

## § 2.67

### § 2.67 When will the Department make records available without a FOIA request?

(a) Each bureau must:

(1) Determine which of its records must be made publicly available under the FOIA (for example, certain frequently requested records);

(2) Identify additional records of interest to the public that are appropriate for public disclosure; and

(3) Post those records in FOIA libraries.

(b) Because of these proactive disclosures, you are encouraged to review the Department's FOIA libraries before filing a FOIA request. The material you seek may be immediately available electronically at no cost.

### § 2.68 How will FOIA materials be preserved?

(a) Each bureau must preserve all correspondence pertaining to the requests that it receives under subpart B of this part, as well as copies of all requested records, until disposition or destruction is authorized by the General Records Schedule 14 of the National Archives and Records Administration (NARA) or another NARA-approved records schedule.

(b) Materials that are identified as responsive to a FOIA request will not be disposed of or destroyed while the request or a related appeal or lawsuit is pending. This is true even if they would otherwise be authorized for disposition or destruction under the General Records Schedule 14 of NARA or another NARA-approved records schedule.

### § 2.69 How will a bureau handle a request for federally-funded research data?

(a) If you request research data that were used by the Federal Government in developing certain kinds of agency actions, and the research data relate to published research findings produced under an award, in accordance with OMB Circular A-110:

(1) If the bureau was the awarding agency, it will request the research data from the recipient;

(2) The recipient must provide the research data within a reasonable time; and

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(3) The bureau will review the research data to see if it can be released under the FOIA.

(b) If the bureau obtains the research data solely in response to your FOIA request, the bureau may charge you a reasonable fee equaling the full incremental cost of obtaining the research data.

(1) This fee should reflect costs incurred by the agency, the recipient, and applicable subrecipients.

(2) This fee is in addition to any fees the agency may assess under the FOIA.

(c) The bureau will forward a copy of the request to the recipient, who is responsible for searching for and reviewing the requested information in accordance with these FOIA regulations. The recipient will forward a copy of any responsive records that are located, along with any recommendations concerning the releasability of the data, and the total cost incurred in searching for, reviewing, and providing the data.

(d) The bureau will review and consider the recommendations of the recipient regarding the releasability of the requested research data. However, the bureau, not the recipient, is responsible for deciding whether the research data will be released or withheld.

### § 2.70 What definitions apply to subparts A through I of this part?

For the purposes of subparts A through I of this part, the following definitions apply:

*Bureau* means any major component of the Department administering its own FOIA program. A list of these components is available at: <http://www.doi.gov/foia/contacts.cfm>.

*Commercial interest* means a commercial, trade, or profit interest as these terms are commonly understood. Your status as profitmaking or non-profitmaking is not the deciding factor in determining whether you have a commercial interest.

*Commercial use* means a use that furthers your commercial, trade or profit interests or that of the person on whose behalf the request is made.