

(2) If the Board believes that multiple requests submitted by a requestor or by requestors acting in concert constitute a single request that would otherwise involve unusual circumstances, and if the requests involve clearly related matters, they may be aggregated. Multiple requests involving unrelated matters will not be aggregated.

(e) *Expedited processing.* (1) Requests and appeals shall be taken out of order and given expedited processing whenever it is determined that they involve:

(i) Circumstances that could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged activity if made by a person primarily engaged in disseminating information.

(2) Requests for expedited processing may be made either at the time of the initial request or at a later time.

(3) Requests for expedited processing must include a statement explaining in detail the basis for requesting expedited processing. For example, a requestor under §201.8 must establish that his/her professional activity is news reporting, although it need not be his/her sole occupation. The requestor also must establish a particular urgency to inform the public about government activity involved in the request, beyond the public's right to know about government activity generally.

(4) Within 10 calendar days of receipt of a request for expedited processing, the Board shall decide whether to grant the request and notify the requestor of its decision. If a request for expedited treatment is granted, the request shall be processed as soon as practicable. If a request for expedited processing is denied, an appeal of that decision shall be acted on expeditiously.

(f) *Tolling of time limits.* (1) The Board may toll the 20-day time period to:

(i) Make one request for additional information from the requester; or

(ii) Clarify the applicability or amount of any fees, if necessary, with the requester.

(2) The tolling period ends upon the Board's receipt of information from the requester or resolution of the fee issue.

§ 201.8 Fees.

(a) *General.* The Board shall charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under §201.9 or where a waiver or reduction of fees is granted under §201.11. Fees must be paid before the copies of records are sent. Fees may be paid by check or money order payable to the Treasury of the United States.

(b) *Definitions for this section.* (1) *Commercial use request*—A request from, or on behalf of, a person who seeks information for a purpose that furthers his/her commercial, trade, or profit interests including furthering those interests through litigation. The Board shall try to determine the use to which a record will be put. When the Board believes that a request is for commercial use either because of the nature of the request or because the Board has cause to doubt the stated use, the Board shall ask the requestor for clarification.

(2) *Direct costs*—Expenses that the Board incurs in searching for, duplicating, and reviewing records in response to a request. Direct costs include the full salary of the employee performing the work and the cost of duplication of the records. Overhead expenses, such as the cost of space, heating, and lighting, are not included.

(3) *Duplication*—Making a copy of a record or the information in the record, to respond to a request. Copies can be in paper, electronic, or other format. The Board shall honor a requestor's preference for format if the record is readily reproducible in that format at a reasonable cost.

(4) *Educational institution*—A public or private undergraduate, graduate, professional or vocational school that has a program of scholarly research. For a request to be in this category, a requestor must show that the request is authorized by and made under the auspices of the qualifying institution and that the records will be used for scholarly research.

(5) *Noncommercial scientific institution*—An institution that is not operated on a commercial basis, as defined in paragraph (b)(1) of this section and is operated solely for conducting scientific research that does not promote

§201.9

4 CFR Ch. II (1–1–12 Edition)

any particular product or industry. For a request to be in this category, the requestor must show that the request is authorized and made under the auspices of the qualifying institution and that the records will be used for further scientific research.

(6) *Representative of the news media*—Any person who, or entity that, gathers information of potential interest to a segment of the public, uses editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. A freelance journalist shall be regarded as working for a news media entity if the person can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by that entity. A publication contract is one example of a basis for expecting publication that ordinarily would satisfy this standard. The Board may consider past publication records of the requester in determining whether he or she qualifies as a “representative of the news media.”

(7) *Review*—Examining a record to determine whether any part of it is exempt from disclosure, and processing a record for disclosure. Review costs are recoverable even if a record is not disclosed. Review time includes time spent considering any formal objection to disclosure made by a business submitter under §201.13 but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search*—The process of looking for and retrieving records, including page-by-page or line-by-line identification of information within records and reasonable efforts to locate and retrieve information from records maintained in electronic form. The Board shall ensure that searches are done in the most efficient and least expensive way that is reasonably possible.

(c) *Fees*. In responding to FOIA requests, the Board shall charge the following fees unless a waiver or a reduction of fees has been granted under §201.11.

(1) *Search*. (i) Search fees shall be charged for all requests subject to the limitations of §201.9. The Board may charge for time spent searching even if no responsive record is located, or if

the record(s) located are withheld as exempt from disclosure.

(ii) For each quarter hour spent by clerical personnel in searching for and retrieving a requested record, the fee will be \$5. If a search and retrieval requires the use of professional personnel, the fee will be \$8 for each quarter hour. If the time of managerial personnel is required, the fee will be \$10 for each quarter hour.

(iii) For computer searches for records, requestors will be charged the direct costs of conducting the search although certain requestors (*see* §201.9(a)) will be charged no search fee and certain other requestors (*see* §201.9(b)) will be entitled to two hours of manual search time without charge. Direct costs include the cost of operating a computer for the search time for requested records and the operator salary for the search.

(2) *Duplication*. Duplication fees for paper copies of a record will be 10 cents per page for black and white and 20 cents per page for color. For all other forms of duplication, the Board shall charge the direct costs of producing the copy. All charges are subject to the limitations of §§201.9 and 201.11.

(3) *Review*. When a commercial-use request is made, review fees shall be charged as stated in paragraph (c)(1) of this section. These fees apply only to the initial record review, when the Board determines whether an exemption applies to a particular record. Charges shall not be imposed for review at the administrative appeal level if an exemption is applied. However, records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies. The costs of that review shall be charged. All review fees shall be charged at the same rates as those charged in paragraph (c)(1) of this section.

§201.9 Restrictions on charging fees.

(a) When determining search or review fees:

(1) No search fee shall be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.