

(15) Coordinates with the public affairs office if the requested records are potentially newsworthy or if the news media sent the request.

(16) Sends releasable records to requesters with a bill (if appropriate).

(17) Sends a request the OPR wants to deny through the MAJCOM or FOA FOIA office to the denial authority for a decision. The package must include:

(i) The request.

(ii) A copy of the requested records.

(iii) The OPR's and SJA's written recommendations.

(iv) The exemption cited.

(v) The reason for denial.

(b) The OPR locates the information and recommends its release. In cases where several OPRs have functional responsibility for the information, the primary OPR is the one responsible for most of the information in the document. The OPR:

(1) Works with the offices of collateral responsibility (OCR) inside and outside the Air Force, considers the opinions and information they provide, and makes the final release decision.

(2) Forwards records that need coordination with other Air Force functional areas and outside agencies to the MAJCOM or FOA FOIA office, which sends them to the appropriate FOI office for review and return for final decision.

(3) Answers each functional request and follows FOIA denial procedures for records withheld.

#### § 806.16 Referrals.

A FOIA manager refers requests to another FOIA office after consulting with them when the request asks for records or information originated by someone other than the activity receiving the request or when an OPR finds records in a search that belong to another activity.

(a) Refer FOIA requesters to sources that can provide unaltered publications and processed documents, such as maps, charts, regulations, and manuals to the public, with or without charge. For example, people can obtain documents published in the FEDERAL REGISTER without using the FOIA. The National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, sells current Air Force

standard numbered (departmental) publications, but does not stock superseded, obsolete, rescinded, classified, FOUO, limited (L), or "X" distribution Air Force publications. FOIA requests for these publications go through normal FOIA channels to the OPR for a release recommendation.

(b) Usually, tell the requester about the referral, identify the record referred as security permits, and tell the requester to expect an answer from the agency or activity receiving the referral.

(c) If a request would involve many referrals, tell the requester where to address the request; don't refer it yourself.

(d) Before releasing records or information originated with the National Security Council (NSC) or the White House, refer them through the Office of the Assistant to the Secretary of Defense (Public Affairs) Directorate for Freedom of Information (OATSD[PA]DFOISR), Washington DC 20301. The OATSD(PA) will consult with them and reply back to you.

(e) The General Accounting Office (GAO) is outside the Executive Branch and not subject to the FOIA. However, if the FOIA manager receives a FOIA request directly from the public or referred from GAO for GAO documents that contain Air Force or DoD information, process the request under FOIA.

#### § 806.17 Categorizing requesters.

(a) Requesters' fees depend on which group they belong to:

(1) *Category 1: Commercial.* Requesters pay all search, review, and duplication. To decide who belongs in this category find out how these requesters will use the requested documents. If you are unsure how the requester plans to use the records or the request itself does not clearly state plans, seek additional information before you categorize the request.

(2) *Category 2: Educational or Non-commercial Scientific Institution or News Media.* Requesters get the first 100 copies free and pay for additional copies. These requesters do not pay search or review charges. Requesters who use requested records to write and spread

news are not considered commercial requesters.

(3) *Category 3: Others.* Requesters get the first 2 hours of search and the first 100 copies free. These requesters do not pay review charges.

(b) Analyze each request to categorize the requester. If you think the requester's category differs from what the requester claims, ask the individual for more justification and say you cannot begin searching for records until you have agreed on the category. If the requester does not send the FOIA manager more justification in reasonable time (normally, 30 calendar days), the manager makes a final decision and notifies the requester of the decision and of the right to appeal it.

(c) Tell requesters that you cannot begin to answer their requests until they state they will pay the costs set for their category.

#### § 806.18 Fee assessment.

The FOIA limits charges to search, review, and duplication based on the requester's category.

(a) Estimate fees if the requester asks. Do not charge an amount more than the estimate or the amount the requester agrees to unless the requester first agrees to pay more.

(b) Search time includes all time spent looking for records to respond to a request. Personnel must search efficiently to minimize both the Air Force's and the requester's costs. Search efforts must be thorough and include all locations and activities most likely to have the requested records. Searches may include retired or staged records. Time spent reviewing documents to decide whether statutory exemptions apply counts as review time, not search time. For computer searches, determine the first 2 free hours against the salary scale of the person operating the computer.

(1) FOIA managers may charge for search time for the appropriate category (and review time for commercial requesters only), if the requester agreed in advance to pay, even if:

(i) A search does not uncover the requested records.

(ii) The records found are entirely exempt from disclosure.

(2) When estimated search charges exceed \$25, tell the requester the estimated fees, unless the requester has already indicated a willingness to pay fees as high as the estimate. When feasible, offer the requester the opportunity to restate the request so that the search costs less.

(c) Review is the process of examining documents to determine if one or more of the statutory exemptions allows withholding. It also includes the time it takes to excise information. Review does not include time spent resolving general legal or policy issues on exemptions. FOIA managers may only assess commercial requesters for initial review. This does not include reviews at the appeal stage for exemptions already applied, but it may include review to apply an exemption not previously cited.

(d) Requesters pay only for copies of the records they actually receive. Copies may be on paper, microfiche, audio-visual, or machine-readable magnetic tape or disk, among other media. FOIA managers must try hard to ensure copies are clear. If you cannot possibly provide a clear copy, tell the requester that the copy is the best available and that he or she can make an appointment to review the master copy. For copies of computer tapes and audio-visual material, charge the actual copying cost, including the operator's time.

(e) Before beginning or continuing work on a request, FOIA managers may require advance payment from requesters:

(1) Who have not paid fees on time (usually within 30 calendar days) in the past.

(2) Whose estimated fees are over \$250, unless the requester always pays promptly. In that case, give the requester an estimate and ask the requester to ensure full payment.

(f) If the requester has always paid promptly, the FOIA manager sends the records and requests payment at the same time.

(g) If a requester has not paid on time in the past, FOIA managers may ask the requester to:

(1) Pay (or show proof of payment of) outstanding bills, plus interest, for past FOIA requests. Consult 31 U.S.C.