

Department of State

§ 171.17

§ 171.16 Miscellaneous fee provisions.

(a) *Charging interest.* The Department shall begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent. The fact that the fee has been received by the Department within the thirty-day grace period, even if not processed, shall stay the accrual of interest. Interest will be at the rate prescribed in 31 U.S.C. 3717 and shall accrue from the date of the billing.

(b) *Charges for unsuccessful search or if records are withheld.* The Department may assess charges for time spent searching, even if it fails to locate the records or if the records located are determined to be exempt from disclosure.

(c) *Advance payment.* The Department may not require a requester to make an advance payment, *i.e.*, payment before work is commenced or continued on a request, unless:

(1) It estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250. In such a case, the Department shall notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or shall require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay within 30 days of the date of the billing a fee charged. In such a case, the Department shall require the requester to pay the full amount previously owed plus any applicable interest and to make an advance payment of the full amount of the estimated fee before the Department begins to process a new or pending request from that requester. If a requester has failed to pay a fee charged by another U.S. Government agency in an information access case, the Department may require proof that such fee has been paid before processing a new or pending request from that requester.

(3) When the Department acts under paragraph (c)(1) or (2) of this section, the administrative time limits prescribed in the FOIA, 5 U.S.C. 552(a)(6) (*i.e.*, 20 working days from receipt of initial requests and 20 working days

from receipt of appeals from initial denial, plus permissible extensions of these time limits), will begin only after the Department has received fee payments described in paragraphs (c)(1) and (2) of this section.

(d) *Aggregating requests.* When the Department reasonably believes that a requester, or a group of requesters acting in concert, has submitted multiple requests involving related matters solely to avoid payment of fees, the Department may aggregate those requests for purposes of assessing processing fees.

(e) *Effect of the Debt Collection Act of 1982 (Pub. L. 97-365).* The Department shall comply with provisions of the Debt Collection Act, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to effect repayment.

§ 171.17 Waiver or reduction of fees.

(a) Fees otherwise chargeable in connection with a request for disclosure of a record shall be waived or reduced where it is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

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

(i) The subject of the request, *i.e.*, whether the subject of the requested records concerns the operations or activities of the government;

(ii) The informative value of the information to be disclosed, *i.e.*, whether the disclosure is likely to contribute to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure, *i.e.*, whether disclosure of the requested information will contribute to public understanding, including whether the requester has expertise in the subject