

operations or activities of the government is “important” enough to be made public.

(3) To determine whether the second fee waiver requirement is met, the agency will consider the following factors:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure. The agency will consider any commercial interest of the requester (with reference to the definition of “commercial use” in paragraph (b)(1) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(ii) The primary interest in disclosure: Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requester.” A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. The agency ordinarily will presume that where a news-media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed primarily to serve the public interest.

(4) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver will be granted for those records.

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraphs (k)(2) and (k)(3) of this section insofar as they apply to each request. The agency will exercise its discretion to consider the cost-effectiveness of its investment of administrative resources in this decision-making process in deciding to grant waivers or reductions of fees.

§ 304.10 Preservation of records.

(a) The agency will preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration’s General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

(b) In the event that the agency contracts with another agency, entity, or person to maintain records for the agency for the purposes of records management, it will promptly identify such records in its “Freedom of Information Reference Guide” and specify the particular means by which request for such records can be made.

§ 304.11 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

Subpart B—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

AUTHORITY: 5 U.S.C. 552a, 591–96.

§ 304.20 General provisions.

(a) *Purpose and scope.* This subpart contains the rules that the Administrative Conference of the United States (“ACUS” or “the agency”) follows under the Privacy Act of 1974 (“the Privacy Act”), 5 U.S.C. 552a, as amended, regarding the protection of, and individual access to, certain records about individuals. These rules should be read together with and are governed by the Privacy Act itself, which provides additional information about records maintained on individuals. The rules in this subpart apply to all records in Privacy Act systems of records maintained by the agency, which are retrieved by an individual’s name or personal identifier. They describe the procedures by which individuals may request access to records about themselves, request