

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.

3717 for interest rates and coordinate with your accounting and finance office.

(2) Pay estimated fees in advance.

(h) If a requester has no payment history, or has not paid on time in the past, FOIA managers may ask the requester to pay after processing the request but before sending the records.

(i) When employees with different hourly rates search for information for an "Other" (Category 3) requester, waive the cost of the most expensive 2 hours of search. Requesters receive the first 2 hours search (Category 3 requesters only) and the first 100 pages of duplication (Categories 2 and 3) free only once per request. If you complete your work and refer the request to another FOI office for action, tell that FOI office how much time you spent searching and how many pages you copied for the requester.

§ 806.19 Aggregating requests.

A requester may make many requests at once, each seeking parts of a document or documents, just to avoid paying fees. When a requester or a group of requesters breaks a request into many requests to avoid paying, the FOIA manager may combine the requests and charge accordingly. Before combining requests, be sure you have solid evidence that the requesters are trying to avoid fees. Do not combine one requester's multiple requests on unrelated subjects. Contact SAF/AAIQ before taking action.

§ 806.20 Fee waivers.

(a) Waive fees for requesters of all categories when:

(1) FOIA costs total \$15 or less.

(2) A record is created voluntarily to save the cost of supplying many records.

(3) A record previously withheld is released at small cost (e.g., \$15 to \$30).

(4) Releasing the information is likely to contribute significantly to public understanding of the operations or activities of the DoD and is not primarily in the commercial interest of the requester.

(b) A waiver in the public interest establishes the two basic requirements below. Both must be met before you waive or reduce fees. Use the following

six factors. Begin with the first four factors to determine "public interest" and then use the two remaining factors to decide if release "is not primarily in the commercial interest of the requester."

(1) *Requirement 1.* Is releasing the information in the public interest business it will probably contribute significantly to public understanding of the government's operations or activities?

(i) *Factor 1—Subject of the Request.* Analyze whether the subject matter will significantly contribute to the public understanding of DoD operations or activities. Requests made for records in DoD's possession originated by nongovernment organizations for their intrinsic content rather than informative value will likely not contribute to public understanding of DoD operations or activities. Press clippings, magazine articles, or records expressing an opinion or concern from a member of the public regarding a DoD activity are such records. Releasing older records may be relevant to current DoD activities, so do not discount it under this factor simply because it is old. For example, a requester might want historical records to study how a certain current DoD policy evolved. Review these requests closely, comparing the requester's stated purpose for the records and the potential for public understanding of DoD operations and activities.

(ii) *Factor 2—Informative Value.* Closely analyze a record's substantive contents to determine whether disclosure is meaningful, and will inform the public on DoD operations or activities. While the subject of a request may contain information concerning DoD operations or activities it may not always help people understand these operations or activities. One example is a heavily edited record, containing only random words, fragmented sentences, or paragraph headings. Another example is information already in the public domain.

(iii) *Factor 3—General Public Will Understand the Subject Better.* Will the records' release inform, or have the potential to inform, the public or just the requester or a few interested persons? Knowing the requester's identity is essential to determine whether he or she