

§ 2004.7

15 CFR Ch. XX (1–1–11 Edition)

made within the time limit described in paragraph (c)(3)(i) of this section. The notice shall afford the requester an opportunity to limit the scope of the request to the extent necessary for the FOIA Officer to process it within that time limit or an opportunity to arrange a longer period for processing the request.

(d) *Appeals*—(1) *Initiating appeals*. Requesters not satisfied with the FOIA Officer's written decision may request USTR's FOIA Appeals Committee to review the decision. Appeals must be delivered in writing within 60 days of the date of the decision and shall be addressed to the FOIA Appeals Committee, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. As there may be delays in mail delivery, it is advisable to FAX appeals to (202) 395-9458. An appeal shall include a statement specifying the records that are the subject of the appeal and explaining why the Committee should sustain the appeal.

(2) *Appeal decisions*. The Committee shall ordinarily decide the appeal within 20 working days from the date it receives the appeal. If the Committee denies the appeal in full or part, the Committee shall promptly notify the requester in writing of the Committee's decision and the provisions for judicial review. If the Committee sustains the appeal, the FOIA Officer shall notify the requester in writing and shall make available to the requester copies of the releasable records once the requester pays any fees that USTR assesses under §§ 2004.8 through 2004.10.

COSTS

§ 2004.7 Definitions.

For purposes of these regulations:

(a) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's or other person's commercial, trade, or profit interests.

(b) *Direct costs* means those costs incurred in searching for and duplicating (and, in the case of commercial use requests, reviewing) documents to respond to a FOIA request. Direct costs include, for example, salaries of em-

ployees who perform the work and costs of conducting large-scale computer searches.

(c) *Duplicate* means to copy records to respond to a FOIA request. Copies can take the form of paper, audio-visual materials, or electronic records, among others.

(d) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, that operates a program or programs of scholarly research.

(e) *Non-commercial scientific institution* means an institution that is not operated on a commercial basis and that operates solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(f) *Representative of the news media* means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

(g) *Review* means to examine a record to determine whether any portion of the record may be withheld and to process a record for disclosure, including by redacting it.

(h) *Search for* means look for and retrieve records covered by a FOIA request, including by looking page-by-page or line-by-line to identify responsive material within individual records.

§ 2004.8 Fees in general.

USTR shall charge fees that recoup the full allowable direct costs it incurs in responding to FOIA requests. USTR may assess charges for time spent searching for records even if USTR fails to locate the records or if the records are located and determined to be exempt from disclosure. In general, USTR shall apply the following fee schedule, subject to §§ 2004.9 through 2004.11:

(a) *Manual searches*. Time devoted to manual searches shall be charged on