

## 1-1 Agency Records

- a. Agency records are documents which must be either created or obtained by an agency, and under agency control at the time of the FOIA request.
- b. Electronic records come in various forms such as, magnetic tapes, disks and other devices of advanced data storage.
- c. Consideration must be given to the circumstances under which an item of computer software came into an agency's possession, and whether there is a proprietary outside interest-holder. If there is not sufficient agency control over the software, then it may not be considered an agency record to which FOIA would apply.
- d. In responding to requests under FOIA, care must be taken not to spend staff time and agency money creating computer programs and creating specialized reports in response to these FOIA's. (See Chapter 4-2 e.)