

must not be made for commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. For example, a request by a newspaper for records relating to an investigation of a defendant in a current criminal trial of public interest could be presumed to be a request from an entity eligible for inclusion in this category, and entitled to records at the cost of duplication alone (excluding charges for the first 100 pages).

(3) "Representative of the news media" does not include private libraries, private repositories of Government records, or middlemen, such as information vendors or data brokers.

(e) *All other requesters.* Naval activities shall charge requesters who do not fit into any of the above categories fees to recover the full direct cost of search and duplicating records, except the first 2 hours of search time and the first 100 pages of duplication shall be furnished without charge. Requesters must reasonably describe the records sought. Requests from subjects about themselves will continue to be treated under the fee provisions of 5 U.S.C. 552a, which permit fees only for duplication. Naval activities are reminded that this category of requester may be eligible for a waiver or reduction of fees if disclosure of the information is in the public interest.

§ 701.43 Fee restrictions.

(a) A naval activity may not charge fees if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. Except for requesters seeking documents for a commercial use, naval activities shall provide the first 2 hours of search time and the first 100 pages of duplication without charge. For example, for a request (other than one from a commercial requester) involving 2 hours and 10 minutes of search time and 105 pages of documents, a naval activity would recover the cost of only ten minutes of search time and five pages of duplication. If this processing cost was equal to or less than the cost to the naval activity for billing the requester and processing the fee col-

lected (i.e., \$15), no charges would result.

(b) Requesters are entitled to the first 2 hours of search and 100 pages of duplication without charge once per request. Consequently, if after completing its portion of a request, a naval activity, refers the request to another naval activity to act on their portion of the request, the referring naval activity shall inform the recipient of the amount of search time and duplication cost to date so the final Navy response will address all fees in the processing of the request. For referrals to other federal agencies or Department of Defense components, if the naval costs of processing the request are chargeable based on fee guidelines, the fees should be collected from the requester and the recipient of the referral advised of the fee status of the request. If the fees are not chargeable based on the fee guidelines, the recipient of the referral should be advised of the naval fees associated with the processing of the request.

(c) In determining the "cost of collecting a fee" consider administrative costs to the naval activity of receiving and recording a remittance, and processing the fee for deposit in the Treasury Department's special account. The Treasury's cost to handle such remittance is negligible and shall not be considered in a naval activity's determination.

(d) To determine cost, "pages" refers to standard size paper copies normally 8 1/2" x 11" or 11" x 14". Thus, requesters would not be entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printouts, meets the restriction.

(e) For computer searches, the first 2 free hours will be determined by the salary scale of the individual doing the computer search. For example, when the direct costs of the computer central processing unit, input-output devices, and memory capacity equal \$24 (2 hours of equivalent search at the clerical level), computer costs in excess of that amount are chargeable as computer search time.