

EXHIBIT I

Submit New Request

Requester Details

To modify request details please update your requester profile or contact our office for assistance.

Batul Contractor

Democracy Forward
1333 H Street
DC, DC 20005
Phone 515-441-3242
foia@democracyforward.org

Requester Default Category: News Media

Custom Fields

Requester Control # :
Previous Address 2 :

General Information

Action Office Instructions	
Request Type	FOIA
Requester Category	News Media

Shipping Address

Street1	1333 H Street
Street2	
City	DC
State	District of Columbia
Country	United States
Zip Code	20005

Request Information

Description Document	MOAA DOD FOIA 12_12_18 FINAL.pdf
Description	Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 et seq., and the U.S. Department of Defense ("DoD") FOIA regulations, 32 C.F.R. Part 286, the Military Officers Association of America and Democracy Forward Foundation submit this request for records.

Background

The Department of Defense and the Consumer Financial Protection Bureau (CFPB) share responsibility for administering the Military Lending Act (MLA), which protects military servicemembers from financial fraud and predatory lending. Essential to the government's MLA administration is CFPB's supervision of financial institutions to ensure that they are complying with the MLA, thereby preventing servicemembers from being victimized by fraudulent and predatory behavior. But recent actions raise questions about the extent to which the CFPB is honoring the government's commitment to our servicemembers that is embodied in the MLA.

Reporting by the New York Times and others has revealed that the CFPB "intends to scrap the use of so-called supervisory examinations of lenders" for MLA compliance, based on its erroneous legal conclusion that the MLA does not provide authority to conduct supervisory examinations to ensure MLA compliance. Subsequent reporting suggests that the Bureau has followed through. Bloomberg reported that "CFPB also no longer supervises banks and other firms for compliance with the Military Lending Act." CFPB, however, has not revised its supervision manual or publicly released any guidance confirming its apparent change in policy.

DoD has publicly disagreed with CFPB's apparent policy change. Acting Assistant Secretary of Defense for Manpower and Reserve Affairs Stephanie Barna explained, "The Department believes that the full spectrum of tools, including supervisory examinations, contribute to effective industry education about, and compliance with, the MLA." However, there is no indication that CFPB will accede to DoD's stated view.

Records Requested

In an effort to understand and explain to the public how the Military Lending Act is being

1. All records containing or reflecting communications to or from the Consumer Financial Protection Bureau containing the terms "MLA" or "Military Lending Act."
2. All records, including but not limited to records containing or reflecting communications, containing the terms (i) "CFPB," "BCFP," "Bureau," "Mulvaney," or "Blankenstein," and (ii) "MLA" or "Military Lending Act."

Date Range for Record Search:From
Date Range for Record Search:To

01/20/2017

12/17/2018

Fee Information

Willing Amount \$25

Custom Fields

Requester #

December 12, 2018

Via Electronic Delivery

Stephanie Carr
OSD/JS FOIA Requester Service Center
Office of Freedom of Information
U.S. Department of Defense
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Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552 *et seq.*, and the U.S. Department of Defense (“DoD”) FOIA regulations, 32 C.F.R. Part 286, the Military Officers Association of America and Democracy Forward Foundation submit this request for records.

Background

The Department of Defense and the Consumer Financial Protection Bureau (CFPB) share responsibility for administering the Military Lending Act (MLA), which protects military servicemembers from financial fraud and predatory lending.¹ Essential to the government’s MLA administration is CFPB’s supervision of financial institutions to ensure that they are complying with the MLA, thereby preventing servicemembers from being victimized by fraudulent and predatory behavior. But recent actions raise questions about the extent to which the CFPB is honoring the government’s commitment to our servicemembers that is embodied in the MLA.

Reporting by the New York Times and others has revealed that the CFPB “intends to scrap the use of so-called supervisory examinations of lenders” for MLA compliance, based on its erroneous legal conclusion that the MLA does not provide authority to conduct supervisory examinations to ensure MLA compliance.² Subsequent reporting suggests that the Bureau has followed through. Bloomberg reported that “CFPB also no longer supervises banks and other

¹ See DoD & CFPB, *Joint Statement of Principles on Consumer Financial Protection* (May 4, 2012), https://files.consumerfinance.gov/f/201309_cfpb_small-dollar-lending.pdf.

² See Glenn Thrush, N.Y. Times, *Mulvaney Looks to Weaken Oversight of Military Lending* (Aug. 10, 2018), <https://www.nytimes.com/2018/08/10/us/politics/mulvaney-military-lending.html>.

firms for compliance with the Military Lending Act.”³ CFPB, however, has not revised its supervision manual or publicly released any guidance confirming its apparent change in policy.⁴

DoD has publicly disagreed with CFPB’s apparent policy change. Acting Assistant Secretary of Defense for Manpower and Reserve Affairs Stephanie Barna explained, “The Department believes that the full spectrum of tools, including supervisory examinations, contribute to effective industry education about, and compliance with, the MLA.”⁵ However, there is no indication that CFPB will accede to DoD’s stated view.

Records Requested

In an effort to understand and explain to the public how the Military Lending Act is being enforced and supervised, Military Officers Association of America and Democracy Forward Foundation request that DoD produce the following within twenty (20) business days:

1. All records containing or reflecting communications to or from the Consumer Financial Protection Bureau containing the terms “MLA” or “Military Lending Act.”
2. All records, including but not limited to records containing or reflecting communications, containing the terms (i) “CFPB,” “BCFP,” “Bureau,” “Mulvaney,” or “Blankenstein,” and (ii) “MLA” or “Military Lending Act.”

In completing this search, please search for records created between June 1, 2018 and the date on which the search is completed.

Please search for records in the possession of custodians within the following offices: Office of the Undersecretary for Personnel and Readiness, Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs, Office of the Assistant Secretary of Defense for Legislative Affairs, Office of the Assistant to the Secretary of Defense for Public Affairs, and Office of the Secretary of Defense.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive

³ See Evan Meinberger, Bloomberg Law, *Enforcement Slowdown Defines Mulvaney’s CFPB Tenure* (Nov. 26, 2018), <https://news.bloomberglaw.com/banking-law/enforcement-slowdown-defines-mulvaneys-cfpb-tenure-1>.

⁴ See CFPB Supervision and Examination Process (Aug. 2018), https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual.pdf.

⁵ See Kate Berry, American Banker, *Pentagon, Others Baffled by CFPB Plan to Cease Military Lending Exams* (Oct. 11, 2018), <https://www.americanbanker.com/news/pentagon-others-baffled-by-cfpb-plan-to-cease-military-lending-exams>.

records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Request for Fee Waiver

Military Officers Association of America and Democracy Forward Foundation request a waiver of document search, review, and duplication fees because the disclosure of the requested records is in the public interest and because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). Democracy Forward Foundation also requests a waiver of search fees on the ground that it qualifies as a “representative of the news media,” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

The disclosure of requested records is “likely to contribute significantly to public understanding of the operations or activities of the government” because, as discussed above, news accounts underscore the substantial public interest in the records sought through this request. 5 U.S.C. § 552(a)(4)(A)(iii). Given the ongoing and widespread media attention, the records sought will

contribute significantly to public understanding of an issue of profound public importance. Moreover, Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3) and is dedicated to promoting policy engagement and civic education. Military Officers Association of America is a nonprofit organization organized under Internal Revenue Code § 501(c)(19), as a tax-exempt veterans organization, dedicated to serving military officers and their families and providing guidance and advice on compensation and benefits matters such as the Military Lending Act.⁶ As nonprofit organizations, they do not have a commercial interest in the records. The records obtained from this request will be made available to the public at no cost.

As in other work Democracy Forward Foundation has done, Democracy Forward Foundation intends to use disclosed records to provide necessary and noteworthy information to the general public by disseminating relevant information through its website, social media, and other platforms at no cost to the public.⁷ It is therefore a “representative of the news media” for the same reasons it is “primarily engaged in disseminating information.” *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Democracy Forward meets the definition of “representative[s] of the news media” because it gathers information, exercises editorial discretion in selecting and organizing documents, and “distributes the resulting work to the public.” *Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). It is therefore a “representative of the news media” for the same reasons it is “primarily engaged in disseminating information.” 5 U.S.C. §§ 552(a)(4)(A)(ii)(II), 552(a)(6)(E)(v)(II).

If the request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$100. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 10-day period, please contact Nitin Shah as soon as possible at foia@democracyforward.org or (202) 448-9090.

We appreciate your assistance and look forward to your prompt response.

⁶ *See* Military Officers Association of America, *Voices for America’s Troops, Less Oversight of Payday Lenders?*, http://www.voicesfortroops.org/Learn_More/From_the_Newsletter/Less_Oversight_of_Payday_Lenders.html.

⁷ *See, e.g.,* Vera Bergengruen, *New Emails Show What Happens When The Pentagon Has To Scramble To Catch Up To Trump*, BuzzFeed News (July 25, 2018), <https://www.buzzfeednews.com/article/verabergengruen/these-emails-show-what-happens-when-the-white-house-keeps> (citing to emails obtained through a request for documents made by Democracy Forward under the FOIA); *see also* Democracy Forward (@DemocracyFwd), Twitter (July 27, 2018, 11:45 AM), <https://twitter.com/DemocracyFwd/status/1022870550769754112>.

Sincerely,

/s Nitin Shah
Nitin Shah
Senior Counsel
Democracy Forward Foundation

/s Aniela Szymanski
Aniela Szymanski
Director of Government Relations
Military Officers Association of America