

## § 2.45

discretion, it will charge you the direct costs of providing the service.

(b) Examples of these services include certifying that records are true copies under subpart L of this part, providing multiple copies of the same record, converting records to a requested format, obtaining research data under § 2.69 of this part, or sending records by means other than first class mail.

(c) The bureau will notify you of these fees before they accrue and will obtain your written assurance of payment or an advance payment before proceeding. See §§ 2.49 and 2.50 of this subpart.

### § 2.45 When will the bureau waive fees?

(a) The bureau will release records responsive to a request without charge (in other words, it will give you a full fee waiver) or at a reduced charge (in other words, it will give you a partial fee waiver, as discussed further in paragraph (b) of this section) if the bureau determines, based on all available information, that you have demonstrated (under the factors listed in § 2.48 of this subpart) that disclosing the information is:

(1) In the public interest because it is likely to contribute significantly to public understanding of government operations or activities, and

(2) Not primarily in your commercial interest.

(b) A partial fee waiver may be appropriate if some but not all of the requested records are likely to contribute significantly to public understanding of the operations and activities of the government.

(c) When deciding whether to waive or reduce fees, the bureau will rely on the fee waiver justification submitted in your request letter. If the letter does not include sufficient justification, the bureau will deny the fee waiver request. The bureau may, at its discretion, request additional information from you (see § 2.51 of this subpart).

(d) The burden is on you to justify entitlement to a fee waiver. Requests for fee waivers are decided on a case-by-case basis under the criteria discussed above in paragraph (a) of this section and § 2.48 of this subpart. If you

## 43 CFR Subtitle A (10–1–14 Edition)

have received a fee waiver in the past, that does not mean you are automatically entitled to a fee waiver for every request submitted.

(e) Discretionary fee waivers are addressed in § 2.56 of this subpart.

(f) The bureau must not make value judgments about whether the information at issue is “important” enough to be made public; it is not the bureau’s role to attempt to determine the level of public interest in requested information.

### § 2.46 When may you ask the bureau for a fee waiver?

(a) You should request a fee waiver when your request is first submitted to the bureau (see § 2.6 of this part).

(b) You may submit a fee waiver request at a later time if the underlying record request is still either pending or on administrative appeal.

### § 2.47 How will the bureau notify you if it denies your fee waiver request?

If the bureau denies your request for a fee waiver, it will notify you, in writing, of the following:

(a) The basis for the denial, including a full explanation of why the fee waiver request does not meet the Department’s fee waiver criteria in § 2.48 of this subpart.

(b) The name and title or position of each person responsible for the denial;

(c) The name and title of the Office of the Solicitor attorney consulted; and

(d) Your right to appeal the denial to the FOIA Appeals Officer, under the procedures in § 2.57 of this part, within 30 workdays after the date of the fee waiver denial letter.

### § 2.48 How will the bureau evaluate your fee waiver request?

(a) In deciding whether your fee waiver request meets the requirements of § 2.45(a)(1) of this subpart, the bureau will consider the criteria listed in paragraphs one through four below. You must address each of these criteria.

(1) How the records concern the operations or activities of the Federal government.

(2) How disclosure is likely to contribute to public understanding of those operations or activities, including: