AUTHENTICATED
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PART 300 [RESERVED]

PART 301—PUBLIC ACCESS TO CLASSIFIED MATERIAL

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AUTHORITY: E.O. 12356, 43 FR 14874 dated April 2, 1982.

SOURCE: 49 FR 13692, Apr. 6, 1984, unless otherwise noted.

§ 301.1 Introduction.

The following regulations implement Executive Order 12356 and provide guidance for members of the public desiring a review for declassification of a document of the Peace Corps.

§ 301.2 Requests for mandatory declassification review.

(a) All information originally classified by the Peace Corps shall be subject to review for declassification.

(b) Requests for review of such information for declassification shall be in writing, addressed to the Peace Corps Director of Security, Peace Corps, Washington, DC 20526, and reasonably describe the information sought with sufficient specificity to enable its location with a reasonable amount of effort. Only requests made by a United States citizen or a permanent resident alien, a Federal agency or a State or local government will be considered.

(c) Requests relating to information, either derivatively classified by the Peace Corps or originally classified by another agency but in the possession of the Peace Corps, shall be forwarded, together with a copy of the record, to the originating agency. The transmittal may contain in Peace Corps recommendation for action.

§ 301.3 Action on requests for declassification review.

(a) The Director of Security shall present each request for declassification to the Peace Corps Classification Review Committee, which shall consist of the Associate Director for International Operations, the Associate Director for Management and the General Counsel, or their designees, together with his or her recommendation for action.

(b) Every effort will be made to complete action on each request within 60 days of receipt thereof.

(c) Information shall be declassified or downgraded as soon as national security considerations permit. If the Classification Review Committee determines that the material for which review is requested no longer requires this protection, it shall be declassified and made available to the requester unless withholding is otherwise authorized by law.

(d) If the Peace Corps Classification Review Committee determines that requested information must remain classified, the requester shall be given prompt notice of the decision and, if possible, a brief explanation of why the information cannot be declassified.

(e) The Peace Corps may refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classified under E.O. 12356.

(f) A requester may appeal a refusal to declassify information to the Director of the Peace Corps, or the Director's designee. Appeals shall be in writing, addressed to the Director of the Peace Corps, Washington, DC 20526, and shall briefly state the reasons why the requester believes that the Peace Corps Classification Review Committee decision is in error. Appeals must be submitted within 30 days after receipt of notice of the Classification Review Committee decision. The decision of the Peace Corps Director, or designee, will be based on the entire record, and will be rendered in writing within 60 days after receipt of an appeal. The decision of the Director or Director's designee is the final Peace Corps action on a request.

PART 303—PROCEDURES FOR DISCLOSURE OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

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AUTHORITY: 5 U.S.C. 552; 22 U.S.C. 2501, et. seq.; E.O. 12137, 44 FR 29023, 3 CFR, 1979 Comp., p. 389; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

SOURCE: 68 FR 66008, Nov. 25, 2003, unless otherwise noted.

§ 303.1 Purpose.

This part sets out the rules and procedures the Peace Corps follows in making records available to the public under the Freedom of Information Act (FOIA).

§ 303.2 Definitions.

As used in this part—

(a) *Commercial use request* means a 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. In determining whether a requester has made a commercial use request, the Peace Corps will look to the use to which a requester will put the documents requested. When the Peace Corps has reasonable cause to doubt the requester's stated use of the records sought, or where the use is not clear from the request itself, it will seek additional clarification before assigning the request to a category.

(b) *Duplication* means the process of making a copy of a record requested pursuant to this part. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable electronic documents, among others.

(c) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, or an institution of professional or vocational education which operates a program or programs of scholarly research.

(d) *Non-commercial scientific institution* means an institution that is not operated on a ''commercial'' basis and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(e) *OIG records* means those records as defined generally in this section which originated with or are in the possession and control of the Office of Inspector General (OIG) of the Peace Corps which have been compiled for law enforcement, audit, and investigative functions and/or any other purpose authorized under the IG Act of 1978, as amended.

(f) *Records* means books, papers, maps, photographs, or other documentary materials, regardless of whether the format is physical or electronic, made or received by the Peace Corps in connection with the transaction of Peace Corps' business and preserved by the Peace Corps as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Peace Corps, or because of the informational value of data in them. The term does not include, *inter alia*, books, magazines, or other materials acquired solely for library purpose, or that are otherwise publicly available.

(g) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances when they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (*e.g.*, electronic dissemination of newspapers through telecommunications services), such alternative media would be included in

this category. In the case of ''freelance'' journalists, they will be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(h) *Review* means the process of examining a document located in response to a request to determine whether any portion of such document is exempt from disclosure. It also includes processing any such document for disclosure. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(i) *Search* means the process of looking for and retrieving records that are responsive to a request for records. It includes page-by-page or line-by-line identification of material within documents and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Searches may be conducted manually or by automated means and will be conducted in the most efficient and least expensive manner. If the Agency cannot identify the requested records after a 2 hour search, it can determine that the records were not adequately described and ask the requester to provide a more specific request.

§ 303.3 Policy.

The Peace Corps will make its records concerning its operations, activities, and business available to the public consistent with the requirements of the FOIA. Records exempt from disclosure under the FOIA may be made available at the discretion of the Peace Corps.

§ 303.4 Records published in the Federal Register.

The Peace Corps publishes its notices and substantive regulations in the FEDERAL REGISTER. It also publishes information on its basic structure and operations necessary to inform the public how to deal effectively with the Peace Corps in the *United States Government Manual,* a special publication of the FEDERAL REGISTER. The Peace Corps will make reasonable efforts to currently update such information, which includes information on Peace Corps' location and functions, and how the public may obtain information or forms, or make submittals or requests. The Peace Corps' published regulations are at 22 CFR Chapter III.

§ 303.5 Public reading room.

(a) The Peace Corps will maintain a public reading room at its headquarters at 1111 20th Street, NW., Washington, DC 20526. This room will be supervised and will be open to the public during Peace Corps' regular business hours for inspecting and copying records described in paragraph (b) of this section.

(b) Subject to the limitation stated in paragraph (c) of this section, the following records will be made available in the public reading room:

(1) All final public opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases that involve the Peace Corps;

(2) Statements of policy and interpretations adopted by the Peace Corps that are not published in the FEDERAL REGISTER;

(3) Administrative staff manuals and instructions to the staff that affect the public;

(4) Copies of records, regardless of form or format, released to any person in response to a public request for records which the Peace Corps determines are likely to become subject to subsequent requests for substantially the same records, and a general index of such records;

(5) The index required by § 303.7; and

(6) Other records the Peace Corps has determined are of general interest to members of the public in understanding activities of the Peace Corps or in dealing with the Peace Corps in connection with those activities.

(c) Certain records otherwise required by FOIA to be available in the public reading room may be exempt from mandatory disclosure pursuant to § 552(b) of the FOIA. Such record will not be made available in the public reading room. Other records maintained in the public reading room may be edited by the deletion of identifying details concerning individuals to prevent a clearly unwarranted invasion of personal privacy. In such cases, the

record shall have attached to it an explanation of the deletion. The extent of the deletion shall be indicated, unless doing so would harm an interest protected by the exemption under which the deletion is made. It technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made.

(d) *Electronic reading room.* Records required by the FOIA to be maintain and made available in the public reading room created by the Peace Corps on or after November 1, 1996, shall be made available electronically.

(e) Most electronic public reading room records will also be made available to the public on the Peace Corps Web site at *http://www.peacecorps.gov*.

§ 303.6 Procedures for use of public reading room.

Any member of the public may inspect or copy records described in § 303.5(b) in the public reading room during regular business hours. Because it will sometimes be impossible to produce records or copies of records on short notice, a person who wishes to inspect or copy records shall arrange a time in advance, by telephone or letter request made to the Peace Corps FOIA Officer. Persons submitting request by telephone will be notified whether a written request would be advisable to aid in the identification and expeditious processing or the records sought. Written request should identify the records sought in the manner described in § 303.8(b) and should request a specific date for inspecting the records. The requester will be advised as promptly as possible if, for any reason, it may not be possible to make the records sought available on the date requested.

§ 303.7 Index of records.

The Peace Corps will maintain a current index identifying any matter within the scope of § 303.4 or § 303.5(b)(1) through (5). The index will be maintained and made available for public inspection and copying at the Peace Corps' headquarters in Washington, DC. The cost of a copy of the index will not exceed the standard charge for duplication set out in § 303.13(e). The Peace Corps will also make the index available on its public Web site.

§ 303.8 Requests for records.

(a) Except for records required by the FOIA to be published in the FEDERAL REGISTER or to be made available in the public reading room, Peace Corps records will be made promptly available, upon request, to any person in accordance with this section, unless it is determined that such records should be withheld and are exempt form mandatory disclosure under the FOIA.

(b) *Requests.* Requests for records under this section shall be made in writing via regular mail, e-mail, or facsimile and, as applicable, the envelope, letter or subject line shall be clearly marked ''Freedom of Information Request.'' All requests shall be addressed to the FOIA Officer. Requests by letter shall use the address given in § 303.5(a) and requests by e-mail must be sent to the FOIA electronic mailbox address *foia@peacecorps.gov*. Any request not marked and addressed as specified in this paragraph will be so marked by Peace Corps personnel as soon as the request is properly identified. The request will then be forwarded immediately to the FOIA Officer. A request improperly addressed will not be deemed to have been received for purposes of the time period set out in paragraph (h) of this section until it has been received by the FOIA Officer. Upon receipt of an improperly addressed request, the FOIA Officer shall notify the requester of the date on which the time period began. The request shall be stamped ''received'' on the date it is received by the FOIA Office. Any request received by e-mail shall be printed on paper and stamped on the date it is received by the FOIA Office.

(c) A request must reasonably describe the records requested so that employees of the Peace Corps who are familiar with the subject area of the request are able, with a reasonable amount of effort, to determine which particular records are within the scope of the request. If it is determined that a request does not reasonably describe the records sought, the requester shall

be so informed and provided an opportunity to confer with Peace Corps personnel in order to attempt to reformulate the request in a manner that will meet the needs of the requester and the requirements of this paragraph. If the Agency cannot identify the requested records after a 2 hour search, it can determine that the records were not adequately described and ask the requester to provide a more specific request.

(d) To facilitate the location of records by the Peace Corps, a requester should try to provide the following kinds of information, if known;

(1) The specific event or action to which the record refers;

(2) The unit or program of the Peace Corps which may be responsible for or may have produced the record;

(3) The date of the record or the date or period to which it refers or relates;

(4) The type of record, such as an application, a particular form, a contract, or a report;

(5) Personnel of the Peace Corps who may have prepared or have knowledge of the record; or

(6) Citations to newspapers or publications which have referred to the record.

(e) The Peace Corps is not required to create a record or to perform research to satisfy a request.

(f) Any request for a waiver or reduction of fees should be included in the FOIA request, and any such request should indicate the grounds for a waiver or reduction of fees, as set out in § 303.13(f). The Peace Corps shall respond to such request as promptly as possible.

(g) *Format*. The Peace Corps will provide records in the form or format indicated by the requester to the extent such records are readily reproducible in the requested form or format.

(h) *Initial response/delays*. (1) The FOIA Officer, upon request for any records made in accordance with this section, except in the case of a request for OIG records, shall make an initial determination of whether to comply with or deny such request and dispatch such determination to the requester within 20 business days after receipt of such request, except for unusual circumstances, in which case the time limit may be extended for up to 10 business days by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched.

(2) If the FOIA Officer determines that a request or portion thereof is for OIG records, the FOIA Officer shall promptly refer the request or portion thereof to the OIG and send notice of such referral to the requester. In such case, the OIG FOIA Officer shall make an initial determination of whether to comply with or deny such request and dispatch such determination to the requester within 20 business days after receipt of such request, except for unusual circumstances, in which case the time limit may be extended for up to 10 business days by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. If for any reason, a request for Agency information goes directly to the OIG rather than through the FOIA Officer, the OIG shall provide notice to the FOIA Officer of its receipt of the request. The FOIA Office and the OIG should normally consult with each other whenever they receive requests for the same or similar records.

(3) *Unusual circumstances*. As used in this part, ''unusual circumstances'' are limited to the following, but only to the extent reasonably necessary for the proper processing of the particular request:

(i) The need to search for and collect the requested records from components or locations that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or organization having a substantial interest in the determination of the request or among two or more components of the Peace Corps having a substantial subject matter interest therin.

(i) If a request is particularly broad or complex so that it cannot be completed within the time periods stated

in paragraph (h) of this section, the Peace Corps may ask the requester to narrow the request or agree to an additional delay.

(j) When no determination can be dispatched within the applicable time limit, the FOIA Officer or the OIG FOIA Officer shall inform the requester of the reason for the delay, the date on which a determination may be expected to be dispatched, and the requester's right to treat the delay as a denial and to appeal to the Associate Director for the Office of Management or the Inspector General, in accordance with § 303.12. If no determination has been dispatched by the end of the 20-day period, or the last extension thereof, the requester may deem the request denied, and exercise a right of appeal in accordance with § 303.12. The FOIA Officer or the OIG FOIA Officer may ask the requester to forego an appeal until a determination is made.

(k) After it has been determined that a request will be granted, the responsible official will act with due diligence in providing a prompt response.

(l) *Expedited treatment.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever the requester demonstrates a compelling need. A compelling need means:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged Peace Corps or Federal government activity and the request is made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) a matter of widespread and exceptional media interest in which there exist possible questions about the Peace Corps' or the Federal government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing must be properly addressed and marked and received by the Peace Corps pursuant to paragraph (b) of this section.

(3) A requester who seeks expedited processing must submit a statement demonstrating a compelling need that is certified by the requester to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing.

(4) Within ten business days of its receipt of a request for expedited processing, the FOIA Officer or the OIG FOIA Officer shall decide whether to grant the request and shall notify the requester of the decision. If a request for expedited treatment is granted, the request shall be given priority and shall be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision shall be acted on expeditiously by the Peace Corps.

(5) Appeals shall be made to the Associate Director for the Office of Management, who shall respond within 10 business days of receipt of the appeal.

[68 FR 66008, Nov. 25, 2003, as amended at 72 FR 27055, May 14, 2007]

§ 303.9 Exemptions for withholding records.

(a) The Peace Corps may withhold a requested record from public disclosure only if the record fits within one or more of the following FOIA exemptions:

(1) Matter specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and is in fact properly classified pursuant to such Executive Order;

(2) Matter which is related solely to the internal personnel rules and practices of the Peace Corps;

(3) Matter which is specifically exempted from disclosure by statute (other than exemptions under FOIA at 5 U.S.C. 552(b)), provided that such statute requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding, or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters which would not

be available by law to a party other than an agency in litigation with the Peace Corps;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes including enforcing the Peace Corps Act or any other law, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person or a recipient of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis; and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(b) In the event that one or more of the above exemptions in paragraph (a) of this section apply, any reasonably segregable portion of a record shall be provided to the requester after deletion of the portions that are exempt. The amount of information deleted shall be indicated on the released portion of the record, unless doing so would harm the interest protected by the exemption under which the deletion is made. If technically feasible, the amount of information deleted shall be indicated at the place in the record where the deletion is made. At the discretion of the Peace Corps officials authorized to grant or deny a request for records, it may be possible to provide a requester with:

(1) A summary of information in the exempt portion of a record; or

(2) An oral description of the exempt portion of a record.

(c) No requester shall have a right to insist that any or all of the techniques in paragraph (b) of this section should be employed in order to satisfy a request.

(d) Records that may be exempt from disclosure pursuant to paragraph (a) of this section may be made available at the discretion of the Peace Corps.

(e) Proprietary information. (1) It is the policy of the Peace Corps to withhold proprietary information that falls within the protection of paragraph (a)(4) of this section. Proprietary information includes trade secrets, or commercial or financial information obtained from a person, the disclosure of which could reasonably be expected to cause substantial competitive harm.

(2) It is also the policy of the Peace Corps to give submitters of arguably proprietary information an adequate opportunity to provide information to the Peace Corps to establish that the information constitutes protected proprietary information.

(3) A person submitting arguably proprietary information to the Peace Corps will be notified in writing by the Peace Corps if there is a FOIA request for the information, unless:

(i) The Peace Corps has already decided that the information should be withheld;

(ii) The information has been lawfully published or has been officially made available to the public; or

(iii) Disclosure of the information is required by law.

(4) The notice shall afford the submitter at least ten business days in which to object to the disclosure of any requested information. Whenever the Peace Corps provides such notice to the submitter, it shall also notify the requester that notice and an opportunity to comment are being provided to the submitter.

(5) A submitter's request for protection for information under paragraph (a)(4) of this section shall:

(i) Specifically identify the exact material claimed to be confidential proprietary information;

(ii) State whether the information identified has ever been released to a person who is not in a confidential relationship with the submitter;

(iii) State the basis for the submitter's belief that the information is not commonly known or readily ascertainable by outside persons; and

(iv) State how release of the information would cause harm to the submitter's competitive position.

(6) The Peace Corps shall consider the submitter's objections and specific grounds for non-disclosure when deciding whether to disclose the information. If the Peace Corps decides to disclose the information, it shall, to the extent permitted by law, provide the submitter at least ten business days notice of its decision before the information is disclosed and a statement of its reasons for not sustaining the objection to disclosure. Whenever the Peace Corps notifies the submitter of its final decision, it shall also notify the requester.

(7) Whenever a FOIA requester brings suit seeking to compel disclosure of proprietary information, the Peace Corps shall promptly notify the submitter.

[68 FR 66008, Nov. 25, 2003; 69 FR 68695, Dec. 9, 2003]

§ 303.10 Responsibilities and authorities.

(a) *Legal counsel.* The General Counsel shall furnish legal advice to Peace Corps officials and staff as to their obligations under this part and shall take such other actions as may be necessary or appropriate to assure a consistent and equitable application of the provisions of this part by and within the Peace Corps.

(b) *Authority to grant or deny requests.* The FOIA Officer is authorized to grant or deny requests for records, except for OIG records, under this part. The OIG FOIA Officer is authorized to grant or deny requests for OIG records under this part. The FOIA Officer and the OIG FOIA Officer shall consult with each other when a request includes both Peace Corps and OIG records in order to ensure consistency and lack of duplication in processing the request.

(c)(1) *Records received from other agencies.* When the Peace Corps receives a request for a record in its possession that it has received from another agency, it shall determine whether the other agency is better qualified to decide whether the record is exempt from disclosure and, if so, whether it should be disclosed as a matter of discretion. If the Peace Corps determines it is better qualified to process the record in response to the request, then it shall do so. If the Peace Corps determines it is not better qualified to process the request, it shall either:

(i) Consult with the other agency before responding to the request; or

(ii) Refer the responsibility for responding to the request for the record to the other agency (but only if the agency is subject to FOIA). Ordinarily, the agency that originated a record will be presumed to be best able to determine whether to disclose it.

(2) *Law enforcement and classified information.* Notwithstanding paragraph (c)(1) of this section:

(i) Whenever the Peace Corps receives a request for a record containing information that relates to an investigation of a possible violation of law that was originated by another agency, the Peace Corps will either consult with the other agency before responding or refer the responsibility for responding to the request to the other agency; and

(ii) Whenever a request is made for a record containing information that has been classified by another agency or may be appropriate for classification under Executive Order 12958 or any other executive order concerning the classification of records, the Peace Corps shall refer the responsibility for responding to the request regarding that information to the agency that classified the information, should consider the information for classification, or has the primary interest in the information, as appropriate.

(3) *Notice of referral.* Whenever the Peace Corps refers all or any part of the responsibility for responding to a request to another agency, it ordinarily shall notify the requester of the referral and inform the requester of the

name of the agency to which the request has been referred and the part of the request that has been referred.

(4) *Effect of consultations and referrals on timing of response.* All consultations and referrals will be handled according to the date the FOIA request was initially received by the Peace Corps.

(5) *Agreements with other agencies.* The Peace Corps may make agreements with other agencies to eliminate the need for consultations or referrals for particular types of records.

§ 303.11 Denials.

(a) A denial of a written request for a record that complies with the requirements of § 303.8 shall be in writing and shall include, as applicable:

(1) A reference to the applicable exemption or exemptions in § 303.9(a) upon which the denial is based;

(2) An explanation of how the exemption applies to the requested records;

(3) A statement explaining why it is deemed unreasonable to provide segregable portions of the record after deleting the exempt portions;

(4) An estimate of the volume of requested matter denied unless providing such estimate would harm the interest protected by the exemption under which the denial is made, if other than the FOIA Officer;

(5) The name and title of the person or persons responsible for denying the request, if other than the FOIA Officer; and

(6) An explanation of the right to appeal the denial and the procedures for submitting an appeal, including the address of the official to whom appeals should be submitted.

(b) A partial deletion of a record made available to a requester shall be deemed a denial of a record for purposes of paragraph (a) of this section. All denials shall be treated as final opinions under § 303.5(b).

§ 303.12 Appeals.

(a) Any person whose written request has been denied is entitled to appeal the denial within 20 business days by writing to the Associate Director of the Office of Management or, in the case of a denial of a request for OIG Records, the Inspector General, at the address given in § 303.5(a). The envelope and letter should be clearly marked ''Freedom of Information Act Appeal.'' An appeal need not be in any particular form, but should adequately identify the denial, if possible, by describing the requested record, identifying the official who issued the denial, and providing the date on which the denial was issued.

(b) The decision of the Associate Director for the Office of Management or the Inspector General on an appeal shall be in writing and, in the event the denial is in whole or in part upheld, shall contain an explanation responsive to the arguments advanced by the requester, the matters described in § 303.11(a)(1) through (4), and the provisions for judicial review of such decision under section 552(a)(4) of the FOIA. The decision shall be dispatched to the requester within 20 business days after receipt of the appeal, unless an additional period is justified pursuant to § 303.8(i) and such period taken together with any earlier extension does not exceed 10 business days. The decision by the Associate Director for the Office of Management or the Inspector General shall constitute the final action of the Peace Corps. All such decisions shall be treated as final opinions under § 303.5(b).

§ 303.13 Fees.

(a) For information routinely provided by the Peace Corps to the public in the normal course of doing business, such as informational or recruiting brochures, no fees will be charged.

(b) For each a commercial use request, fees will be limited to reasonable standard charges for document search, review, and duplication.

(c) For each request for records sought by a representative of the news media or by an educational or noncommercial scientific institution, fees shall be limited to reasonable standard charges for document duplication after the first 100 pages.

(d) For all other requests, fees shall be limited to reasonable standard charges for search time after the first 2 hours and duplication after the first 100 pages.

(e) The schedule of reasonable standard charges for services regarding the

production or disclosure of the Peace Corps records is as follows:

(1) Manual search and review of records: Salary rate of employee[s] performing the search and review plus 16%. Charges for search and review time less than a full hour will be billed by quarter-hour segments;

(2) Computer time: Actual costs as incurred;

(3) Duplication by paper copy: 15 cents per page;

(4) Duplication by other methods: Actual costs as incurred;

(5) Certification of true copies: $1.00 each;

(6) Packing and mailing records: Actual costs as incurred; and

(7) Special delivery or express mail: Actual charges as incurred.

(f) *Fee waivers:* Fees will be waived or reduced below the fees established under paragraph (e) of this section if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Peace Corps or Federal government and is not primarily in the commercial interest of the requester.

(1) In order to determine whether the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Federal government, the Peace Corps shall consider the following four criteria:

(i) The subject of the request: Whether the subject of the requested records concerns the operations or activities of the Peace Corps or Federal government;

(ii) The informative value of the information to be disclosed: Whether the disclosure is ''likely to contribute'' to an understanding of Peace Corps or Federal government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to ''public understanding;'' and

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute ''significantly'' to public understanding of Peace Corps or Federal government operations or activities.

(2) In order to determine whether disclosure of the information is not primarily in the commercial interest of the requester, the Peace Corps shall consider the following two factors:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so,

(ii) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is ''primarily in the commercial interest of the requester.''

(3) These fee waiver/reduction provisions will be subject to appeal in the same manner as appeals from denial under § 303.12.

(g) No fee will be charged under this section unless the cost of routine collection and processing of the fee payment is likely to exceed the average cost of processing a payment.

(h) Requesters must agree to pay all fees charged for services associated with their requests. The Peace Corps will assume that requesters agree to pay all charges for services associated with their requests up to $25 unless otherwise indicated by the requester.

(i) No requester will be required to make an advance payment of any fee unless:

(1) The requester has previously failed to pay a required fee to another federal agency or to Peace Corps within 30 days of the date of billing, in which case an advance deposit of the full amount of the anticipated fee together with the fee then due plus interest accrued may be required. (The request will not be deemed to have been received by the Peace Corps until such payment is made.); or

(2) The Peace Corps determines that an estimated fee will exceed $250, in which case the requester shall be notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. Such notification shall be transmitted as soon as possible, but in any event within 5 business days of receipt of the request by

the Peace Corps. The notification shall offer the requester the opportunity to confer with appropriate representatives of the Peace Corps for the purpose of reformulating the request so as to meet the needs of the requester at a reduced cost. The request will not be deemed to have been received by the Peace Corps for purposes of the initial 20-day response period until the requester makes a deposit on the fee in an amount determined by the Peace Corps.

(j) Interest may be charged to those requesters who fail to pay the fees charged. Interest will be assessed on the amount billed, starting on the 31st day following the day on which the billing was sent. The rate charged will be as prescribed in 31 U.S.C. 3717.

(k) The Agency is not required to process a request for a requester who has not paid FOIA fees owed to another Federal agency.

(l) If the Peace Corps reasonably believes that a requester or group of requesters is attempting to break a request into a series of requests for the purpose of evading the assessment of fees, the Peace Corps shall aggregate such requests and charge accordingly. Likewise, the Peace Corps will aggregate multiple requests for documents received from the same requester within 45 business days.

(m) The Peace Corps reserves the right to limit the number of copies of any document that will be provided to any one requester or to require that special arrangements for duplication be made in the case of bound volumes or other records representing unusual problems of handling or reproduction.

[68 FR 66008, Nov. 25, 2003, as amended at 72 FR 27056, May 14, 2007]

§ 303.14 Procedures for responding to a subpoena.

(a) *Purpose and scope.* (1) This part sets forth the procedures to be followed in proceedings in which the Peace Corps is not a party, whenever a subpoena, order or other demand (collectively referred to as a ''demand'') of a court or other authority is issued for:

(i) The production or disclosure of any material contained in the files of the Agency;

(ii) The production or disclosure of any information relating to material contained in the files of the Agency;

(iii) The production or disclosure of any information or material acquired by any person while such person was an employee of the Agency as a part of the performance of his official duties or because of his official status, or

(iv) The production of an employee of the Agency for the deposition or an appearance as a witness in a legal action or proceeding.

(2) For purposes of this part, the term ''employee of the Agency'' includes all officers and employees of the Agency appointed by, or subject to the supervision, jurisdiction or control of, the director of the Agency, including personal services contractors. Also for purposes of this part, records of the Agency do not include records of the Office of Inspector General.

(3) This part is intended to provide instructions regarding the internal operations of the Agency, and is not intended, and does not and may not be relied upon, to create any right or benefit, substantive or procedural, enforceable at law by a party against the Agency.

(4) This part applies to:

(i) State and local court, administrative and legislative proceedings; and

(ii) Federal court and administrative proceedings.

(5) This part does not apply to:

(i) Congressional requests or subpoenas for testimony or documents:

(ii) Employees or former employees making appearances solely in their private capacity in legal or administrative proceedings that do not relate to the Agency (such as cases arising out of traffic accidents or domestic relations); Any questions whether the appearance relates solely to the employee's or former employee's private capacity should be referred to the Office of the General Counsel.

(6) Nothing in this part otherwise permits disclosure of information by the Agency except as is provided by statute or other applicable law.

(b) *Procedure in the event of a demand for production or disclosure.* (1) No employee or former employee of the Agency shall, in response to a demand of a court or other authority set forth in

§303.14(a) produce any material, disclose any information or appear in any proceeding, described in §303.14(a) without the approval of the General Counsel or designee.

(2) Whenever an employee or former employee of the Peace Corps receives a demand for the production of material or the disclosure of information described in §303.14(a) he shall immediately notify and provide a copy of the demand to the General Counsel or designee. The General Counsel, or designee, shall be furnished by the party causing the demand to be issued or served a written summary of the information sought, its relevance to the proceeding in connection with which it was served and why the information sought is unavailable by any other means or from any other sources.

(3) The General Counsel, or designee, in consultation with appropriate Agency officials, including the Agency's FOIA Officer, or designee, and in light of the considerations listed in §303.14(d), will determine whether the person on whom the demand was served should respond to the demand.

(4) To the extent he deems it necessary or appropriate, the General Counsel or designee, may also require from the party causing such demand to be issued or served a plan of all reasonably foreseeable demands, including but not limited to names of all employees and former employees from whom discovery will be sought, areas of inquiry, length of time of proceedings requiring oral testimony and identification of documents to be used or whose production is sought.

(c) *Considerations in determining whether production or disclosure should be made pursuant to a demand.* (1) In deciding whether to make disclosures pursuant to a demand, the General Counsel or designee, may consider, among things:

(i) Whether such disclosure is appropriate under the rules of procedure governing the case or matter in which the demand arose; and

(ii) Whether disclosure is appropriate under the relevant substantive law concerning privilege.

(2) Among the demands in response to which disclosure will not be made are those demands with respect to which any of the following factors exist:

(i) Disclosure would violate a statute or a rule of procedure;

(ii) Disclosure would violate the privacy rights of an individual;

(iii) Disclosure would violate a specific regulation;

(iv) Disclosure would reveal classified information, unless appropriately declassified by the originating agency;

(v) Disclosure would reveal trade secrets or proprietary information without the owner's consent;

(vi) Disclosure would otherwise adversely affect the interests of the United States or the Peace Corps; or

(vii) Disclosure would impair an ongoing Inspector General or Department of Justice investigation.

PART 304—CLAIMS AGAINST GOVERNMENT UNDER FEDERAL TORT CLAIMS ACT

GENERAL PROVISIONS

Sec.
304.1 Scope; definitions.

PROCEDURES

304.2 Administrative claim; when presented; appropriate Peace Corps Office.
304.3 Administrative claim; who may file.
304.4 Administrative claim; evidence and information to be submitted.
304.5 Investigations.
304.6 Claims investigation.
304.7 Authority to adjust, determine, compromise, and settle claims.
304.8 Limitations on authority.
304.9 Referral to the Department of Justice.
304.10 Review of claim.
304.11 Final denial of claim.
304.12 Action on approved claim.

AUTHORITY: 28 U.S.C. 2672; 22 U.S.C. 2503(b); E.O. 12137, as amended.

SOURCE: 34 FR 5840, Mar. 28, 1969, unless otherwise noted.

GENERAL PROVISIONS

§304.1 Scope; definitions.

(a) This subpart applies to claims asserted under the Federal Tort Claims Act, as amended, accruing on or after January 18, 1967, for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an officer