

## Peace Corps

## § 303.14

same manner as appeals from denial under § 303.12.

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

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

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

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

(2) The Peace Corps determines that an estimated fee will exceed \$250, in which case the requester shall be notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. Such notification shall be transmitted as soon as possible, but in any event within 5 business days of receipt of the request by the Peace Corps. The notification shall offer the requester the opportunity to confer with appropriate representatives of the Peace Corps for the purpose of reformulating the request so as to meet the needs of the requester at a reduced cost. The request will not be deemed to have been received by the Peace Corps for purposes of the initial 20-day response period until the requester makes a deposit on the fee in an amount determined by the Peace Corps.

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

(k) The Agency is not required to process a request for a requester who

has not paid FOIA fees owed to another Federal agency.

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

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

### § 303.14 Procedures for responding to a subpoena.

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

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

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

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

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

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

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

(4) This part applies to:

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

(ii) Federal court and administrative proceedings.

(5) This part does not apply to:

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

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

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

(b) *Procedure in the event of a demand for production or disclosure.* (1) No employee or former employee of the Agency shall, in response to a demand of a court or other authority set forth in §303.14(a) produce any material, disclose any information or appear in any proceeding, described in §303.14(a) without the approval of the General Counsel or designee.

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

(3) The General Counsel, or designee, in consultation with appropriate Agen-

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

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

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

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

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

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

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

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

(iii) Disclosure would violate a specific regulation;

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

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

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

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