

PART 300 [RESERVED]

PART 301—PUBLIC ACCESS TO CLASSIFIED MATERIAL

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301.1 Introduction.

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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. 301, 552, 552a, 553; 22 U.S.C. 2501 *et seq.*; 31 U.S.C. 3717.

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.

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.

Compelling need means:

(1) 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;

(2) 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; or

(3) A matter of widespread and exceptional media interest in which there

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exist possible questions about the Peace Corps' or the Federal Government's integrity which affect public confidence.

Confidential commercial information means commercial or financial information obtained by the Peace Corps from a submitter that may be protected from disclosure under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4).

Direct costs are those expenses that the Peace Corps incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records in order to respond to a FOIA request. For example, direct costs include the salary of the employee performing the work (*i.e.*, the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating computers and other electronic equipment, such as photocopiers and scanners. Direct costs do not include overhead expenses, such as the costs of space, and of heating or lighting a facility.

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.

Educational institution means any school or undergraduate, graduate, professional, or vocational institute that operates a program or programs of scholarly research, or any member of the same (including faculty or students) who seeks records in pursuit of their role at the educational institution.

Expedited processing means the process set forth in the FOIA that allows requesters to ask for expedited processing of their FOIA request if they can demonstrate a compelling need.

Fee waiver means the waiver or reduction of processing fees if a requester can demonstrate that certain statutory standards are satisfied including that the information is in the public interest and is not requested for a commercial interest.

FOIA Public Liaison means an agency official who is responsible for assisting

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in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

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.

OIG records mean 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.

Records as set forth in the Federal Records Act of 1950, as amended, at 44 U.S.C. 3301, and in any other applicable federal statute (e.g., the Privacy Act of 1974, as amended).

Representative of the news media is any person or entity that actively gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. Examples of news media entities include, but are not limited to, television or radio stations that broadcast news to the public at large and publishers of periodicals that disseminate news and make their products available through a variety of means to the general public, including news organizations that disseminate solely on the internet. A request for records supporting the news-dissemination function of the requester shall not be considered to be for commercial use. “Freelance” journalists who demonstrate a solid basis for expecting publication through a news media entity shall be considered as a representative of the news media. A publishing contract would provide the clearest evidence that publication is expected; however, components shall also consider a requester’s past publication record in making this determination.

Requester category means one of the three categories that agencies place requesters in for the purpose of deter-

mining whether a requester will be charged fees for search, review and duplication, including commercial requesters, non-commercial scientific or educational institutions or news media requesters, and all other requesters.

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.

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.

Submitter means any person or entity, including a corporation, state, or foreign government, but not including another Federal Government entity, that provides confidential commercial information, either directly or indirectly to the Federal Government.

Unusual circumstances, as used in this part, mean circumstances attending a request for information and are limited to the following, but only to the extent reasonably necessary for the proper processing of the particular request:

- (1) The need to search for and collect the requested records from offices or locations that are separate from the office processing the request;
- (2) 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
- (3) The need for consultation, which shall be conducted with all practicable

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speed, with another agency or organization having a substantial interest in the determination of the request or among two or more offices of the Peace Corps having a substantial subject matter interest therein.

Initial denial authority (IDA) is an official who has been granted authority as the FOIA Officer who may deny FOIA requests of the Peace Corps based on one or more of the nine categories of exemptions from mandatory disclosure. An IDA also: denies a fee category claim by a requester; denies a request for expedited processing due to demonstrated compelling need; denies a request for a waiver or reduction of fees; reviews a fee estimate; and confirms that no records were located in response to a request.

[89 FR 25521, Apr. 11, 2024]

§ 303.3 Policy.

(a) The Peace Corps will administer the FOIA with a presumption of openness. The Peace Corps will make its records concerning its operations, activities, and business available to the public, consistent with the requirements of the FOIA. The agency will also consider whether partial disclosure of information is possible whenever it determines that a full disclosure of a requested record is not possible. This includes taking reasonable steps to segregate and release non-exempt information.

(b) Records that the FOIA requires agencies to make available for public inspection in an electronic format may be accessed through the Peace Corps' website. The Peace Corps FOIA Office is responsible for determining which of its records must be made publicly available (including frequently requested records), identifying additional records of interest to the public that are appropriate for public disclosure, and for posting and indexing such records. The Peace Corps will ensure that its website of posted records and indices is reviewed and updated on an ongoing basis. The Peace Corps has a FOIA Public Liaison who can assist individuals in locating records.

(c) In accordance with 5 U.S.C. 552(a)(8), the Peace Corps may make discretionary disclosures of records or information, without a formal FOIA re-

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quest and that may be exempt from disclosure under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption and disclosure is not prohibited by law. However, this policy does not create any enforceable right in a court of law or any other tribunal.

(d) Requests for records of the Office of Inspector General (OIG records), as defined in §303.2, and appeals from denials of requests for OIG records are subject to this policy and will be granted or denied consistent with §303.10(b) through (c) through their own FOIA adjudication process.

[89 FR 25523, Apr. 11, 2024]

§ 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 FOIA Library.

(a) The public reading room is no longer physically available. The Peace Corps makes information available to the public electronically through the Peace Corps' FOIA Library on its public website at <https://www.peacecorps.gov/about/open-government/>.

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

(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;

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

(4) Copies of frequently requested records, regardless of form or format, with a general index of such records:

(i) 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 or

(ii) For which there have been 3 or more requests;

(5) The index required by § 303.6; 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) Records required by the FOIA to be available in the FOIA Library may be exempt from mandatory disclosure pursuant to section 552(b) of the FOIA. Such records will not be made available in the FOIA Library. Other records maintained in the FOIA Library may be edited by the redaction of information protected under section 552(b) of the FOIA. The extent of the redaction shall be indicated, unless doing so would harm an interest protected by the exemption under which the redaction is made. If technically feasible, the extent of the redaction shall be indicated at the place in the record where the redaction was made.

(d) Records required by the FOIA to be maintained shall be made available in the Peace Corps' electronic FOIA Library.

(e) Most public electronic records will also be made available to the public on the Peace Corps website at <https://www.peacecorps.gov>.

[89 FR 25523, Apr. 11, 2024]

§ 303.6 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.

[68 FR 66008, Nov. 25, 2003. Redesignated at 89 FR 25523, Apr. 11, 2024]

§ 303.7 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 FOIA Library, 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 from mandatory disclosure under the FOIA.

(b) Requests for records under this section shall be:

(1) Made in writing, shall include the name of the requester, and the envelope, email, and/or the letter shall be clearly marked "Freedom of Information Request." All such requests shall be addressed to the FOIA Officer. Requests by letter shall be directed to Peace Corps FOIA Officer, 1275 First Street NE, Washington DC 20526. Requests by email shall be directed to 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 it is properly identified and will 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. All paper requests shall be stamped "received" on the date it is received by the FOIA Officer. Electronic requests are deemed to be "received" on the date in which the FOIA Officer acknowledges receipt.

(2) 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

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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 (b).

(c) The Peace Corps requires that first-party requesters provide the following information so that the Peace Corps can protect the personal information found in its files and ensure that records are disclosed only to the proper persons: the requester's full name, current address, citizenship or legal permanent resident alien status, date and place of birth (city, state, and country), and a copy of a photo ID. A first-party request must be signed, and the requester's signature must be either notarized or made under penalty of perjury pursuant to 28 U.S.C. 1746 as a substitute for notarization. A requester may request this penalty of perjury statement from the FOIA office to complete for submission.

(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 §303.16(k).

(g) 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)(1) The FOIA Officer or OIG FOIA Officer, upon request for any records made in accordance with this section, 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, as defined in §303.2, 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 FOIA Officer and send notice of such action 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.

(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 §303.13. 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

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accordance with § 303.13. 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.

(1)(1) Requests and appeals will be taken out of order and given expedited treatment whenever the requester demonstrates a compelling need as defined in § 303.2.

(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 § 303.7(b).

(3) A requester who seeks expedited processing must submit a statement demonstrating a compelling need, as defined in § 303.2, 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 10 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.

(5) Appeals regarding expedited processing denials shall be made to the Associate Director for the Office of Management, or in the case of a denial by the OIG FOIA Officer of a request for expedited processing, the Inspector General, who shall respond within 10 business days of receipt of the appeal.

[89 FR 25523, Apr. 11, 2024]

§ 303.8 Timing of responses to requests.

(a) *In general.* The Peace Corps ordinarily will respond to requests according to their order of receipt. The response time will commence on the date that the request is received by the

Peace Corps' FOIA Officer or by the OIG FOIA Officer.

(b) *Multitrack processing.* The Peace Corps designates a specific track for requests that are granted expedited processing in accordance with the standards set forth in paragraph (e) of this section. The Peace Corps may also designate additional processing tracks that distinguish between simple and more complex requests based on the estimated amount of work or time needed to process the request. Among the factors the Peace Corps may consider are the number of records requested, the number of pages involved in processing the request and the need for consultations or referrals. The Peace Corps will advise requesters of the track into which their request falls and, when appropriate, should offer the requesters an opportunity to narrow or modify their request so that it can be placed in a different processing track.

(c) *Unusual circumstances.* Whenever the Peace Corps cannot meet the time limit for processing a request because of unusual circumstances as defined in § 303.2 and the Peace Corps extends the time limit on that basis, the Peace Corps will, before expiration of the 20-day period to respond, notify the requester in writing of the unusual circumstances involved and of the date by which the Peace Corps estimates processing of the request will be completed. Where the extension exceeds 10 working days, the Peace Corps will provide the requester with an opportunity to modify the request or arrange an alternative time period for processing the original or modified request. The Peace Corps will make available its designated FOIA contact or its FOIA Public Liaison for this purpose. The Peace Corps FOIA Public Liaison is identified on the agency's FOIA Open Government web page <https://www.peacecorps.gov/about/open-government/foia/> and is available at FOIA@peacecorps.gov. The Peace Corps will also alert requesters to the availability of the Office of Government Information Services (OGIS) to provide dispute resolution services.

(d) *Aggregating requests.* To address unusual circumstances as defined in § 303.2, the Peace Corps may aggregate requests in cases where it reasonably

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appears that multiple requests, submitted either by a requester or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances. The Peace Corps will not aggregate multiple requests that involve unrelated matters.

(e) *Expedited processing.* (1) The Peace Corps will process requests and appeals on an expedited basis whenever it is determined that they involve a compelling need as defined in § 303.2.

(2) A request for expedited processing of a request for information may be made at any time and submitted to the Peace Corps FOIA Officer or to the OIG FOIA Officer in the case of a request concerning OIG records. When making a request for expedited processing of an administrative appeal, the request should be submitted to the Associate Director for the Office of Management, or in the case of an appeal concerning OIG records, the Inspector General.

(3) A requester who seeks expedited processing will submit a statement, certified to be true and correct, explaining in detail the basis for making the request for expedited processing. For example, in § 303.2, paragraph (2) of the definition for compelling need, a requester who is not a full-time member of the news media must establish that the requester is a person whose primary activity or occupation is information dissemination, though it need not be the requester's sole occupation. Such a requester also must establish a particular urgency to inform the public about the government activity involved in the request—one that extends beyond the public's right to know about government activity generally. The existence of numerous articles published on a given subject may be helpful in establishing the requirement that there be an "urgency to inform" the public on the topic. As a matter of administrative discretion, the Peace Corps may waive the formal certification requirement.

(4) The Peace Corps will notify the requester within 10 calendar days of the receipt of a request for expedited processing of its decision whether to grant or deny expedited processing. If expedited processing is granted, the request will be given priority, placed in

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the processing track for expedited requests, and processed as soon as practicable. If a request for expedited processing is denied, the Peace Corps will act on any appeal of that decision expeditiously.

[89 FR 25524, Apr. 11, 2024]

§ 303.9 Exemptions for withholding records.

(a) The Peace Corps may withhold information in part or in its entirety using FOIA exemptions listed in 5 U.S.C. 552 (b), when the Initial Denial Authority (IDA) reasonably foresees that the disclosure of such information would cause harm to an interest protected by the exemption or exemptions, or if disclosure is prohibited by law. The Peace Corps will take reasonable steps necessary to segregate and release nonexempt information. 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, except that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested;

(6) Personnel and medical files and similar files, the disclosure of which

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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.

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) In the event that one or more of the 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 Peace Corps shall indicate, if technically feasible, the precise amount of information deleted and the exemption under which the deletion is made at the place in the record where the dele-

tion is made, and indicate the exemption under which a deletion is made on the released portion of the record, unless including that indication would harm an interest protected by the exemption. 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) (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

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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.

(f) The IDA may also withhold information applicable under the Privacy Act of 1974, 5 U.S.C. 552a(j) and (k) when the records are managed within a system of records; see 22 CFR part 308.

[68 FR 66008, Nov. 25, 2003; 68 FR 68695, Dec. 9, 2003, as amended at 79 FR 19819, Apr. 10, 2014; 89 FR 25525, Apr. 11, 2024; 89 FR 50522, June 14, 2024]

§ 303.10 Responsibilities and authorities.

(a) *Legal counsel.* The General Counsel (GC) 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 with-

in the Peace Corps. The OIG Legal Counsel will coordinate with GC, as appropriate and necessary, when furnishing legal advice to the OIG FOIA Officer and Inspector General.

(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) *Authority to grant or deny appeals.* The Associate Director for the Office of Management is authorized to grant or deny appeals under § 303.13(a) through (c) except in the case of appeals from denials of requests for OIG records. The Inspector General is authorized to grant or deny appeals under § 303.13(a) through (c) from denials of requests for OIG records. Both the Associate Director for the Office of Management and the Inspector General shall follow this part in processing appeals.

(d)(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

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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 13525 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 and provide the requester with a point of contact within the receiving agency to whom the requester can speak regarding the referral.

(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.

[68 FR 66008, Nov. 25, 2003, as amended at 79 FR 19819, Apr. 10, 2014; 89 FR 25525, Apr. 11, 2024]

§ 303.11 Responses to requests.

(a) *In general.* The Peace Corps, to the extent practicable, will communicate with requesters having access to the internet electronically, such as email or web portal.

(b) *Acknowledgments of requests.* The Peace Corps will acknowledge the request in writing and assign it an individualized tracking number if it will

take longer than 10 working days to process. The Peace Corps will include in the acknowledgment a brief description of the records sought to allow requesters to more easily keep track of their requests.

(c) *Estimated dates of completion and interim responses.* Upon request, the Peace Corps will provide an estimated date by which the Peace Corps expects to provide a response to the requester. If a request involves a voluminous amount of material, or searches in multiple locations, the Peace Corps may provide interim responses, releasing the records on a rolling basis.

(d) *Grants of requests.* Once the Peace Corps determines it will grant a request in full or in part, it will notify the requester in writing. The Peace Corps will also inform the requester of any fees charged under §303.16 and will disclose the requested records to the requester promptly upon payment of any applicable fees. The Peace Corps will inform the requester of the availability of its FOIA Public Liaison to offer assistance.

(e) *Adverse determinations of requests.* If the Peace Corps makes an adverse determination denying a request in any respect, it will notify the requester of that determination in writing. Adverse determinations, or denials of requests, include decisions that: the requested record is exempt, in whole or in part; the request does not reasonably describe the records sought; the information requested is not a record subject to the FOIA; the requested record does not exist, cannot be located, or has been destroyed; or the requested record is not readily reproducible in the form or format sought by the requester. Adverse determinations also include denials involving fees or fee waiver matters or denials of requests for expedited processing.

(f) *Markings on released documents.* The Peace Corps will release any reasonably segregable portion of a record after redaction of the exempt portions. The amount of information redacted and the exemption under which the redaction is made shall be indicated on the released portion of the record unless doing so would harm an interest protected by an applicable exemption.

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The location of the information redacted will also be indicated on the record, if technically feasible.

(g) *Use of record exclusions.* (1) In the event that the Peace Corps identifies records that may be subject to exclusion from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), the Peace Corps will confer with Department of Justice, Office of Information Policy (OIP), prior to application of the exclusion.

(2) The Peace Corps, when invoking an exclusion, should document its consultation with OIP.

[89 FR 25525, Apr. 11, 2024]

§ 303.12 Denials.

(a) A denial of a written request for a record or information that complies with the requirements of §303.7 shall be in writing and shall include, as applicable:

(1) The name and title or position of the responsible IDA;

(2) The signature of the agency's FOIA Officer, or in the case of denials of requests concerning OIG records, the signature of the Inspector General or designee;

(3) A brief statement of the reasons for the denial, including any FOIA exemption applied in denying the request;

(4) An estimate of the volume of any records or information withheld, such as the number of pages or some other reasonable form of estimation, although such an estimate is not required if the volume is otherwise indicated by redactions marked on records that are disclosed in part or if providing an estimate would harm an interest protected by an applicable exemption;

(5) For any information denied under Exemption 3, the specific statute relied upon to deny the information along with a short description of the statute;

(6) A statement that the requester must appeal no later than 90 days after the date of the denial and along with instructions on how to appeal to the appellate authority. The instructions will include the appellate authority's duty title, the mailing address for the appeal, and instructions on how the requester can appeal electronically; as defined under §303.13; and

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(7) A statement notifying the requester of the assistance available from the Peace Corps' FOIA Public Liaison and the dispute resolution services offered by OGIS.

(b) [Reserved]

[89 FR 25525, Apr. 11, 2024]

§ 303.13 Appeals.

(a) *Requirements for making an appeal.* A requester may appeal any adverse determinations 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. Examples of adverse determinations are provided in §303.11(e). Requesters can submit appeals by mail or online in accordance with the following requirements or with those on the Peace Corps' website. The requester must make the appeal in writing and to be considered timely it must be post-marked, or in the case of electronic submissions, transmitted, within 90 calendar days after the date of the response. The appeal should clearly identify the Peace Corps' determination that is being appealed and the assigned request number. To facilitate handling, the requester should mark both the appeal letter and envelope, or subject line of the electronic transmission, "Freedom of Information Act Appeal."

(b) *Adjudication of appeals.* (1) The Associate Director of the Office of Management or designee, or in the case of a denial of a request for OIG records, the Inspector General or designee, will consider all appeals under this section.

(2) An appeal ordinarily will not be adjudicated if the request becomes a matter of FOIA litigation.

(3) On receipt of any appeal involving classified information, the Associate Director of the Office of Management, or in the case of a denial of a request for OIG records, the Inspector General, will take appropriate action to ensure compliance with applicable classification rules.

(c) *Decisions on appeals.* The Associate Director of the Office of Management or designee, or in the case of a denial of a request for OIG records, the

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Inspector General or designee, will provide the decision on an appeal in writing. A decision that upholds a determination in whole or in part will contain a statement that identifies the reasons for the affirmance, including any FOIA exemptions applied. The decision will provide the requester with notification of the statutory right to file a lawsuit and will inform the requester of the dispute resolution services offered by the OGIS of the National Archives and Records Administration as a non-exclusive alternative to litigation. If a decision is remanded or modified on appeal, the Associate Director of the Office of Management or designee, or in the case of a denial of a request for OIG records, the Inspector General or designee, will notify the requester of that determination in writing. The Associate Director of the Office of Management or designee, or in the case of a denial of a request for OIG records, the Inspector General or designee, will then further process the request in accordance with that appeal determination and will respond directly to the requester.

(d) *Engaging in dispute resolution services provided by OGIS.* Dispute resolution is a voluntary process. If the Peace Corps agrees to participate in the dispute resolution services provided by OGIS, it will actively engage as a partner to the process in an attempt to resolve the dispute.

(e) *When an appeal is required.* Before seeking review by a court of a Peace Corps' adverse determination, a requester generally will first submit a timely administrative appeal.

[89 FR 25525, Apr. 11, 2024]

§ 303.14 Confidential commercial information.

(a) *Designation of confidential commercial information.* A submitter of confidential commercial information as defined in § 303.2 will use good faith efforts to designate by appropriate markings, at the time of submission, any portion of its submission that it considers to be protected from disclosure under Exemption 4. These designations expire 10 years after the date of the submission unless the submitter requests and provides justification for a longer designation period.

(b) *When notice to submitters is required.* (1) The Peace Corps will promptly provide written notice to the submitter of confidential commercial information whenever records containing such information are requested under the FOIA if the Peace Corps determines that it may be required to disclose the records, provided:

(i) The requested information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or

(ii) The Peace Corps has a reason to believe that the requested information may be protected from disclosure under Exemption 4, but it has not yet determined whether the information is protected from disclosure.

(2) The notice will either describe the commercial information requested or include a copy of the requested records or portions of records containing the information. In cases involving a voluminous number of submitters, the Peace Corps may post or publish a notice in a place or manner reasonably likely to inform the submitters of the proposed disclosure, instead of sending individual notifications.

(c) *Exceptions to submitter notice requirements.* The notice requirements of this section do not apply if:

(1) The Peace Corps determines that the information is exempt under the FOIA, and therefore will not be disclosed;

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

(3) Disclosure of the information is required by a statute other than the FOIA or by a regulation issued in accordance with the requirements of Executive Order 12600 of June 23, 1987; or

(4) The designation made by the submitter under paragraph (b) of this section appears obviously frivolous. In such case, the Peace Corps will give the submitter written notice of any final decision to disclose the information within a reasonable number of days prior to a specified disclosure date.

(d) *Opportunity to object to disclosure.* (1) The Peace Corps will specify a reasonable time period within which the submitter may respond to the notice

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referenced in paragraph (b) of this section.

(2) If a submitter has any objections to disclosure, it should provide the Peace Corps a detailed written statement that specifies all grounds for withholding the particular information under any exemption of the FOIA. In order to rely on Exemption 4 as basis for nondisclosure, the submitter will explain why the information constitutes a trade secret or commercial or financial information that is commercially confidential.

(3) A submitter who fails to respond within the time period specified in the notice will be considered to have no objection to disclosure of the information. The Peace Corps is not required to consider any information received after the date of any disclosure decision. Any information provided by a submitter under this part may itself be subject to disclosure under the FOIA.

(e) *Analysis of objections.* The Peace Corps will consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose the requested information.

(f) *Notice of intent to disclose.* Whenever the Peace Corps decides to disclose information over the objection of a submitter, the Peace Corps will provide the submitter written notice, which will include:

(1) A statement of the reasons why each of the submitter's disclosure objections was not sustained;

(2) A description of the information to be disclosed or copies of the records as the Peace Corps intends to release them; and

(3) A specified disclosure date, which will be a reasonable time after the notice.

(g) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of confidential commercial information, the Peace Corps will promptly notify the submitter.

(h) *Requester notification.* The Peace Corps will notify the requester whenever it provides the submitter with notice and an opportunity to object to disclosure; whenever it notifies the submitter of its intent to disclose the requested information; and whenever a

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submitter files a lawsuit to prevent the disclosure of the information.

[89 FR 25526, Apr. 11, 2024]

§ 303.15 Preservation of records.

The Peace Corps will preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration. The Peace Corps will not dispose of or destroy records while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

[89 FR 25527, Apr. 11, 2024]

§ 303.16 Fees.

(a) *In general.* The Peace Corps will charge for processing requests under the FOIA in accordance with the provisions of this section and with the Guidelines of OMB. For purposes of assessing fees, the FOIA establishes three categories of requesters:

(1) Commercial use requesters;

(2) Non-commercial scientific or educational institutions or news media requesters; and

(3) All other requesters.

(b) *Fee assessment.* Different fees are assessed depending on the requester category and approved by the FOIA Officer. Requesters may seek a fee waiver. The Peace Corps will consider individual requests for fee waivers in accordance with the requirements in paragraph (1) of this section. To resolve any fee issues that arise under this section, Peace Corps may contact a requester for additional information. The Peace Corps will ensure that searches, reviews, and duplications are conducted in the most efficient and the least expensive manner. The Peace Corps ordinarily will collect all applicable fees before sending copies of records to a requester. Requesters will pay fees by check or money order made payable to the Treasury of the United States, or by another method as determined by the Peace Corps.

(c) *Fee charging considerations.* (1) Whether the request is a commercial use request as defined in § 303.2. The

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Peace Corps' decision to place a requester in the commercial use category will be made on a case-by-case basis based on the requester's intended use of the information. The Peace Corps will notify requesters of their placement in this category.

(2) The sum of direct costs as defined in § 303.2.

(3) The cost of duplication as defined in § 303.2.

(4) Whether the requester is an educational institution as defined in § 303.2. A requester in this fee category will show that the request is made in connection with his or her role at the educational institution. The Peace Corps may seek verification from the requester that the request is in furtherance of scholarly research, and the Peace Corps will advise requesters of their placement in this category.

Example 1 to paragraph (c)(4). A request from a professor of geology at a university for records relating to soil erosion, written on letterhead of the Department of Geology, would be presumed to be from an educational institution.

Example 2 to paragraph (c)(4). A request from the same professor of geology seeking drug information from the Food and Drug Administration in furtherance of a murder mystery he is writing would not be presumed to be an institutional request, regardless of whether it was written on institutional stationery.

Example 3 to paragraph (c)(4). A student who makes a request in furtherance of their coursework or other school-sponsored activities and provides a copy of a course syllabus or other reasonable documentation to indicate the research purpose for the request, would qualify as part of this fee category.

(5) Whether the requester is a non-commercial scientific institution as defined in § 303.2. A requester in this category will show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research and are not for a commercial use. The Peace Corps will advise requesters of their placement in this category.

(6) Whether the requester is a representative of the news media as defined in § 303.2. Examples of news media entities include television or radio stations that broadcast "news" to the public at large and publishers of periodicals that disseminate "news" and make their products available through a variety of means to the general public, including news organizations that disseminate solely on the internet. A request for records supporting the news-dissemination function of the requester will not be considered to be for a commercial use. "Freelance" journalists who demonstrate a solid basis for expecting publication through a news media entity will be considered as a representative of the news media. A publishing contract would provide the clearest evidence that publication is expected; however, the Peace Corps may also consider a requester's past publication record in making this determination. The Peace Corps will advise requesters of their placement in this category.

(7) The cost of the review as defined in § 303.2. Review time includes processing any record for disclosure, such as doing all that is necessary to prepare the record for disclosure, including the process of redacting the record and marking the appropriate exemptions. Review costs are properly charged even if a record ultimately is not disclosed. Review time also includes time spent both obtaining and considering any formal objection to disclosure made by a confidential commercial information submitter under § 303.14, but it does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) The cost of the time involved in the search as defined in § 303.2. Search time includes page-by-page or line-by-line identification of information within records and the reasonable efforts expended to locate and retrieve information from electronic records.

(d) *Charging fees.* In responding to FOIA requests, the Peace Corps will charge the following fees unless a waiver or reduction of fees has been granted under paragraph (1) of this section. Because the fee amounts provided under paragraph (m) of this section already

account for the direct costs associated with a given fee type, the Peace Corps will not add any additional costs to charges calculated under this section.

(1) *Search.* (i) Requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media are not subject to search fees. The Peace Corps will charge search fees for all other requesters, subject to the restrictions of paragraph (e) of this section. The Peace Corps may properly charge for time spent searching even if they do not locate any responsive records or if they determine that the records are entirely exempt from disclosure.

(ii) For each quarter hour spent by personnel searching for requested records, including electronic searches that do not require new programming, the fees will be charged.

(iii) The Peace Corps will charge the direct costs associated with conducting any search that requires the creation of a new computer program to locate the requested records. The Peace Corps will notify the requester of the costs associated with creating such a program, and the requester will agree to pay the associated costs before the costs may be incurred.

(iv) For requests that require the retrieval of records stored by the Peace Corps at a Federal records center operated by the National Archives and Records Administration (NARA), agencies will charge additional costs in accordance with the Transactional Billing Rate Schedule established by NARA.

(2) *Duplication.* The Peace Corps will charge duplication fees to all requesters, subject to the restrictions of paragraph (e) of this section. The Peace Corps will honor a requester's preference for receiving a record in a particular form or format where the Peace Corps can readily reproduce it in the form or format requested. Where photocopies are supplied, the Peace Corps will provide one copy per request at no charge up to 100 pages. For copies of records produced on tapes, disks, or other media, the Peace Corps will charge the direct costs of producing the copy, including operator time. Where paper documents will be scanned in order to comply with a requester's

preference to receive the records in an electronic format, the requester will also pay the direct costs associated with scanning those materials. For other forms of duplication, the Peace Corps will charge the direct costs.

(3) *Review.* The Peace Corps will charge review fees to requesters who make commercial use requests. Review fees will be assessed in connection with the initial review of the record, *i.e.*, the review conducted by the Peace Corps to determine whether an exemption applies to a particular record or portion of a record. No charge will be made for review at the administrative appeal stage of exemptions applied at the initial review stage. However, if a particular exemption is deemed to no longer apply, any costs associated with the Peace Corps' re-review of the records in order to consider the use of other exemptions may be assessed as review fees. Review fees will be charged at the same rates as those charged for a search under paragraph (d)(1)(ii) of this section.

(e) *Restrictions on charging fees.* (1) When the Peace Corps determines that a requester is an educational institution, non-commercial scientific institution, or representative of the news media, and the records are not sought for commercial use, it will not charge search fees.

(2)(i) If the Peace Corps fails to comply with the FOIA's time limits in which to respond to a request, it may not charge search fees, or, in the instances of requests from requesters described in paragraph (e)(1) of this section, may not charge duplication fees, except as described in (e)(2)(ii) through (iv) of this section.

(ii) If the Peace Corps has determined that unusual circumstances as defined in §303.2 apply and the Peace Corps provided timely written notice to the requester in accordance with the FOIA, a failure to comply with the time limit shall be excused for an additional 10 days.

(iii) If the Peace Corps has determined that unusual circumstances as defined in §303.2 apply and more than 5,000 pages are necessary to respond to the request, the Peace Corps may charge search fees, or, in the case of requesters described in paragraph (e)(1)

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of this section, may charge duplication fees, if the following steps are taken: the Peace Corps will have provided timely written notice of unusual circumstances to the requester in accordance with the FOIA; and the Peace Corps will have discussed with the requester via written mail, email, or telephone (or made not less than three good faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5. U.S.C. 552(a)(6)(B)(ii). If this exception is satisfied, the Peace Corps may charge all applicable fees incurred in the processing of the request.

(iv) If a court has determined that exceptional circumstances exist, as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.

(3) No search or review fees will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(4) Except for requesters seeking records for a commercial use, the Peace Corps will provide without charge:

(i) The first 100 pages of duplication (or the cost equivalent for other media); and

(ii) The first 2 hours of search.

(5) No fee will be charged when the total fee, after deducting the 100 free pages (or its cost equivalent) and the first 2 hours of search, is equal to or less than \$25.

(f) *Notice of anticipated fees in excess of \$25.00.* (1) When the Peace Corps determines or estimates that the fees to be assessed in accordance with this section will exceed \$25.00, the Peace Corps will notify the requester of the actual or estimated amount of the fees, including a breakdown of the fees for search, review, or duplication, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the Peace Corps will advise the requester accordingly. If the request is not for noncommercial use, the notice will specify that the requester is entitled to the statutory entitlements of 100 pages of duplication at no charge and, if the requester is charged search fees, 2 hours of search

time at no charge, and will advise the requester whether those entitlements have been provided.

(2) If the Peace Corps notifies the requester that the actual or estimated fees are in excess of \$25.00, the request will not be considered received and further work will not be completed until the requester commits in writing to pay the actual or estimated total fee, or designates some amount of fees the requester is willing to pay, or in the case of a noncommercial use requester who has not yet been provided with the requester's statutory entitlements, designates that the requester seeks only that which can be provided by the statutory entitlements. The requester will provide the commitment or designation in writing, and will, when applicable, designate an exact dollar amount the requester is willing to pay. The Peace Corps will not accept payments in installments.

(3) If the requester has indicated a willingness to pay some designated amount of fees, but the Peace Corps estimates that the total fee will exceed that amount, the Peace Corps will toll the processing of the request when it notifies the requester of the estimated fees in excess of the amount the requester has indicated a willingness to pay. The Peace Corps will inquire whether the requester wishes to revise the amount of fees the requester is willing to pay or modify the request. Once the requester responds, the time to respond will resume from where it was at the date of the notification.

(4) The Peace Corps will make available their FOIA Public Liaison or other FOIA professional to assist any requester in reformulating a request to meet the requester's needs at a lower cost.

(g) *Charges for other services.* Although not required to provide special services, if the Peace Corps chooses to do so as a matter of administrative discretion, the direct costs of providing the service will be charged. Examples of such services include certifying that records are true copies, providing multiple copies of the same document, or sending records by means other than first class mail.

(h) *Charging interest.* The Peace Corps may charge interest on any unpaid bill

starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the billing date until payment is received by the Peace Corps. The Peace Corps will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(i) *Aggregating requests.* When the Peace Corps reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a single request into a series of requests for the purpose of avoiding fees, the Peace Corps may aggregate those requests and charge accordingly. The Peace Corps may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. For requests separated by a longer period, the Peace Corps will aggregate them only where there is a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved. Multiple requests involving unrelated matters cannot be aggregated.

(j) *Advance payments.* (1) For requests other than those described in paragraph (j)(2) or (j)(3) of this section, the Peace Corps may not require the requester to make an advance payment before work is commenced or continued on a request. Payment owed for work already completed (*i.e.*, payment before copies are sent to a requester) is not an advance payment.

(2) When the Peace Corps determines or estimates that a total fee to be charged under this section will exceed \$250.00, it may require that the requester make an advance payment up to the amount of the entire anticipated fee before beginning to process the request. The Peace Corps may elect to process the request prior to collecting fees when it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(3) Where a requester has previously failed to pay a properly charged FOIA fee to the Peace Corps within 30 calendar days of the billing date, the

Peace Corps may require that the requester pay the full amount due, plus any applicable interest on that prior request, and the Peace Corps may require that the requester make an advance payment of the full amount of any anticipated fee before the Peace Corps begins to process a new request or continues to process a pending request or any pending appeal. Where the Peace Corps has a reasonable basis to believe that a requester has misrepresented the requester's identity in order to avoid paying outstanding fees, it may require that the requester provide proof of identity.

(4) In cases in which the Peace Corps requires advance payment, the request will not be considered received and further work will not be completed until the required payment is received. If the requester does not pay the advance payment within 30 calendar days after the date of the Peace Corps' fee determination, the request will be closed.

(k) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any statute that specifically requires the Peace Corps to set and collect fees for particular types of records. In instances where records responsive to a request are subject to a statutorily-based fee schedule program, the Peace Corps will inform the requester of the contact information for that program.

(l) *Requirements for waiver or reduction of fees.* (1) Requesters may seek a waiver of fees by submitting a written application demonstrating how disclosure of the requested information is in the public interest because it 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.

(2) The Peace Corps will furnish records responsive to a request without charge or at a reduced rate when it determines, based on all available information, that the factors described in paragraphs (l)(2)(i) through (iii) of this section are satisfied:

(i) Disclosure of the requested information would shed light on the operations or activities of the government. The subject of the request will concern identifiable operations or activities of

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the Federal Government with a connection that is direct and clear, not remote or attenuated; and

(ii) Disclosure of the requested information is likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(A) Disclosure of the requested records will be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding; and

(B) The disclosure will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public will be considered. The Peace Corps will presume that a representative of the news media will satisfy this consideration.

(iii) The disclosure will not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest of the requester, the Peace Corps will consider the following criteria:

(A) The Peace Corps will identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters will be given an opportunity to provide explanatory information regarding this consideration; and

(B) If there is an identified commercial interest, the Peace Corps will determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirements of paragraphs (1)(2)(i) and (ii) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. The Peace Corps ordinarily will presume that when a news media requester has satisfied factors of para-

graphs (1)(2)(i) and (ii), the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(3) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver will be granted for those records.

(4) Requests for a waiver or reduction of fees should be made when the request is first submitted to the Peace Corps and should address the criteria referenced under paragraph (1) of this section. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester will pay any costs incurred up to the date the fee waiver request was received.

(5) These fee waiver/reduction provisions are subject to appeal in the same manner as appeals from denial under § 303.13.

(m) *Minimal amount.* 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.

(n) *Agreement to pay fees.* Requesters must agree to pay all fees charged for services associated with their requests.

(o) *Charging interest.* 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.

(p) *Nonpayment of fees.* The Peace Corps is not required to process a request for a requester who has not paid FOIA fees owed to another Federal agency.

(q) *Multiple copies.* The Peace Corps reserves the right to charge for multiple 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

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bound volumes or other records representing unusual problems of handling or reproduction.

[89 FR 25527, Apr. 11, 2024]

§ 303.17 Procedures for responding to a subpoena.

(a) *Purpose and scope.* (1) This section 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 Peace Corps;

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

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

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

(2) For purposes of this section, the term “employee of the Peace Corps” includes all officers, employees, volunteers, and trainees of the Peace Corps appointed by, or subject to the supervision, jurisdiction or, control of, the Director of the Peace Corps, including personal services contractors. Also, for purposes of this section, records of the Peace Corps do not include records of the Office of Inspector General.

(3) This section is intended to provide instructions regarding the internal operations of the Peace Corps, 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 Peace Corps.

(4) This section applies to:

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

(ii) Federal court and administrative proceedings.

(5) This section does not apply to:

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(i) Congressional requests or subpoenas for testimony or documents; and

(ii) Employees or former employees making appearances solely in their private capacity in legal or administrative proceedings that do not relate to the Peace Corps (such as cases arising out of traffic accidents or domestic relations). Any questions regarding 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 section otherwise permits disclosure of information by the Peace Corps 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 Peace Corps shall, in response to a demand of a court or other authority set forth in paragraph (a) of this section produce any material, disclose any information, or appear in any proceeding, described in paragraph (a) of this section 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 paragraph (a) of this section they 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 Peace Corps officials, including the Peace Corps’ FOIA Officer, or designee, and in light of the considerations listed in paragraph (d) of this section, will determine whether the person on whom the demand was served should respond to the demand.

(4) To the extent deemed necessary or appropriate, the General Counsel or designee may also require from the party causing such demand to be issued

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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.

[68 FR 66008, Nov. 25, 2003, as amended at 79 FR 19820, Apr. 10, 2014. Redesignated and amended at 89 FR 25525, 25530 Apr. 11, 2024; 89 FR 50522, June 14, 2024]

§ 303.18 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

[89 FR 25531, Apr. 11, 2024]

PART 304—CLAIMS AGAINST GOVERNMENT UNDER FEDERAL TORT CLAIMS ACT

GENERAL PROVISIONS

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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 or employee of the Peace Corps, a person serving the Peace Corps under invitational travel orders, or a Peace Corps Volunteer or trainee while acting within the scope of his office or employment.

(b) This subpart is not applicable to claims arising in a foreign country; it is applicable to claims arising in Puerto Rico and the Virgin Islands.

(c) This subpart is issued subject to and consistent with applicable regulations on administrative claims under the Federal Tort Claims Act issued by the Attorney General (28 CFR part 14).

(d) For the purposes of this subpart, the term "General Counsel" means the General Counsel of the Peace Corps or his designee.

[34 FR 5840, Mar. 28, 1969, as amended at 72 FR 4205, Jan. 30, 2007]