

## § 105-60.101

## 41 CFR Ch. 105 (7-1-10 Edition)

employees on the response to a subpoena or other legal demand for material or information received or generated in the performance of official duty or because of the person's official status.

(c) Any policies and procedures in any GSA internal or external directive inconsistent with the policies and procedures set forth in this part are superseded to the extent of that inconsistency.

### Subpart 105-60.1—General Provisions

#### § 105-60.101 Purpose.

This part 105-60 implements the provisions of the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552. The regulations in this part also implement Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, of June 23, 1987 (3 CFR, 1987 Comp., p. 235). This part prescribes procedures by which the public may inspect and obtain copies of GSA records under the FOIA, including administrative procedures which must be exhausted before a requester invokes the jurisdiction of an appropriate United States District Court for GSA's failure to respond to a proper request within the statutory time limits, for a denial of agency records or challenge to the adequacy of a search, or for a denial of a fee waiver.

#### § 105-60.102 Application.

This part applies to all records and informational materials generated, maintained, and controlled by GSA that come within the scope of 5 U.S.C. 552.

#### § 105-60.103 Policy.

##### § 105-60.103-1 Availability of records.

The policies of GSA with regard to the availability of records to the public are:

(a) GSA records are available to the greatest extent possible in keeping with the spirit and intent of the FOIA. GSA will disclose information in any existing GSA record, with noted exceptions, regardless of the form or format of the record. GSA will provide the

record in the form or format requested if the record is reproducible by the agency in that form or format without significant expenditure of resources. GSA will make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(b) The person making the request does not need to demonstrate an interest in the records or justify the request.

(c) The FOIA does not give the public the right to demand that GSA compile a record that does not already exist. For example, FOIA does not require GSA to collect and compile information from multiple sources to create a new record. GSA may compile records or perform minor reprogramming to extract records from a database or system when doing so will not significantly interfere with the operation of the automated system in question or involve a significant expenditure of resources.

(d) Similarly, FOIA does not require GSA to reconstruct records that have been destroyed in compliance with disposition schedules approved by the Archivist of the United States. However, GSA will not destroy records after a member of the public has requested access to them and will process the request even if destruction would otherwise be authorized.

(e) If the record requested is not complete at the time of the request, GSA may, at its discretion, inform the requester that the complete record will be provided when it is available, with no additional request required, if the record is not exempt from disclosure.

(f) Requests must be addressed to the office identified in § 105-60.402-1.

(g) Fees for locating and duplicating records are listed in § 105-60.305-10.

##### § 105-60.103-2 Applying exemptions.

GSA may deny a request for a GSA record if it falls within an exemption under the FOIA outlined in subpart 105-60.5 of this part. Except when a record is classified or when disclosure would violate any Federal statute, the authority to withhold a record from disclosure is permissive rather than mandatory. GSA will not withhold a