning, and Change of Command Ceremony Expense
- (j) SECNAVINST 5510.36A, DoN Information Security Program
- (k) SECNAV M-5510.36, DoN Information Security Program
- (l) NAVSEAINST 5230.12A (Chg 1), Release of Information to the Public

Chapter 15 – FOIA and Public Affairs Media Queries

15.1 The Freedom of Information Act (FOIA)

The Freedom of Information Act (FOIA), [5 USC 552](#), reference (a), provides that government records, whether maintained in paper or electronic form, must be made available to the public by one or more of the following means:

- publication in the Federal Register
- cash sales program
- public reading rooms
- on-line (e.g., World Wide Web)
- on request (provided that the request reasonably describes the record, cites FOIA, and contains an agreement to pay processing fees)

FOIA specifies how agencies will make records available, imposes strict working-day response time requirements, and exempts nine categories of records from mandatory public disclosure. Records cannot, however, be protected from public disclosure unless an exemption applies and release would damage a legitimate governmental purpose. Nonexempt portions must be released.

The exemptions that most often apply to procurement records concern sensitive commercial or financial information, source selection information, pre-decisional inter-agency or intra-agency opinions and recommendations, personal information, and critical technical information.

SUPSHIP will designate a FOIA Coordinator to whom the public and SUPSHIP personnel will direct all FOIA queries or questions. The Supervisor may act as release authority or may delegate release authority to the FOIA Coordinator. Contracting officers are cautioned to avoid discussing FOIA issues with the public, including potential offerors. All conversations relative to FOIA requests should be documented in the FOIA Coordinator's request files. Because SUPSHIPs have NAVSEA Office of Counsel representation, they have the initial denial authority for FOIA requests received by their activity. This authority is delegated to the Supervisor only. The NAVSEA Policy Memorandum, Ser 00D3/04-01P of 5 January 2004, reference (b), provides further details.

When SUPSHIPs receive a request for the release of Program Office-related information under the FOIA, the FOIA Coordinators are to:

- Provide the affected PEO/PM notification of the information that will be released in response to FOIA requests (prior to release) to permit the PEO/PM to anticipate potential program impacts. In return, the PEOs/PMs have agreed to communicate any concerns to SUPSHIP in a timely manner in order to preserve the SUPSHIP's ability to meet statutory deadlines for responding to FOIA requests.
- Provide the affected company notification of intent to release information to the maximum extent possible which would allow them to prepare for any press or other interest.

Additional guidance on FOIA is provided by:

- FAR, reference (c), [Part 24.2](#), Freedom of Information Act
- [SECNAVINST 5720.42F](#), reference (d), "DoN Freedom of Information Act"
- [NAVSEAINST 5720.5](#), reference (e), Freedom of Information Act (FOIA) Program
- local instructions

15.2 Public Affairs Media Queries

SUPSHIP will designate one point of contact to whom SUPSHIP personnel will direct all media questions. Media queries and the responses will be documented on NAVSEA Form 5721/1 (enclosure to [NAVSEAINST 5727.1B**](#), reference (f)). NAVSEA's Office of Congressional and Public Affairs (NAVSEA 00D) should be contacted for guidance on queries which may generate national interest for further coordination with headquarters. [NAVSEAINST 5727.1B**](#), Public Affairs Coordination within NAVSEA, provides guidance on media queries. Media access to shipyards also must be approved and a security plan developed to control such access. NAVSEA codes 00D and 104 coordinate these activities.

15.3 Ceremonies

Per [SECNAVINST 5720.44C](#), Public Affairs Coordination within NAVSEA, reference (g), and [SECNAVINST 5031.1C](#), Ship Naming, Keel Laying, Christenings, Commissionings, and Decommissionings, reference (h), ships' milestones differ in scope and level of Navy involvement. According to reference (g), the contractor is responsible for arranging ceremonies and coordinating those ceremonies with SUPSHIP for keel laying and launching of ships constructed in private shipyards. [NAVSEAINST 7303.3C](#), "Financing of Keel Laying, Launching, Commissioning, and Change of Command Ceremony Expense," reference (i), provides policy and guidance on financing policy and procedures for ceremonial expenses associated with ship construction.

** Denotes secure hyperlink requiring NMCI/CAC access

15.4 Information and Photographs

15.4.1 General

Local release authority is approved for specific events to include pictures of employees, local celebrations, employees participating in promotions or award presentation ceremonies. References (j), SECNAVINST 5510.36A, and (k), SECNAV M-5510.36, establish uniform policies and procedures and implement the direction to observe the democratic principles of openness and flow of information, as well as enforce protective measures for safeguarding information critical to national security. Therefore, information is released only after it is determined to be consistent with established DoD and DoN policies and programs. Information requests received by SUPSHIPS will be sent to NAVSEA 00D for policy, technical, and security review. NAVSEA 00D will coordinate review with interested directorates as required.

The following instructions provide guidance for controlling the release of information and photographs:

- [SECNAVINST 5720.44C](#), "Public Affairs Policy & Regulations"
- [SECNAVINST 5510.36A](#), "DoN Information Security Program," reference (j)
- [SECNAV M-5510.36](#), "DoN Information Security Program," reference (k)
- [NAVSEAINST 5230.12A**](#) (and Change 1), "Release of Information to the Public," reference (l)

While contractors may be obligated to provide progress and key event photographs, commanding officers shall give consideration to personal electronic devices that have recording, photographic, storage or transmission capabilities and consider the risks with having those devices in areas where classified information is stored or processed. If required, the negatives and prints will become the property of the Government. Negatives and prints will be stamped as follows:

OFFICIAL PHOTOGRAPH NOT TO BE RELEASED FOR PUBLICATION

Classified photographs will be designated, handled, and secured according to the security requirements of the contract. Photographs and negatives must be marked with their highest overall classification level on the reverse side. Authority to take photographs other than those required will be obtained from the SUPSHIP.

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15.4.2 Photographs of Nuclear-Powered Ships and Nuclear Support Facilities

Photographs of naval nuclear-powered ships in operation, construction or conversion or industrial facilities including CIAs, must be reviewed by local security and a technical representative prior to forwarding to NAVSEA. NAVSEA 00D will provide a letter authorizing release. Official photographs of nuclear-powered ships and related nuclear support facilities are particularly sensitive and may contain potential intelligence value. [NAVSEAINST 5230.12A**](#) and its associated Change 1, require photographs that may contain such information undergo a security review and be approved for public release by NAVSEA 00D.

A media plan should be developed for ceremonies of substantial public interest, such as keel laying, launching, and commissioning of nuclear-powered ships. The media plan should be thoroughly reviewed and include an onsite security assessment and, more importantly, an Operational Security (OPSEC) assessment. Per reference (h), the shipbuilder has the ultimate responsibility for coordinating media activities associated with ceremonies; however, active involvement by Navy media and public affairs organizations is essential. The SUPSHIP PAO shall collaborate with the shipbuilder and the PEO to develop an overarching media plan that includes a Navy media focus.

Prior approval for photographic coverage is required for the ceremonies listed above. A detailed security plan will be submitted describing measures to screen or exclude sensitive areas from photographic coverage. Approval of the coverage eliminates the need to submit photographs for approval and permits timely news coverage. Photographers for these events will be under constant escort and will photograph only those areas that have been approved.

15.5 Commercial Advertising/Information

Contractors frequently refer to participation in Navy programs in their commercial advertising. [SECNAVINST 5720.44C](#) requires that proposed advertising and other promotional activities be submitted to the Navy for review and clearance in advance of publication. The contractor will submit the proposed text to SUPSHIP, who will in turn, forward the copy to NAVSEA 00D for further coordination. The general Navy policy is not to object to such advertisements, if the advertisements do not:

- directly or indirectly constitute an endorsement by the DoN or any member of the DoN for the contractor's product or service
- indicate or imply in any manner departmental preference for the contractor
- contain reference to contract number or other contractual details
- disclose classified military information

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Any office that becomes aware of any advertisement which appears to conflict with the conditions listed above will immediately bring it to the attention of the cognizant SUPSHIP PAO. The SUPSHIP will take the necessary action with the contractor to resolve the matter according to policy. If the matter cannot be resolved to the satisfaction of the SUPSHIP, the matter should be referred by letter report to NAVSEA 02. The report will include a statement of all facts and circumstances in sufficient detail to enable NAVSEA 02 to take appropriate action.

Appendix 15-A: Acronyms

CIA	Controlled Industrial Area
DoD	Department of Defense
DoN	Department of the Navy
FAR	Federal Acquisition Regulations
FOIA	Freedom of Information Act
NAVSEA	Naval Sea Systems Command
NAVSEAINST	Naval Sea Systems Command Instruction
OPSEC	Operations Security
PAO	Public Affairs Officer
PEO	Program Executive Office
PM	Program Manager
SECNAVINST	Secretary of Navy Instruction
SECNAV-M	Secretary of the Navy Manual
SUPSHIP	Supervisor of Shipbuilding, Conversion and Repair, USN
USC	United States Code