

ADM 1035.3 CIRM  
March 15, 1971

GSA ORDER

SUBJECT: GSA regulations pursuant to "Freedom of Information Act"

1. Purpose. This order revises the GSA implementation of the provisions of 5 U.S.C. 552 (the "Freedom of Information Act") to incorporate appropriate references to regulatory material regarding records managed and administered by the National Archives and Records Service and to provide certain procedural clarifications based on experience.
2. Background. Regulations concerning the public use of NARS records (archives, Federal record center records, and historical materials), formerly contained in FPMR 101-7, 101-9, and 101-10, have been consolidated, revised, and recodified in new Part 105-61 of Chapter 105 (41 CFR). Accordingly, the attachment to this order changes GSA regulations in Part 105-60 of Chapter 105 (41 CFR) to accommodate appropriate references to the recodified material in Part 105-61. Other changes in the attachment include procedural clarifications with respect to the withholding of information under the executive privilege exemption, procedures regarding the availability of records involved in litigation or other judicial process to which the United States is a party, and consolidated procedures on service of subpoenas and other legal demands.
3. Explanation of changes. This order provides for the following changes in Part 105-60 (41 CFR):
  - a. Section 105-60.000 is revised to clarify the scope of Part 105-60 so as to indicate coverage of records managed and administered by GSA as well as current operating records.
  - b. Section 105-60.104(a)(3) is added to indicate expressly that donated historical materials accepted by GSA from a source other than an agency of the United States Government, in accordance with 44 U.S.C. 397, are not subject to the provisions of the "Freedom of Information Act."
  - c. Section 105-60.106 is revised to refer specifically to the application of the executive privilege disclosure exemption to requests for information from Congress.

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- d. Section 105-60.107 is revised to clarify procedures with respect to requests for records of other agencies, held by GSA.
- e. Section 105-60.109 is added to establish procedures to be followed where it is believed that the records requested may be involved in litigation or other judicial process in which the United States is a party, including discovery procedures pursuant to the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure.
- f. Section 105-60.401 is revised to reference certain procedures under Part 105-61 pertaining to the public availability of records transferred to NARS, and to cross-reference § 105-60.109.
- g. Section 105-60.402 is revised to set forth the scope of coverage of the section. The revision specifies that records transferred to NARS are subject to procedures under Part 105-61 and are not within the scope of § 105-60.402. The revision also provides cross-references to procedures in Part 105-61 applicable to the public use of records transferred to NARS.
- h. Section 105-60.402-1(a) is revised to clarify instructions regarding the GSA office to which requests for identifiable records shall be submitted by the public and to delete obsolete references to NARS.
- i. Section 105-60.603 is revised to clarify procedures involving the applicability of the executive privilege exemption regarding disclosure of records in judicial or adjudicatory proceedings.
- j. Section 105-60.604(b)(8) is revised to correct obsolete cross-references.
- k. Section 105-60.701 is revised by deleting the text thereof and by substituting therefor a new § 105-60.701-1, concerning service of subpoenas or other legal demands with respect to GSA records, and a new § 105-60.701-2, concerning service of subpoenas or other legal demands with respect to records transferred to NARS.
- l. Section 105-60.702(a) is revised by adding an appropriate cross-reference to Part 105-61.
- m. Section 105-60.703 is revised by adding appropriate cross-references to §§ 105-61.107 and 105-61.108.

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4. Effective date. The attached regulations are effective upon publication in the Federal Register.

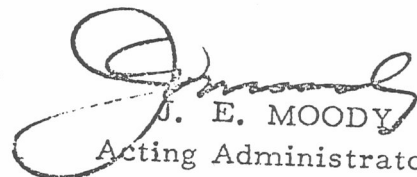
5. Instructions. Remove the pages of the attachment to ADM 1035.3, June 28, 1967, which are listed below and insert the attached pages, as follows:

Remove Pages

Table of contents page 1  
3 thru 6  
11, 16 thru 19

Insert Pages

Table of contents page 1  
3 thru 6, 6.1 and 6.2  
11, 16 thru 20

  
J. E. MOODY  
Acting Administrator

(Published in the Federal Register March 22, 1968, 33 F.R. 4883.)

3 and 4

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