

§ 295.2

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records from the Inspector General (IG) under the Freedom on Information Act (FOIA). It implements title 5, United States Code (U.S.C.) section 552, as amended by the Freedom of Information Reform Act of 1986, 32 CFR part 285 and 32 CFR part 286.

§ 295.2 Applicability.

The provisions of this part are applicable to all components of the Office of the Inspector General (OIG) and govern the procedures by which FOIA requests for information will be processed and records may be released under the FOIA.

§ 295.3 Definition of OIG records.

(a) The products of data compilation, such as books, papers, maps, and photographs, machine readable materials or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in the OIG's possession and control at the time the FOIA request is made.

(b) The following are not included within the definition of the word "record":

(1) Objects or articles, such as structures, furniture, vehicles and equipment, whatever their historical value, or value as evidence.

(2) Administrative tools by which records are created, stored, and retrieved, if not created or used as sources of information about organizations, policies, functions, decisions, or procedures of the OIG. Normally, computer software, including source code, object code, and listings of source and object codes, regardless of medium are not agency records. (This does not include the underlying data which is processed and produced by such software and which may in some instances be stored with the software.) Exceptions to this position are outlined in § 295.4(c).

(3) Anything that is not a tangible or documentary record, such as an individual's memory or oral communication.

(4) Personal records of an individual not subject to agency creation or retention requirements, created and

maintained primarily for the convenience of an OIG employee, and not distributed to any other OIG employee for their official use, or otherwise disseminated for official use.

(5) Information stored within a computer for which there is no existing computer program for retrieval of the requested information.

(c) In some instances, computer software may have to be treated as an agency record and processed under the FOIA. These situations are rare, and shall be treated on a case-by-case basis. Examples of when computer software may have to be treated as an agency record are:

(1) When the data is embedded within the software and can not be extracted without the software. In this situation, both the data and the software must be reviewed for release or denial under the FOIA.

(2) Where the software itself reveals information about organizations, policies, functions, decisions, or procedures of the OIG, such as computer models used to forecast budget outlays, calculate retirement system costs, or optimization models on travel costs.

(3) See appendix B to this part for further information on release determinations of computer software.

(d) If unaltered publications and processed documents, such as regulations, manuals, maps, charts, and related geophysical materials are available to the public through an established distribution system with or without charge, the provisions of 5 U.S.C. 552(a)(3) normally do not apply and they need not be processed under the FOIA. Normally, documents disclosed to the public by publication in the FEDERAL REGISTER also require no processing under the FOIA. In such cases, the OIG will direct the requester to the appropriate source to obtain the record.

§ 295.4 Other definitions.

(a) *FOIA Request.* A written request for OIG records, made by any person, including a member of the public (U.S. or foreign citizen), an organization, or a business, but not including a Federal agency or a fugitive from the law that either explicitly or implicitly invokes