

Commission of Fine Arts

§ 2105.42

§ 2105.39 What search fees will you have to pay?

(a) The Agency will charge search fees for all requests, subject to the restrictions of §§ 2105.35(f), 2105.37, and 2105.38(a). The Agency may charge you for time spent searching even if it does not locate any responsive records or if it determines that the records are entirely exempt from disclosure.

(b) For each quarter hour spent by personnel searching for requested records, including electronic searches that do not require new programming, the fees will be the average hourly General Schedule (GS) base salary, plus the District of Columbia locality payment, plus 16 percent for benefits, of employees in the following three categories, as applicable:

(1) Clerical—Based on GS-6, Step 5, pay (all employees at GS-7 and below are classified as clerical for this purpose);

(2) Professional—Based on GS-11, Step 7, pay (all employees at GS-8 through GS-12 are classified as professional for this purpose); and

(3) Managerial—Based on GS-14, Step 2, pay (all employees at GS-13 and above are classified as managerial for this purpose).

(c) You can review the current fee schedule for the categories discussed in paragraph (b) of this section at <https://www.cfa.gov/foia>.

(d) Some requests may require retrieval of records stored at a Federal records center operated by the National Archives and Records Administration. For these requests, the Agency will charge additional costs in accordance with the Transactional Billing Rate Schedule established by the National Archives and Records Administration.

§ 2105.40 What duplication fees will you have to pay?

(a) The Agency will charge duplication fees, subject to the restrictions of §§ 2105.35(f), 2105.37, and 2105.38(a).

(b) If photocopies or scans are supplied, the Agency will provide one copy per request at the cost determined by the table in appendix A to this part.

(c) For other forms of duplication, the Agency will charge the actual costs of producing the copy, including the

time spent by personnel duplicating the requested records. For each quarter hour spent by personnel duplicating the requested records, the fees will be the same as those charged for a search under § 2105.39(b).

(d) If the Agency must scan paper records to accommodate your preference to receive records in an electronic format or print electronic records to accommodate your preference to receive records in a paper format, you will pay both the per page amount noted in appendix A to this part and the time spent by personnel scanning or printing the requested records. For each quarter hour spent by personnel scanning or printing the requested records, the fees will be the same as those charged for a search under § 2105.39(b).

§ 2105.41 What review fees will you have to pay?

(a) The Agency will charge review fees if you make a commercial-use request, subject to the restrictions of §§ 2105.35(f), 2105.37, and 2105.38(a).

(b) The Agency will assess review fees in connection with the initial review of the record (the review conducted by the Agency to determine whether an exemption applies to a particular record or portion of a record).

(c) The Agency will not charge for reviews at the administrative appeal stage of exemptions applied at the initial review stage. However, if the appellate authority determines that an exemption no longer applies, any costs associated with the Agency's re-review of the records to consider the use of other exemptions may be assessed as review fees.

(d) The Agency will charge review fees at the same rates as those charged for a search under § 2105.39(b).

(e) The Agency can charge review fees even if the record(s) reviewed ultimately is not disclosed.

§ 2105.42 What fees for other services will you have to pay?

(a) Although not required to provide special services, if the Agency chooses to do so as a matter of administrative discretion, it will charge you the direct costs of providing the service.

§ 2105.43

(b) Examples of these services include providing multiple copies of the same record, converting records that are not already maintained in a requested format to the requested format, obtaining research data under § 2105.66, sending records by means other than first class mail, and conducting a search that requires the creation of a new computer search program to locate the requested records.

(c) The Agency will notify you of these fees before they accrue and will obtain your written assurance of payment or an advance payment before proceeding (*see* §§ 2105.47 and 2105.48).

§ 2105.43 When will the Agency waive fees?

(a) The Agency will release records responsive to a request without charge (in other words, it will give you a full fee waiver) or at a reduced charge (in other words, it will give you a partial fee waiver, as discussed further in paragraph (b) of this section) if the Agency determines, based on all available information, that you have demonstrated (by addressing and meeting each of the criteria listed in § 2105.46) that disclosing the information is:

(1) In the public interest because it is likely to contribute significantly to public understanding of Government operations or activities, and

(2) Not primarily in your commercial interest.

(b) A partial fee waiver may be appropriate if some but not all of the requested records are likely to contribute significantly to public understanding of the operations and activities of the Government.

(c) When deciding whether to waive or reduce fees, the Agency will rely on the fee waiver justification submitted in your request letter. If the letter does not include sufficient justification, the Agency will deny the fee waiver request. The Agency may, at its discretion, request additional information from you (*see* § 2105.49).

(d) The burden is on you to justify entitlement to a fee waiver. Requests for fee waivers are decided on a case-by-case basis under the criteria discussed in paragraph (a) of this section and § 2105.46. If you have received a fee waiver in the past, that does not mean

45 CFR Ch. XXI (10–1–23 Edition)

you are automatically entitled to a fee waiver for every request submitted.

(e) The Agency must not make value judgments about whether the information at issue is “important” enough to be made public; it is not the Agency’s role to attempt to determine the level of public interest in requested information.

§ 2105.44 When may you ask the Agency for a fee waiver?

(a) You should request a fee waiver when your request is first submitted to the Agency (*see* § 2105.5).

(b) You may submit a fee waiver request at a later time if the Agency has not yet completed processing your request.

§ 2105.45 How will the Agency notify you if it denies your fee waiver request?

If the Agency denies your request for a fee waiver, it will notify you, in writing, of the following:

(a) The basis for the denial, including a full explanation of why the fee waiver request does not meet the Agency’s fee waiver criteria in § 2105.46;

(b) The name and title or position of each person responsible for the denial;

(c) The name and title of legal counsel consulted;

(d) Advisement of the right to seek dispute resolution services from the Agency’s FOIA Public Liaison and the Office of Government Information Services (OIGS);

(e) Your right to appeal the denial under subpart H of this part and a description of the requirements set forth therein, within 30 workdays from the date of the fee waiver denial letter; and

(f) Your anticipated fees, in accordance with § 2105.47.

§ 2105.46 How will the Agency evaluate your fee waiver request?

(a) In deciding whether your fee waiver request meets the requirements of § 2105.43(a)(1), the Agency will consider the criteria listed in paragraphs (a)(1) through (4) of this section.

(1) How the records concern the operations or activities of the Federal Government.

(2) How disclosure is likely to contribute to public understanding of