

## § 1900.13

## 32 CFR Ch. XIX (7-1-25 Edition)

range, the title of the record, the type of record (such as memorandum or report), the specific event or action to which the record refers, and the subject matter. Requests for electronic communications should attempt to specify a sender, recipient, date range, and subject or keyword. Extremely broad or vague requests or requests requiring research do not satisfy the requirement that a request be “reasonably described.”

(2) Requesters must provide a physical mailing address or email address where CIA can send a response or other correspondence related to the request.

(3) Failure to provide the required information in this section may result in a delay or declination in processing the request.

(b) *Requirements as to identification of requester.* (1) Individuals seeking access to records concerning themselves shall provide their full (legal) name, address, date and place of birth together with a signed statement that such information is true under penalty of perjury or a notarized statement swearing to or affirming identity. If the Agency determines that this information is not sufficient, the Agency may request additional or clarifying information.

(2) Attorneys or other individuals retained to represent a requester shall provide evidence of such representation by submission of a representational agreement or other document which establishes the relationship with the requester.

(3) Failure to provide the required information in this section may result in a delay or declination in processing the request.

(c) *Additional information for fee determination.* A requester should provide sufficient information to allow the Agency to determine the appropriate fee category for the request and the Agency may draw reasonable inferences from the identity and activities of the requester in making such a determination. A requester should also provide an agreement to pay all applicable fees or fees not to exceed a certain amount or request a fee waiver.

(d) *Additional communication with requester.* Although the Agency is not required to answer questions, create records, or perform research in re-

sponse to a FOIA request, when the request lacks sufficient clarity to allow the records to be located with a reasonable effort, the Agency will provide the requester with an opportunity to narrow or further define the nature or scope of the request. Additionally, individuals may contact the CIA FOIA Requester Service Center for the purpose of obtaining recommendations as to how to frame or narrow a particular request.

### § 1900.13 Fees for record services.

(a) *In general.* Search, review, and duplication fees will be charged in accordance with the provisions in paragraphs (b) through (j) of this section relating to schedule, limitations, and category of requester. Applicable fees will be due even if our search locates no responsive records or some or all of the responsive records must be denied under one or more of the exemptions of the Freedom of Information Act.

(b) *Fee waiver requests.* Records will be furnished without charge or at a reduced rate whenever the Agency determines:

(1) That, as a matter of administrative discretion, the interest of the United States Government would be served; or

(2) That it is in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the United States Government and is not primarily in the commercial interest of the requester.

(c) *Fee waiver appeals.* Denials of requests for fee waivers or reductions may be appealed to the Chair of the Agency Release Panel via the Coordinator. A requester is encouraged to provide any explanation or argument as to how his or her request satisfies the statutory requirement set forth in § 1900.01.

(d) *Time for fee waiver requests and appeals.* Fee waiver requests and appeals must be directed to the Coordinator in accordance with §§ 1900.03 and 1900.11. It is suggested that such requests and appeals be made and resolved prior to the initiation of processing and the incurring of costs. However, fee waiver requests will be accepted at any time prior to the release of documents or

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the completion of a case, and fee waiver appeals within forty-five (45) business days of our initial decision subject to the following condition: If processing has been initiated, then the requester must agree to be responsible for costs in the event of an adverse administrative or judicial decision. When making fee waiver requests or appeals, no particular format is required other than a statement of the basis for the request or appeal.

(e) *Agreement to pay fees.* In order to protect requesters from large and/or unanticipated charges, the Agency will request a specific commitment from the requester to pay applicable fees when the Agency estimates that fees will exceed \$25.00. The Agency will toll for forty-five (45) business days requests requiring such agreement and will thereafter deem the request closed in the absence of a response from the

requester. This action, of course, would not prevent a requester from refiling the FOIA request with a fee commitment at a subsequent date.

(f) *Deposits.* The Agency may require an advance deposit of up to 100 percent of the estimated fees when fees may exceed \$250.00 and the requester has no history of payment, or when, for fees of any amount, there is evidence that the requester previously failed to pay fees in a timely fashion. The Agency will toll for forty-five (45) business days those requests where deposits have been requested and will thereafter deem the request closed in the absence of a response from the requester.

(g) *Schedule of fees—(1) In general.* The schedule of fees for services performed in responding to requests for records is established as follows:

TABLE 1 TO PARAGRAPH (G)(1)

<b>Personnel Search and Review</b>		
Clerical/Technical	Quarter hour	\$5.00
Professional/Supervisory	Quarter hour	\$10.00
Manager/Senior Professional	Quarter hour	\$18.00
<b>Duplication</b>		
Photocopy (b&w, standard, or legal)	Per page	\$0.10
Photocopy (color, standard, or legal)	Per page	\$1.00
Microfiche	Per frame	\$0.20
CD (bulk recorded)	Each	\$10.00
CD (recordable)	Each	\$20.00
Pre-printed (if available)	Per 100 pages	\$5.00
Published (if available)	Per item	NTIS

(2) *Application of schedule.* Personnel search time includes time expended in either manual paper records searches, indices searches, review of computer

search results for relevance, personal computer system searches, and various duplication services. In any event where the actual cost to the Agency of a particular item is less than listed in the schedule in table 1 to paragraph (g)(1) of this section (*e.g.*, a large production run of a document resulted in a cost less than \$5.00 per hundred pages), then the actual lesser cost will be charged. Items published and available at the National Technical Information Service (NTIS) may also be available from CIA pursuant to this part at the NTIS price as authorized by statute.

(3) *Other services.* For all other types of output, production, or duplication (*e.g.*, photographs, maps, or published reports), actual cost or amounts authorized by statute will be charged. Determinations of actual cost shall include the commercial cost of the media, the personnel time expended in making the item to be released, and an allocated cost of the equipment used in making the item, or, if the production is effected by a commercial service, then that charge shall be deemed the actual cost for purposes of this part.

(h) *Charging fees.* In responding to FOIA requests, CIA shall assess fees as follows unless a waiver or reduction of fees has been granted under paragraph (b) of this section:

(1) *Commercial use requesters.* Charges which recover the full direct costs related to search, review, and duplication of responsive records (if any);

(2) *Educational or non-commercial scientific institutions, or representatives of the news media.* Charges for duplication of responsive records (if any) beyond the first 100 pages; and

(3) *All other requesters.* Charges which recover the full direct costs related to search and duplication of responsive records (if any) beyond the first two hours of search time and first 100 pages.

(i) *Limitations on collection of fees—(1) In general.* No fees will be charged if the cost of collecting the fee is equal to or greater than the fee itself. That cost includes the administrative costs to the Agency of billing, receiving, recording, and processing the fee for deposit to the Treasury Department and,

as of April 17, 2023, is deemed to be \$25.00.

(2) *Requests for personal information.* No fees will be charged for U.S. citizens or lawful permanent residents seeking records about themselves under the Privacy Act; such requests are processed in accordance with both the FOIA and the Privacy Act in order to ensure the maximum disclosure without charge.

(3) *Untimely response.* If CIA fails to comply with the FOIA's time limits for responding to a request, CIA will not charge search fees or, in the case of requesters in the educational or non-commercial scientific institutions or representatives of the news media category, duplication fees, except as set forth in paragraph (i)(4) of this section.

(4) *Special circumstances.* (i) If CIA determines that unusual circumstances as defined by the FOIA apply and the Agency has provided timely written notice to the requester, a failure to comply with the time limit shall be excused an additional ten (10) business days.

(ii) If CIA determines that unusual circumstances, as defined by the FOIA, apply and more than 5,000 pages are necessary to respond to the request, the Agency may charge search fees or, in the case of requesters in the educational or non-commercial scientific institutions or representatives of the news media category, duplication fees if the Agency has provided timely written notice of unusual circumstances to the requester in accordance with the FOIA and has discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with the requirements of the FOIA, 5 U.S.C. 552(a)(6)(B)(ii). If this exception is satisfied, CIA may charge all applicable fees incurred in the processing of the request.

(iii) If a court determines that exceptional circumstances exist, as defined in the FOIA, 5 U.S.C. 552(a)(6)(C), a failure to comply with the time limit shall be excused for the length of time provided by the court order.

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(j) *Associated requests.* A requester or associated requesters may not file a series of multiple requests, which are merely discrete subdivisions of the information actually sought for the purpose of avoiding or reducing applicable fees. In such instances, the Agency may aggregate the requests and charge the applicable fees.

### § 1900.14 Fee estimates (pre-request option).

In order to avoid unanticipated or potentially large fees, a requester may submit a request for a fee estimate. The Agency will endeavor within twenty (20) business days to provide an accurate estimate, and, if a request is thereafter submitted, the Agency will not accrue or charge fees in excess of our estimate without the specific permission of the requester.

#### CIA ACTION ON FOIA REQUESTS

### § 1900.21 Processing of requests for records.

(a) *In general.* Requests meeting the requirements of §§1900.11 through 1900.13 shall be considered proper FOIA requests and will be processed under the Freedom of Information Act, 5 U.S.C. 552, this part, and in accordance with any other applicable statutes. Upon receipt, the Agency shall within ten (10) business days record each request, acknowledge receipt to the requester in writing, and thereafter effect the necessary taskings to the CIA components reasonably believed to hold responsive records.

(b) *Previously-released records.* As an alternative to extensive tasking, search, and review, some requesters may wish to consider limiting the scope of their requests to previously released records. Searches of such records can often be accomplished expeditiously. Moreover, requests for such records that are specific and well-focused will often incur minimal, if any, costs. Requesters interested in limiting their requests to previously released Agency information, in lieu of traditional processing of a FOIA request, should so indicate in their correspondence.

(c) *Effect of certain exemptions.* In processing a request, the Agency shall

decline to confirm or deny the existence or nonexistence of any responsive records whenever the mere fact of their existence or nonexistence is itself classified under Executive Order 13526 (or successor orders), or revealing of intelligence sources and methods protected pursuant to section 102A(i)(1) of the National Security Act of 1947, as amended. In such circumstances, the Agency, in the form of a final written response, shall so inform the requester and advise the requester of the right to an administrative appeal.

(d) *Time for response.* The Agency will make every effort to respond to a proper FOIA request within the statutory 20-business day time period after receipt of the request. However, the Agency may seek additional time from a requester in accordance with §1900.33.

### § 1900.22 Action and determination(s) by originator(s) or any interested party.

(a) *Initial action for access.* (1) CIA components tasked pursuant to a FOIA request shall conduct a reasonable search of all relevant record systems within their areas of responsibility which have not been exempted from search, review, and disclosure under the FOIA by the CIA Information Act of 1984 and which are reasonably likely to contain records responsive to the request. They shall:

(i) Determine whether any responsive records exist;

(ii) Determine whether, and to what extent, any FOIA exemptions, as set forth in 5 U.S.C. 552(b), apply to the responsive records;

(iii) Review the exempt records to determine whether they contain any reasonably segregable, non-exempt material;

(iv) Approve the disclosure of all non-exempt records, or portions of records, within their areas of responsibility; and

(v) Forward to the Coordinator all records approved for release or necessary for coordination with or referral to another component or interested party.

(2) In making the decisions discussed in paragraph (a)(1) of this section, the CIA component officers shall be guided by the applicable law as well as the