

§ 2507.21

(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 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,

45 CFR Ch. XXV (10–1–24 Edition)

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 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:

(i) The subject of the request must concern identifiable operations or activities of the Federal Government, with a connection that is direct and clear, not remote or attenuated.

(ii) Disclosure of the requested records must be meaningfully informative about Federal Government operations or activities in order to be “likely to contribute” to an increased public understanding of those operations or activities. Disclosure of information that is already in the public domain, in either the same or a substantially identical form, would not contribute to such understanding.

(iii) Disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester’s expertise in the subject

area, as well as their ability and intention to effectively convey information to the public, will be considered. A representative of the news media making the request for professional purposes satisfies this consideration.

(iv) The public’s understanding of the subject in question must be enhanced by the disclosure to a significant extent. However, AmeriCorps will not make value judgments about whether the information at issue is “important” enough to be made public.

(2) To determine whether disclosure of the requested information is primarily in the commercial interest of the requester, AmeriCorps will give requesters an opportunity to explain the purpose of the request. The Agency will consider the following factors:

(i) If there is an identified commercial interest, AmeriCorps will determine whether that is the primary interest furthered by the request.

(ii) The identified commercial interest is not the primary interest furthered by the request (such that a waiver or reduction of fees is justified) where the public interest in disclosure is greater than the identified commercial interest in disclosure. AmeriCorps ordinarily will presume that when a news media requester has satisfied the public interest standard, it is a public interest that is primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(c) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver will be granted for those records only.

(d) A requester may appeal the denial of a fee waiver.

Subpart H—Miscellaneous

§ 2507.25 Preservation of records.

AmeriCorps will preserve all correspondence relating to FOIA requests it receives, and all records processed for those requests, until the destruction of the correspondence and records is authorized by Title 44 of the United States Code and the records disposition authority granted by NARA. The