

Section 303.7 Index of Records

The FOIA requires the Peace Corps to maintain and make available an index of reading room records. This section clarifies that the index the Peace Corps maintains will be made available in the public reading room and on Peace Corps' Web site.

Section 303.8 Requests for Records

The category of FOIA records that is most familiar to the public are records required to be made available by the Peace Corps upon request by a person, unless they are exempt from mandatory disclosure under any of the FOIA exemptions. Such records generally include information created, obtained and/or used by the Peace Corps in the performance of its statutory mission. This category of records does not include public reading room records or records published in the **Federal Register**.

This section sets out the process by which the Peace Corps makes such records available. For example, it sets out the time limits imposed by the FOIA, establishes standards and a process for providing expedited treatment for requests and includes provisions on OIG records, in recognition of the establishment of an OIG at the Peace Corps. It also clarifies that the Peace Corps is not required to create a document or perform research to satisfy a request.

Section 303.9 Exemptions for Withholding Records

This section delineates in paragraph (a) the exemptions that protect certain records from mandatory disclosure. All of the exemptions in this section are based on the FOIA, although not all FOIA exemptions are included in this rule, because certain exemptions are not currently and are unlikely to be applicable to the Peace Corps. Paragraph (b) explains the process by which the Peace Corps will redact protected information from information that must be made available to the requester. Under the 1996 amendments to the FOIA, the Peace Corps must indicate the amount and location of redacted material, if technically feasible, unless such action would harm the interest protected by the applicable exemption.

This section also includes provisions that implement Executive Order 12,600, which requires each agency to notify a person who has submitted records containing confidential business information to the Peace Corps when the agency receives a request for such records, and to provide the submitter an opportunity to object to disclosure.

Section 303.10 Responsibilities and Authorities

This section identifies the officials within the Peace Corps authorized to grant or deny requests for records and to decide appeals. It also establishes a process for dealing with law enforcement and classified information and records received by the Peace Corps from other agencies.

Section 303.11 Denials

This section describes what constitutes a denial of records and the process for denying a request for records.

Section 303.12 Appeals

This section describes the process by which a person may appeal a denial. Appeals of denials made by the OIG are forwarded by the FOIA Officer to the OIG for processing.

Section 303.13 Fees

This section describes the authority of the Peace Corps to charge or waive fees for its costs in responding to FOIA requests. It includes the standards established under FOIA for determining whether a requester qualifies for a fee-waiver and sets out a schedule of fees applicable to the various types of requesters. It also provides the Peace Corps with discretion to charge interest to requesters who fail to pay their fees and to requesters who are attempting to break a request into a series of requests for the purpose of evading the assessment of fees.

Section 303.14 Procedures for Responding to a Subpoena

This section sets forth the procedures to be followed when a subpoena, order or other demand is issued in a proceeding in which the Peace Corps is not a party. Paragraph (a) of this section details the types of demands subject to these procedures. Paragraph (b) of this section explains that employees are not to disclose information without approval of the Office of General Counsel, and it is the General Counsel or designee, together with consultation from other Agency officials, including the Agency's FOIA Officer, who makes all determinations with respect to demands discussed herein. Paragraph (c)(1) identifies generally two of the factors that should be considered in deciding whether to make disclosures. These are, however, only a couple of the considerations, as the factors relevant to a particular demand may vary widely with the nature of the demand. Paragraph (c)(2) specifically identifies certain circumstances in which disclosure will not be made by the

Peace Corps. These standards, in essence, identify several widely acknowledged areas of privilege that are most relevant to Peace Corps. They are intended to be compatible with the exemptions from mandatory disclosure provided by the Freedom of Information Act, the Privacy Act, and other relevant guidelines.

The OIG has independent subpoena authority under the IG Act of 1978, as amended. The OIG will follow these procedures and they will be implemented by appropriate OIG staff.

Executive Order 12866

This regulation has been determined to be non-significant within the meaning of Executive Order 12866.

Regulatory Flexibility Act

The Peace Corps Director, in accordance with the Regulatory Flexibility Act, (5 U.S.C. 605), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Under the Freedom of Information Act, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by the Peace Corps are nominal. Further, the "small entities" that make FOIA requests, as compared with individual requesters and other requesters, are relatively few in number.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 22 CFR Part 303

Freedom of information.

For reasons set out in the preamble, the Peace Corps proposes to revise part 303 as follows:

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

Sec.

303.1 Purpose.

303.2 Definitions.

303.3 Policy.

303.4 Records published in the **Federal Register**.

303.5 Public reading room.