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the Internet, or you may request a copy of it by mail.

§ 503.6 Restrictions on some agency records.

Under the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1461, as amended), the BBG is prohibited from disseminating within the United States information about the U.S., its people, and its policies when such materials have been prepared by the Agency for audiences abroad. This includes films, radio scripts and tapes, videotapes, books, and similar materials produced by the Agency. However, this law does provide that upon request, such information shall be made available at BBG, for examination only, by representatives of the press, magazines, radio systems and stations, research students or scholars and available, for examination only, to Members of Congress.

§ 503.7 Fees.

(a) *Fees to be charged—categories of requests.* Paragraphs (a)(1) though (3) and (b) through (e) of this section explain each category of request and the type of fees that we will generally charge. However, for each of these categories, the fees may be limited, waived, or reduced for the reasons given in paragraph (e) of this section. ''Request'' means asking for records, whether or not you refer specifically to the Freedom of Information Act (FOIA). Requests from Federal agencies and court orders for documents are not included within this definition. ''Review'' means, when used in connection with processing records for a commercial use request, examining the records to determine what portions, if any, may be withheld, and any other processing that is necessary to prepare the records for release. It includes only the examining and processing that are done the first time we analyze whether a specific exemption applies to a particular record or portion of a record. It does not include the process of researching or resolving general legal, or policy issues regarding exemptions. ''Search'' means looking for records or portions of records responsive to a request. It includes reading and interpreting a request, and also and line-by-line examination to identify responsive portions of a document.

(1) *Commercial use request.* If your request is for a commercial use, BBG will charge you the costs of search, review and duplication. ''Commercial use'' means that the request is from or on behalf of one whom seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or of a person on whose behalf the request is made. Whether a request is for a commercial use depends on the purpose of the request and how the records will be used; the identity of the requester (individual, non-profit corporation, for-profit corporation), or the nature of the records, while in some cases may indicate the purpose or use is not necessarily determinative. When a request is made by a representative of the news media, a purpose of use which supports the requester's news dissemination function is deemed to be a non-commercial use.

(2) *Educational and scientific institutions and news media.* If you are an educational institution or a non-commercial scientific institution, operated primarily for scholarly or scientific research, or a representative of the news media, and your request is not for a commercial use, BBG will charge you only for the duplication of documents. Also BBG will not charge you the copying costs for the first 100 pages of duplication. ''Educational institution'' means a preschool, elementary or secondary school, institution of undergraduate or graduate higher education, or institution of professional or vocational education. ''Non-commercial scientific institution'' means an institution that is not operated substantially for purposes of furthering its own or someone else's business, trade, or profit interests, and that is operated for purposes of conducting scientific research whose results are not intended to promote any particular product or industry. ''Representative of the news media'' means a person actively gathering news for an entity organized and operated to publish or broadcast news to the public. ''News'' means information that is about current events or that would be of current interest to the

public. News media entities include television and radio broadcasters, publishers of periodicals (to the extent they publish ''news'') who make their products available for purchase or subscription by the general public, and entities that may disseminate news through other media (e.g., electronic dissemination of text). We will treat freelance journalists as representatives of a news media entity if they can show a solid basis for expecting publication through such an entity. A publication contract is such a basis and the requester's past publication record may show such a basis.

(3) *Other requesters*. If your request is not the kind described by paragraph (a)(1) or (a)(2) of this section, then the BBG will charge you only for search and duplication. Also, we will not charge you for the first two hours of search time or for the copying costs of the first 100 pages of duplication.

(b) *Fees to be charged—general provisions*. (1) We may charge search fees even if the records we find are exempt from disclosure, or even if we do not find any records at all.

(2) We will not charge you any fee at all if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. We have estimated that cost to be $5.00.

(3) If we determine that you are acting alone or with others to break down a single request into a series of requests in order to avoid or reduce the fees charged, we may aggregate all these requests for purposes of calculating the fees charged.

(4) We will charge interest on unpaid bills beginning on the 31st day following the day the bill was sent. The accrual of interest will stop upon receipt of the fee, rather than upon its processing by BBG. Interest will be at the rate prescribed in section 3717 of Title 32 U.S.C.

(c) *Fee schedule—BBG will charge the following fees:* (1) Manual searching for or reviewing of records:

(i) When performed by employees at salary grade GS–1 through GS–8 or FS–9 through FS–5—an hourly rate of $10.00 will be charged;

(ii) When performed by employees at salary grade GS–9 through GS–13 or FS–5 through FS–2—an hourly rate of $20.00 will be charged;

(iii) When performed by employees at salary grade GS–14 or above or FS–2 or above—an hourly rate of $36.00 will be charged.

(iv) When a search involves employees at more than one of these levels, we will charge the appropriate rate for each.

(2) Computer searching and printing. Except in unusual cases, the cost of computer time will not be a factor in calculating the two free hours of search time. In those unusual cases, where the cost of conducting a computerized search significantly detracts from the Agency's ordinary operations, no more than the dollar cost of two hours of manual search time shall be allowed. For searches conducted beyond the first two hours, the Agency shall only charge the direct costs of conducting such searches.

(3) Photocopying standard size pages—$0.15 per page.

(4) Photocopying odd-size documents (such as punchcards or blueprints) or reproducing other records (such as tapes)—the actual cost of operating the machine, plus the actual cost of the materials used, plus charges for the time spent by the operator, at the rates given in paragraph (c)(1) of this section.

(5) Certifying that records are true copies—this service is not required by the FOIA. If we agree to provide it, we will charge $10.00 per certification.

(6) Sending records by express mail, certified mail, or other special methods. This service is not required by the FOIA. If we agree to provide it, we will charge our actual cost.

(7) Performing any other special service that you request and to which we agree—actual cost of operating any machinery, plus actual cost of any materials used, plus charges for the time of our employees, at the rates given in paragraph (c)(1) of this section.

(d) *Procedures for assessing and collecting fees*—(1) *Agreement to pay*. We generally assume that when you request records you are willing to pay the fees we charge for services associated with your request. You may specify a limit on the amount you are willing to spend. We will notify you if it

appears that the fees will exceed the limit and ask whether you nevertheless want us to proceed with the search.

(2) *Advance payment.* If you have failed to pay previous bills in a timely manner, or if our initial review of your request indicates that we will charge you fees exceeding $250.00, we will require you to pay your past due fees and/or the estimated fees, or a deposit, before we start searching for the records you want, or before we send them to you. In such cases, the administrative time limits as described in Sec. 503.4(b), will begin only after we come to an agreement with you over payment of fees, or decide that a fee waiver or reduction is appropriate.

(e) *Waiver or reduction of fees.* We will waive or reduce the fees we would otherwise charge if disclosure of the information meets both of the following tests (paragraphs (e)(1) and (e)(2) of this section):

(1) It is in the public interest because it is likely to contribute significantly to public understanding of government operations or activities, regardless of any other public interest it may further. In making this determination, we may consider:

(i) Whether the requester is in a position to contribute to public understanding;

(ii) Whether the requester has such knowledge or expertise as may be necessary to understand the information; and

(iii) Whether the requester's intended use of the information would be likely to disseminate the information among the public.

(2) It is not primarily in the commercial interest of the requester. Commercial interests include interests relating to business, trade, and profit. Not only profit-making corporations have commercial interests; so do nonprofit corporations, individuals, unions, and other associations.

(3) You must make your request for a waiver or reduction at the same time you make your request for records. Only the FOIA Officer may make the decision whether to waive or reduce the fees. If we do not completely grant your request for a waiver or reduction, the denial letter will designate the appeal official.

§ 503.8 Exemptions.

Section 552(b) of the Freedom of Information Act contains nine exemptions to the mandatory disclosure of records. These exemptions and their application by the Agency are described below. In some cases, more than one exemption may apply to the same document. This section does not itself authorize the giving of any pledge of confidentiality by any officer or employee of the Agency.

(a) *Exemption one—National defense and foreign policy.* We are not required to release records that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified according to such Executive Order. Executive Order No. 12958 (1995) provides for such classification. When the release of certain records may adversely affect U.S. relations with foreign countries, we usually consult with officials with knowledge of those countries and/or with officials of the Department of State. We may also have in our possession records classified by another agency. If we do, we may consult with that agency or may refer your request to that agency for their direct response to you. If possible, we will notify you that we have made such a referral.

(b) *Exemption two—Internal personnel rules and practices.* We are not required to release records that are related solely to the internal personnel rules and practices of an agency. We may withhold routine internal agency procedures such as guard schedules and luncheon periods. We may also withhold internal records the release of which would help some persons circumvent the law or Agency regulations.

(c) *Exemption three—Records exempted by other statutes.* We are not required to release records if another statute specifically allows us to withhold them. Another statute may be used only if it absolutely prohibits disclosure or if it sets forth criteria identifying particular types of material to be withheld (for example, the statute discussed in § 503.6).