

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

plans to, and knows how to, communicate information to the public. Plans to write a book, research a subject, work on a doctoral dissertation, or indigency are not reason enough to waive fees. The requester must tell how he or she plans to disclose the information to the general public. You may ask requesters for their qualifications, the nature of their research, the purpose of requesting information, and their plans for making information public.

(iv) *Factor 4—Significance of Public Understanding.* Balance the relative significance or impact of the disclosure against the level of public knowledge or understanding that exists before disclosure. Records released on a subject of wide public interest should contain previously unknown facts that increase public knowledge. They should not duplicate what the general public already knows. Determining the significance of information requires objective judgment. Take care to determine whether disclosure will probably lead to significant public understanding of the issue. Do not judge whether the information is important enough to be public.

(2) *Requirement 2.* Does disclosure of the information primarily mean profit for the requester?

(i) *Factor 5—Commercial Interest.* If you determine the requester will use the records to make a profit, then decide if it's primary, as opposed to a personal or noncommercial interest. In addition to profit-making organizations, individuals, and other organizations may have a commercial interest in certain records. When you have difficulty deciding whether a request is commercial in nature, the requester's identity and the circumstances of the request may help. You may write to the requester and ask for more details.

(ii) *Factor 6—Primary Interest.* After you have determined the requester's commercial interest, decide if it is primary. Commercial interests are primary only if the requester's profit clearly overrides a personal or non-profit interest. You must decide whether the commercial interest outweighs any benefit to the public as a result of disclosure. Waive or reduce fees when the public gains more than the requester. If the requester's commercial

interest is greater than the public interest, do not waive or reduce fees even if public interest is significant. As business organizations, news organizations have a commercial interest; however, you can assume that their primary interest is giving the general public news. Scholars writing books or engaging in other academic research, may profit, either directly or indirectly (through the institution they represent); however, such work is primarily done for educational purposes. Usually you would not assess scholars fees. Assume that brokers or others who compile government information for marketing use the information for profit.

(iii) *Decide each fee waiver case by case.* When you have doubts about waiving or charging a fee, favor the requester.

#### **§ 806.21 Transferring fees to accounting and finance offices.**

The Treasurer of the United States has two accounts for FOIA receipts. Use account 3210, Sales of Publications and Reproductions, Freedom of Information Act, for depositing fees for publications and forms described in Federal Account Symbols and titles. Use receipt account 3210, Fees and Other Charges for Services, Freedom of Information Act, to deposit fees for searching for, copying, and reviewing records to provide information not in existing publications or forms. Add your disbursing office's prefix to the account numbers. Deposit all FOIA receipts in these accounts except those from industrially funded and nonappropriated funded activities. Deposit these receipts in the applicable fund.

#### **§ 806.22 Fee rates.**

(a) These fees apply only to FOIA requests. Part 813 of this chapter, Schedule of Fees for Copying, Certifying and Searching Records and Other Documentary Material, contains the fee schedule for non-FOIA services. Refer to Part 806B of this chapter for guidance on fees for PA requests.

(b) Search and review:

(1) Clerical (E9 and GS-8 and below)—\$12 an hour.

(2) Professional (01-06 and GS-9-GS/GM-15)—\$25 an hour.