

meet the conditions in paragraph (c) of this section.

(b) You can apply for a fee waiver at any time before CEQ completes processing your request or an appeal of your request. You can apply for a fee waiver with respect to a part of the records you seek or with respect to all of them.

(c) CEQ will grant you a fee waiver if all of the following conditions are met:

(1) Disclosure of the requested information would shed light on the operations or activities of the Government. The connection between the subject matter of your request, on the one hand, and identifiable operations or activities of the Federal Government, on the other, must be direct and clear, not remote or attenuated.

(2) Disclosure of the requested information would likely contribute significantly to public understanding of those operations or activities, because it would satisfy both of the following criteria:

(i) Disclosure of the requested records would be meaningfully informative about Government operations or activities. (The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.)

(ii) The disclosure would contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to your own individual understanding. (CEQ will presume that your request satisfies this criterion if you are a representative of the news media; otherwise, we will consider your expertise in the subject area as well as your ability and intention to effectively convey information to the public.)

(3) Disclosure of the requested information would not primarily advance your commercial, trade, or profit interests.

(d) CEQ will determine whether to grant or deny your request for a fee waiver if and when we would otherwise charge you fees. If we determine prior to that time that we are unlikely to grant your request for a fee waiver, we

may notify you of our determination so that you may modify your request.

§ 1515.35 When will CEQ contact me about fee-related matters?

(a) If CEQ determines or estimates that we will charge you more than \$25.00 in fees, we will notify you of our determination or estimate, unless you have already told us that you are willing to pay fees equal to or in excess of the amount we have determined or estimated.

(1) If CEQ can only estimate a part of the fee, we will explain that in the notice.

(2) If you are entitled to 2 hours of searching and 100 pages of duplication for free for the reasons described in §1515.33, CEQ will advise you of this and explain whether we have already provided these entitlements.

(3) CEQ may ask you to tell us the maximum amount you are willing to pay in fees in writing, in which case we will toll the period for processing your request until you respond.

(b) If CEQ determines or estimates that the fee will exceed the maximum amount you previously told us you were willing to pay, we will inquire with you about modifying your request or increasing the maximum, and we will toll the period for processing your request until you respond.

(c) If you have not provided a way to contact you regarding fee matters, or you do not respond to a fee-related inquiry within 30 calendar days, CEQ will deny your request.

§ 1515.36 Do I have to pay fees if CEQ misses the deadline for responding to my request?

CEQ will not charge search fees or duplication fees if we have failed to grant or deny your request within the period described in §1515.13, unless:

(a) CEQ determines that unusual circumstances are present, as described in §1515.13; and

(1) CEQ finishes processing your request within 10 working days of the original deadline; or

(2) Your request seeks more than 5,000 pages of records; CEQ has provided you timely written notice of the unusual circumstances; and we have

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discussed with you how you could effectively limit the scope of your request (or we made at least three attempts in good faith to do so); or

(b) A court grants CEQ additional time to process your request due to exceptional circumstances, and we finish processing your request within the period set forth in a court order.

§ 1515.37 When are fees due and how do I pay them?

(a) Ordinarily, CEQ will bill you for fees at the time we respond to your FOIA request.

(b) When CEQ determines or estimates that the total fee for your request will exceed \$250, we may require that you pay all or part of the anticipated fee in advance before we will process (or continue to process) your request.

(c) If you have previously failed to pay a FOIA fee that was due to any Government agency within 30 calendar days of the billing date, CEQ may require you to pay the outstanding fee (including interest) and make an advance payment of the anticipated fee for your current request before we will process (or continue to process) your request.

(d) If CEQ requires you to make an advance payment under this section, we will toll the period for processing your request until we receive the payment. If you do not pay within 30 calendar days, we will deny your request.

(e) CEQ will inform you of how to make a payment at the time that we bill you or require you to make an advance payment.

§ 1515.38 What will CEQ do if I do not promptly pay the fee?

If you do not pay a fee within 30 calendar days of the date of the bill:

(a) CEQ may charge interest, at the rate provided for in 31 U.S.C. 3717, from the 31st day following the date of billing through the date we receive your payment; and

(b) CEQ will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749), as amended, including its administrative procedures, which provide for the use of consumer reporting agencies, collection agencies, and offset.

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Subpart E—Confidential Commercial Information and Preservation of Records

§ 1515.41 How does CEQ handle confidential commercial information?

(a) At the time that a person or entity outside the Federal Government (a submitter) directly or indirectly provides information to CEQ, the submitter must mark or otherwise designate any part of its submission that it considers in good faith to be confidential commercial information.

(1) *Confidential commercial information* means commercial or financial information that comes within the scope of Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4).

(2) *In good faith* means not frivolously.

(3) The submitter also must explain how long CEQ should consider the information to be confidential commercial information, or else CEQ will presume that the designation expires after 10 years.

(b) Prior to disclosing information in response to a FOIA request, CEQ will provide written notice to the submitter if:

(1) The submitter has properly designated the information as confidential commercial information pursuant to paragraph (a) of this section; or

(2) CEQ requires the submitter's views on whether the information is confidential commercial information.

(c) Each notice under paragraph (b) of this section will either describe the information in question or include a copy of the requested records (or portions of records) containing the information. If the matter involves a large number of submitters, CEQ may post or publish the notice in a place or manner reasonably likely to inform the submitters of the potential disclosure, instead of sending individual notifications.

(d) CEQ will not provide a notice under paragraph (b) of this section if:

(1) CEQ has determined to withhold the information under § 1515.16;

(2) Someone other than CEQ has already lawfully published the information; or

(3) A law other than the FOIA requires CEQ to disclose the information.