

Peace Corps

§ 303.5

(a) All final opinions and orders made in the adjudication of cases.

(b) Statements of policy and interpretation adopted by the agency which have not been published in the FEDERAL REGISTER.

(c) Administrative staff manuals and instructions to the staff which affect a member of the public.

(d) A current index, which shall be updated at least quarterly, covering so much of the foregoing materials as may have been issued, adopted or promulgated after July 4, 1967, is maintained by the Agency and copies of same or any portion thereof shall be furnished upon request at a cost not to exceed the cost of duplication. The Agency deems further publication of such index in the FEDERAL REGISTER both unnecessary and impractical.

(e) To the extent necessary to prevent a clearly unwarranted invasion of personal privacy, the Agency may delete identifying details from materials furnished under this section.

(f) Brochures, flyers and other similar material shall be furnished to the extent that same are available. Copies of any such brochures and flyers which are out of print shall be furnished upon request at the cost of duplication, provided, however, that in the event no copy exists, the Agency shall not be responsible for reprinting the same.

(g) The Agency will not be required to create or compile selected items from its file and records or to provide a requester with statistical or other data unless such data has been compiled by the Agency and is available in the form of a record in which event such record shall be made available as provided in this part.

§ 303.4 Availability of records.

All records of the Peace Corps, in addition to those ordinarily maintained and disseminated under § 303.3 hereof, requested under 5 U.S.C. 552(a)(3) and reasonably described in any request therefore shall be made promptly available upon request of any member of the public for inspection or copying upon compliance with procedures established in this part, except to the extent that a determination is made, in accord with the procedures set forth herein, that a record is exempt from

disclosure, and should be withheld in the public interest. All publications and other documents heretofore provided by the Peace Corps in the normal course of business will continue to be made available upon request to the appropriate unit of the Agency. No charge will be made for such documents unless necessary by reason of the fact that such document is no longer in print in which case the charge shall not exceed the cost of duplication as set forth herein.

§ 303.5 Records which may be exempt from disclosure.

The following categories are examples of records maintained by the Peace Corps which, under the provisions of 5 U.S.C. 552(b), may be exempted from disclosure:

(a) Records required to be withheld under criteria established by an Executive Order in the interest of national defense or foreign policy and which are in fact properly classified pursuant to any such Executive Order. Included in this category are records required by Executive Order No. 12356, as amended, to be classified in the interest of national defense or foreign policy.

(b) Records related solely to internal personnel rules and practices. Included in this category are internal rules and regulations relating to personnel management and operations which cannot be disclosed to the public without substantial prejudice to the effective performance of a significant function of the Agency.

(c) Records specifically exempted from disclosure by statute.

(d) Information of a commercial or financial nature including trade secrets given in confidence. Included in this category are records containing commercial or financial information obtained from any person and customarily regarded as privileged and confidential by the person from whom they were obtained.

(1) It is the policy of the Peace Corps not to release information which is a trade secret, or commercial or financial information which was obtained from a person and is privileged or confidential within the meaning of 5 U.S.C. 552(b)(4). It is also the policy of the Peace Corps to give submitters of

information which may be exempt from disclosure under 5 U.S.C. 552(b)(4) adequate opportunity to provide information at the administrative level which may establish such exemption.

(2) A person submitting information to the Peace Corps, if previously notified by the Peace Corps of his/her right to request confidential treatment for information, must request that the information be considered exempt from disclosure at the time of submission. Failure to do so will be deemed an acknowledgment that the submitter does not wish to claim exempt status.

(3) A person submitting information not covered by paragraph (d)(2) of this section which is the subject of a Freedom of Information Request, and which may be exempt from disclosure, shall be given prompt written notification of such request, unless it can be established that the information should not be disclosed, or that the information has already been lawfully published or made available to the public. Such notice must afford submitters at least ten working days in which to object to the disclosure of any requested information.

(4) Each request for exemption from disclosure under 5 U.S.C. 552(b)(4) as a trade secret or privileged or confidential commercial or financial information must:

(i) Specifically identify the exact material claimed to be confidential.

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

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

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

(5) The agency will not normally decide whether material received with a request for exemption from disclosure under 5 U.S.C. 552(b)(4) is entitled to be withheld unless a request for disclosure is made. Any reasonably segregable portion of a record will be disclosed after deletion of any portions determined to be exempt.

(6) The agency will give careful consideration to all specified grounds for

exemption prior to making its administrative determination and, in all cases in which the determination is to disclose, provide the submitter with a statement of the reasons why its disclosure objection was not sustained. The Peace Corps will provide the submitter with at least ten days advance notice of the proposed release date of information in cases in which an objection to disclosure has been rejected.

(7) The Peace Corps will notify the submitter promptly of any instance in which a requester brings suit seeking to compel disclosure of its information. Submitters should not request exemption from disclosure unless they are prepared to assist the agency in the defense of any judicial proceeding brought to compel disclosure.

(e) Interagency or intra-agency memoranda or letters which would not ordinarily be available by law to a party in litigation with the Agency. Included in this category are memoranda, letters, interagency and intra-agency communications and internal drafts, opinions and interpretations prepared by staff or consultants and records of deliberations of staff, ordinarily used in arriving at policy determinations and decisions.

(f) Personnel, medical and similar files. Included in this category are personnel and medical information files of staff, volunteer applicants, former and current trainees/volunteers, lists of names and home addresses and other files or material containing private or personal information, the disclosure of which would amount to a clearly unwarranted invasion of the privacy of any person to whom the information pertains.

(g) Investigatory records compiled for law enforcement purposes. Included in this category are files compiled for the enforcement of all laws, or prepared in connection with government litigation and adjudicative proceedings; provided however, that such records shall be made available to the extent that their production will not (1) interfere with enforcement proceedings; (2) deprive a person of a right to a fair trial or an impartial adjudication; (3) constitute an unwarranted invasion of personal privacy; (4) disclose the identity of a confidential source,

and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; (5) disclose investigative techniques and procedures; or (6) endanger the life or physical safety of law enforcement personnel.

(h) In the event any document or record requested hereunder shall contain material which is exempt from disclosure under this section, any reasonably segregable portion of such record shall, notwithstanding such fact, and to the extent feasible, be provided to any person requesting same, after deletion of the portions which are exempt under this section.

(i) Documents or records determined to be exempt from disclosure hereunder may nonetheless be provided upon request in the event it is determined that the provision of such document would not violate the public interest or the right of any person to whom such information might pertain, and that disclosure is not prohibited by law or executive order.

§ 303.6 Manner of requesting records—appeals.

(a) Requests under the Freedom of Information Act (5 U.S.C. 552) for access to Peace Corps records may be filed in person or by mail with the Director of Administrative Services, Peace Corps, 806 Connecticut Avenue NW., Washington, DC 20526. All requests and the envelope in which they are sent must be plainly marked "FOIA Request." Personal written requests will be received from between 10 a.m. and 4 p.m., Monday through Friday, except for official holidays. FOIA requests and appeals shall be deemed received when actually received by the Director of Administrative Services.

(b) Requested records which are reasonably described shall either be made available within ten working days after receipt of any such request or a written notice that the request cannot be complied with will be provided to the person making such request within such ten day period. Any such notice of inability to comply shall specify the rea-

sons for refusal and the right of the person making such request to appeal such adverse determination. In the event a request for a record or document is made to the Director of Administrative Services, and such office does not have the requested material, the requester shall be immediately notified.

(c) Upon receipt of a notice of failure to comply, a person making a request for information, records, or documents may, within 15 calendar days from the receipt of such notice, appeal such adverse determination to the Director of the Peace Corps or designee. Such appeal shall be in writing and shall specify the date upon which the notice of failure or refusal to comply was received by the person making such request. The Director or designee shall make a determination with respect to such appeal within 20 working days after receipt of such appeal. Notice of such determination shall be provided in writing to the person making the request. If the original denial of the request for records is upheld in whole or in part, such notice shall include notification of the right of the person making such request to have judicial review of the denial and appeal as provided under the Freedom of Information Act (5 U.S.C. 552).

(d) The time limits specified above for initial compliance, and appeal from a refusal to comply, may be extended by the Agency upon written notice to the person making the request. Such notice shall set forth the reasons for such extension and the date upon which determination is expected. Such extension may be applied at either the initial stage or the appellate stage, or both, provided that the aggregate of such extensions shall not exceed ten working days. Circumstances justifying an extension will include the following:

(1) Time necessary to search and collect requested records from segments of the Agency separate from the office processing the request;

(2) Time necessary to search, collect and appropriately examine a voluminous number of records demanded in a single request; or