

§ 2507.19 Circumstances in which fees may not be charged.

(a) If AmeriCorps fails to comply with the time limits for responding to a request, and if no unusual or exceptional circumstances, as defined by the FOIA, apply to processing the request, it may not charge search fees (or, for requesters with preferred fee status, may not charge duplication fees).

(b) If AmeriCorps fails to comply with the extended time limit for unusual circumstances under § 2705.10(c), it may not charge search fees (or, for requesters with preferred fee status, may not charge duplication fees), except as follows:

(1) If unusual circumstances apply and more than 5,000 pages are necessary to respond to the request, AmeriCorps may charge search fees (or, for requesters with preferred fee status, may charge duplication fees), so long as AmeriCorps has given the requester timely written notice and has discussed with the requester via email, telephone, or paper mail (or made at least three good-faith attempts to do so) how the requester could limit the scope of the request.

(2) If a court determines that exceptional circumstances exist, AmeriCorps' failure to comply with a time limit will be excused for the length of time provided by the court order.

(c) AmeriCorps will charge search or review fees for a quarter-hour period only when more than half of that period is required for search or review.

(d) AmeriCorps will not charge any fee if the total fee calculated according to § 2507.18 is \$25.00 or less for any request.

§ 2507.20 Notice of anticipated fees in excess of \$25.00.

(a) When AmeriCorps estimates that fees will exceed \$25.00 and the requester has not stated in writing their willingness to pay fees as high as anticipated, it will inform the requester of the estimated fees, including a breakdown for search, review, or duplication.

(1) AmeriCorps will inform the requester if only a portion of the fee can be readily estimated.

(2) For non-commercial-use requesters subject to search fees, the notice

will tell them that they are entitled to two hours of search time at no charge. For all requesters who ask for non-electronic copies of the records, AmeriCorps will inform them that they are entitled to 100 pages of duplication at no charge. In both cases, AmeriCorps will tell the requester whether those entitlements are included in the estimate.

(b) When AmeriCorps notifies a requester that the actual or estimated total fee exceeds \$25.00, it will stop work on the request and the processing time will be tolled until the requester, in writing:

(1) Commits to paying the actual or estimated total fee; or

(2) Designates a specific dollar amount of fees they are willing to pay; or

(3) Tells AmeriCorps that they seek only that which can be provided with two free hours of search time and 100 free pages of duplication, in the case that they are eligible for these entitlements.

(c) If the requester has specified a fee amount they are willing to pay, but AmeriCorps estimates that the total fee will be greater than that:

(1) It will notify the requester of the estimated excess and ask if they wish to either revise the amount of fees they are willing to pay or modify the request, and

(2) The Agency will stop work on the request and toll the processing time according to § 2507.10(f).

(d) The FOIA Officer or FOIA Public Liaison will be available to help any requester reformulate a request to meet the requester's needs at a lower cost.

§ 2507.21 Other charges.

(a) *Charges for other services.* Although it is not required to provide special services, if AmeriCorps chooses as a matter of administrative discretion to do so, it will charge the direct costs of providing those services. Examples of such services include certifying that records are true copies, providing multiple copies of the same document, or sending records by means other than first class mail.

(b) *Charging interest.* AmeriCorps may charge interest on any unpaid bill

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starting on the 31st day following the billing date. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the billing date until payment is received by the agency. AmeriCorps will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

§ 2507.22 Aggregating requests to ensure payment of fees.

(a) When AmeriCorps reasonably believes that a requester or a group of requesters acting together is attempting to divide a single request into multiple smaller requests so as to avoid fees, AmeriCorps may aggregate those requests and charge accordingly.

(1) AmeriCorps may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees.

(2) For requests separated by more than 30 days, AmeriCorps will aggregate them only where there is a reasonable basis for determining that aggregation is justified in view of all the circumstances involved.

(b) Multiple requests involving unrelated matters will not be aggregated.

§ 2507.23 Collection and payment of fees.

(a) AmeriCorps must ordinarily receive all applicable fees before it sends copies of records to a requester. This is payment for work already completed, not an advance payment.

(b) AmeriCorps may require an advance payment before work begins or is continued on a request when one of the following two circumstances exists. In these cases, AmeriCorps will not consider the FOIA request to have been received and will not conduct further work on the request until it receives the required payment. If the requester does not pay the advance payment within 30 calendar days after the date of AmeriCorps' fee determination, the request will be closed.

(1) If AmeriCorps determines or estimates that a total fee will be greater than \$250.00, it may require that the requester pay in advance, up to the

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amount of the entire anticipated fee, before starting to process the request. AmeriCorps may choose to process the request before it collects fees if it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(2) When a requester has previously failed to pay a properly charged FOIA fee to the Agency within 30 calendar days of the billing date, AmeriCorps may require the requester to pay the full amount past due, plus any applicable interest on that prior request, and may also require the requester to pay in advance the full amount of any anticipated fee before it begins to process a new request or continues to process a pending request or any pending appeal. If AmeriCorps has a reasonable basis to believe that a requester has misrepresented their identity in order to avoid paying outstanding fees, it may require the requester to provide proof of identity.

(c) Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(d) AmeriCorps is not required to accept payments in installments.

§ 2507.24 Fee waivers or fee reductions.

(a) Requests for a waiver or reduction of fees should be made when the FOIA request is first submitted to AmeriCorps and should address in specific detail the factors below. However, a requester may ask for a fee waiver at a later time, if their FOIA request is still pending or is on administrative appeal.

(b) AmeriCorps will grant a waiver of fees, or a one-time reduction of the rate established under § 2507.18, when it determines that the requester has demonstrated that disclosure of the requested information is in the public interest and is not primarily in the commercial interest of the requester.

(1) To determine whether disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, AmeriCorps will consider the following factors: