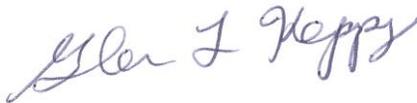


For: FSA Employees

**Using Executive Session and Regular Session
for Making Program Determinations and Hearing Appeals**

Approved by: Acting Administrator



1 Instructions for Determining When to Conduct Executive or Regular Session Meetings

A Background

Recently, there has been an increased awareness and concern about protecting private information that the Government possesses. 16-AO provides guidance about STC and COC meetings. 2-INFO includes instructions about making information available to the public and handling requests for information under FOIA. 3-INFO concerns the Privacy Act.

The Appeals and Litigation Staff (ALS) has received many questions about when STC's and COC's would conduct executive session meetings instead of regular session meetings when making program determinations and hearing appeals.

B Purpose

This notice provides information and contains instructions for STC's and COC's to follow when determining whether to use executive session or regular session meetings when making program determinations and hearing appeals.

C Contact

Direct questions about this notice to ALS at 202-690-3297.

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| Disposal Date | Distribution |
| December 1, 2008 | All FSA employees; State Offices relay to County Offices |

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1 Instructions for Determining When to Use Executive or Regular Session Meetings

D Additional Information and Explanation (Continued)

Regular sessions of STC and COC meetings are open to the public according to 16-AO, paragraphs 58 and 176. Therefore, minutes for STC and COC regular session meetings **must** contain only information that is available to the public. In contrast, executive sessions of STC and COC meetings are closed to the public. According to 16-AO, minutes **must** include pertinent facts, analysis, and actions taken for each item discussed. Therefore, while executive session minutes may be releasable in response to a FOIA or Privacy Act request, they **must** be redacted first to prevent release of private information.

E Guidance

When making generally applicable program determinations; such as setting maximum State or county loss levels, establishing State or county average prices or yields, or similar types of determinations that apply to an entire State, county, or geographical area; STC's and COC's shall continue to use regular session.

When making determinations that apply to individual participants, including groups of individual participants, STC's and COC's shall use executive session. This applies regardless of whether the determination is an initial determination or a determination resulting from appeal or reconsideration. It also holds true regardless of whether the determination is favorable or adverse.

Note: A good rule to follow when deciding whether to go into executive session for a meeting is that if FSA would be required to redact minutes to protect someone's privacy interest, the reviewing authority shall meet in executive session.

Respond to FOIA and the Privacy Act requests according to 2-INFO and 3-INFO.