

UNCLASSIFIED

How to Make a Request for U.S. Department of State Records

Introduction	Page
I. General	2
II. Access to Information – Exemptions	2
Department of State Records	
I. Records Maintained by the Department of State	3
II. Records Available Without Making a FOIA Request	3
Requesting information under the Freedom of Information Act (FOIA)	
I. Where to Make a FOIA Request	4
II. How to Make a FOIA Request	4
III. What to Expect Next	5
IV. Expeditious Handling	5
V. Fees	6
Requesting Personal Records – Privacy Act	
I. General	8
II. Types of Personal Records Maintained at the Department of State	8
III. Making a Privacy Act Request	8
IV. Access to Your Records	9
V. Access to Someone Else’s Records	9
VI. U.S. Passport Records	10
VII. Visa Records	11
VIII. Current/Former Department of State Employee Records	12
IX. Deceased Persons	13
Appealing a FOIA or Privacy Decision	
I. Denial of Access	14
II. Fee Waiver/Expeditious Handling	14
Requesting Mandatory Declassification Review (MDR)	
I. General	
II. Where to File a Request for MDR	15
III. How to Request MDR	15
IV. Appealing an MDR decision	16
Fee Structure	17

Introduction

I. General

The Electronic Freedom of Information Act Amendments of 1996 (E-FOIA) was signed into law on October 2, 1996. The amendments require agencies to prepare a guide for requesting access to information maintained by the appropriate agency.

On December 14, 2005 President George W. Bush issued Executive Order 13392, part of which required each agency to provide a plan for improving the implementation of the Freedom of Information Act (FOIA). The Department of State's plan, entitled "Review of Department FOIA Operations and Plan for Improvement" lists a number of milestones for improving the Department's FOIA operations. One of these milestones requires the Department to consolidate information on requesting access to Department of State records into a single document.

Consistent with these requirements, the Office of Information Programs and Services (IPS) has prepared this guide for requesting Department of State records. These guidelines, along with **Title 22 Code of Federal Regulations (CFR), part 171**, will provide all of the necessary information needed to file a request for access to Department of State records.

II. Access to Information - Exemptions

The text of the Freedom of Information Act (**Title 5 of the United States Code (U.S.C.), section 552**), generally provides that any person has a right to request access to federal agency records, except to the extent the records are protected from disclosure by any of nine exemptions contained in the law or by one of three special law enforcement record exclusions (**5 U.S.C. 552, sections b and c**).

The nine exemption categories that authorize government agencies to withhold information are:

- (1) classified information for national defense or foreign policy;
- (2) internal personnel rules and practices;
- (3) information that is exempt under other laws;
- (4) trade secrets and confidential business information;
- (5) inter-agency or intra-agency memoranda or letters that are protected by legal privileges;
- (6) personnel and medical files;
- (7) law enforcement records or information;
- (8) information concerning bank supervision; and
- (9) geological and geophysical information.

The three exclusions pertain to particularly sensitive law enforcement and national security matters.

For a more comprehensive listing and description of these exemptions, refer to the text of the Freedom of Information Act.

Department of State Records

I. Records Maintained by the Department of State

The Department of State maintains records dealing with:

- a. The formulation and execution of U.S. **Foreign** policy
- b. The administration and operations of the Department of State and U.S. missions abroad
- c. Applications from U.S. citizens for U.S. passports
- d. Visa requests from non-citizens to enter the U.S.
- e. Consular assistance given to U.S. citizens abroad
- f. Current and former employees of the Department

II. Records Available Without Making a FOIA Request

Before submitting a request for Department of State records, you may wish to search through the Department's FOIA website and the websites of the offices and bureaus within the Department of State.

Information available on the Department's website includes:

- a. Frequently requested documents released under the FOIA.
- b. Special records collections of continuing public interest.
- c. Regulations, policy statements, administrative rulings and manuals, and other reference materials, including the text of the Freedom of Information Act.
- d. The Department of State's Annual FOIA Reports.

The **Electronic Information and Publications Office** in the Bureau of Public Affairs maintains a Subject Index of the various publications available online. Most offices or bureaus within the Department of State maintain their own websites and post releases electronically, including reports, background notes, remarks and fact sheets. You may access the subject index through the **Publications** link on the Navigation Bar or the Subject Index link on the U.S. Department of State banner.

The Department of State also maintains a Public Reading Room that is open to the general public during regular business hours. To schedule a visit, please call the FOIA Hotline at 202-261-8484. Most of the information available in our Public Reading Room is posted on the Department's website.

Requesting Information under the Freedom of Information Act (FOIA)

I. Where to Make a FOIA Request

You can submit your request by mail, fax, or through our electronic FOIA Request Form (go to **Make a FOIA Request** on the Freedom of Information Act Home Page).

Fax - (202) 261-8579

Address -

Office of Information Programs and Services

A/ISS/IPS

Department of State, SA-2

Washington, DC 20522-8001

Re: Freedom of Information Act Request

II. How to Make a FOIA Request

There are no special forms needed for making a request but your request must be made in writing.

- Write "Freedom of Information Act Request" on the envelope or on the subject line of your fax.
- Include a daytime telephone number in case we need to contact you.
- State your willingness to pay the applicable fees or provide a justification to support a fee waiver. (**22 CFR 171.14-17**)
- Indicate the fee category which you believe your request should be assigned. (**22 CFR 171.15**)
- Describe the records you are seeking as clearly and precisely as you can. If your request is vague or too broad, we may ask you to be more specific, and this can delay the processing of your request.

The following information will assist us in conducting a search:

- Type of record;
- Timeframe of record;
- Specific subject matter, country, person and/or organization;
- Offices or consulates originating or receiving the record;
- Particular event, policy or circumstance that led to the creation of the record;
- Reason why you believe the record exists;
- If requesting information involving a contract with the Department of State, the contract number, approximate date, type of contract, and name of contractor.

UNCLASSIFIED

See also the Privacy Act section of this guide for more information if you are requesting records about yourself or another individual.

III. What to Expect Next

- The Department of State will make every attempt to meet the statutory time requirements to respond to your request. The Department's initial response will advise you of the date of receipt, the case number assigned to your request, and whether or not the records you are seeking are under the Department's control.
- Please be aware that some requests, depending on the volume of records, the complexity of the search, and/or the sensitivity of the subject matter, will require additional time to complete. If a request presents unusual circumstances -- such as the volume of the records sought -- you will be notified and offered an opportunity to limit the scope of your request in order to facilitate its processing. For the latest statistics regarding the average time it takes to process a FOIA request, go to the most recent **Department of State FOIA Annual Report**.
- In general, requests are handled in the order in which they are received. The Department of State does, however, have a "multi-track" response system to facilitate the processing of simpler requests, rather than putting all requests in a single "queue." For more on multi-track processing, go to **22 CFR 171.12(e)**.
- You will receive a substantive response when your request is fulfilled, denied in part or denied in full. If your request is complex, you may receive more than one substantive response on a rolling basis.
- It is the Department of State's policy to release information to the maximum extent possible. If some information must be deleted from a record which is released in part, the amount of information deleted will be indicated at the place where the deletion is made. If an entire record is withheld, you will be informed of the volume— number of documents, for example— which has not been released.

IV. Expeditious Handling

Requests will be taken out of order and given expedited treatment whenever a requester has demonstrated that a "compelling need" for the information exists. A compelling need is deemed to exist in cases in which not granting expedited treatment would pose an imminent threat to someone's life or physical safety, impair substantial due process rights, or harm substantial humanitarian interests. In most cases, a request will not be expedited merely on the basis that the requester is facing a court deadline in a judicial proceeding.

Expeditious handling may also be considered when the request is made by a person primarily engaged in disseminating information to the public and the information is urgently needed to inform the public concerning some actual or alleged government activity. Requests are not

UNCLASSIFIED

expedited under this provision merely on the basis that the requester is a representative of the news media.

A request for expedited processing must be accompanied by a statement setting forth the reasons why your request should be expedited. For more on Expedited Handling, go to **22 CFR 171.12(b)**.

V. Fees

Requester Categories

FOIA requesters are placed in categories based their qualifications and intended dissemination of released material. Determinations are made on a case-by-case basis. The fact that a requester has previously qualified for inclusion in a particular category will be taken into consideration, but the category may be different in subsequent requests if, for example, the intended use of the records sought is different.

For purposes of fees only, the FOIA divides requesters into four categories:

1. Commercial requesters – will be charged the total cost for processing a FOIA request, which includes searching for records, reviewing records for release determination, and duplication.
2. Education and noncommercial scientific institution requesters – will be charged for the duplication of documents, excluding charges for the first 100 pages.
3. Representatives of the news media – will be charged for the duplication of documents, excluding charges for the first 100 pages.
4. All others – will be provided 2 hours of search time, and 100 pages of duplication free of charge.

Need for Agreement to Pay Applicable Fees

By making a FOIA request, the requester shall be considered to have agreed to pay all applicable fees up to \$25.00 unless a fee waiver is granted. If the Department estimates that the search costs will exceed \$25.00, the requester shall be so notified. Such notice shall offer the requester the opportunity to confer with Department personnel with the object of reformulating the request to meet the requester's needs at a lower cost. The request shall not be processed further unless the requester agrees to pay the estimated fees. It is recommended that the requester indicates the maximum amount of fees that they are willing to pay with their initial request.

Please note that requests for copies of contracts requires an agreement to pay up to \$300 per contract.

Fee Limits

Requesters may set a limit on the amount that they are willing to pay. If it is anticipated that fees will exceed the fee limit set by the requester, or if in processing the request, fees begin to exceed

UNCLASSIFIED

the requester's fee limit, the Department will contact the requester. If the requester has provided a telephone number, the Department will attempt to call the requester to resolve the matter quickly.

No Charge for Requests Under \$10.00

The Department will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself.. This means that if billable costs are less than \$10.00, the requester is not charged.

Fees Owed in Connection with Prior Requests

Requesters who owe fees incurred in connection with the processing of previous requests must pay the fees owed prior to the Department processing any new requests.

When Fees are Assessed

Fees are generally assessed by the Department at the conclusion of processing a request. If it is estimated that allowable charges are likely to exceed \$250, the Department may require a requester to make an advanced payment. Duplication costs are assessed for only those documents that ultimately are released in full or denied in part; duplication costs are not assessed for documents denied in full, or referred to originating agencies for their direct reply to the requester.

Duplication costs are currently \$.15 per page.

Fee Waivers

The FOIA permits agencies to furnish documents without charge or at a reduced rate if it is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

Fee Waiver Justification

It is the Department's policy to treat each request for a fee waiver on a case-by-case basis. The Department will not consider a waiver or reduction of fees for requesters (persons or organizations) from whom unpaid fees remain due for a previous FOIA request. For information regarding the requirements for a fee waiver, go to **22 CFR 171.17**.

Requesting Personal Records – Privacy Act

I. General

The Privacy Act provides safeguards against invasion of personal privacy through the misuse of records by Federal agencies. The Act was passed in 1974 to establish controls over what personal information is collected, maintained, used and disseminated by the Federal government.

The Act applies to records about individuals maintained by agencies in the executive branch of the Federal government.

The Privacy Act guarantees three primary rights:

1. The right to see records about oneself, subject to Privacy Act exemption;
2. The right to request the amendment of records that are not accurate, relevant, timely or complete; and
3. The right of individuals to be protected against unwarranted invasion of their privacy resulting from the collection, maintenance, use, and disclosure of personal information.

II. Types of Personal Records Maintained at the U.S. Department of State

The Privacy Act is concerned essentially with name-retrievable records systems. Examples of such systems would include passport, medical, and employment records. For more information on Department of State records maintained on individuals, go to **Privacy Act Issuances**.

Generally, pre-1925 passport and pre-1940 visa records are with the National Archives and Records Administration (NARA).

If you would like copies of the following:

- Birth certificate abroad
- Marriage certificate abroad
- Death certificate abroad

Write to:

Passport Services
Vital Records Section
1111 19th Street, NW, Suite 510
Washington, DC 20522-1705

III. Making a Privacy Act Request

The procedures for making a request under the Privacy Act are the same as those for filing a FOIA request, with the following important requirements:

UNCLASSIFIED

- You must be a **United States citizen** or an **alien lawfully admitted for permanent residence** to the U.S. to make a request for Privacy Act records.
- There are no special forms needed for making a Privacy Act request.
- Requests **must be made in writing and sent by mail** to the following address:

Office of Information Programs and Services,
A/ISS/IPS
Department of State
Washington, DC 20522-8001

- Before we begin processing your request, it must have an **original signature** that must be either **notarized** or submitted under penalty of perjury by adding the following statement:

"I [declare, certify, verify, of state] under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct."

This statement must be signed, dated, and bear an original signature. We cannot accept a copy or facsimile.

Privacy Act requests should include the following:

- a. The individual's full name (including maiden name, if appropriate) and any other names used.
- b. Present mailing address and ZIP Code.
- c. Date and place of birth.
- d. Offices or posts originating or receiving the records.
- e. Particular event or circumstance that led to the creation of the record(s).
- f. An original signature, as discussed above.
- g. Any other information that might help in identifying the record.

Helpful data includes:

- The approximate time period of the record
- The circumstances that give the individual reason to believe that the Department of State maintains a record under the individual's name or personal identifier
- Social security number (at the requester's option)
- Passport number

IV. Access to Your Records:

If you are requesting records about yourself, the following information will assist us in our search:

UNCLASSIFIED

- a. Full Name (surname(s), given name(s)), other distinguishing information (such as Jr., Sr., III), and any aliases or other names used;
- b. Date and place of birth;
- c. Types of records sought;
- d. Timeframe of record;
- e. Specific subject matter, country and/or organization;
- f. The offices or consulates originating or receiving the record;
- g. The particular event, policy, or circumstance that led to the creation of the record;
- h. The reason you believe that the record exists within the Department of State and not another Government agency;
- i. Additional comments to help locate the record.

Before we begin processing your request, we require an **original signature** that must be either **notarized** or submitted under penalty of perjury and signed, dated, and bearing an original signature. We cannot accept a copy or fax.

V. Access to Someone Else's Records

The Department allows third party access to records under certain conditions.

A Third Party Authorization will facilitate our ability to provide you with any non-exempt responsive records. The Department requires that written consent be in the form of a **signed notarized** statement from the individual, authorizing the Department of State to release information to the other party. The statement should bear the original signature of the individual and original seal of the notary and be dated within six months of the date of the request. In lieu of notarization, the individual may declare, certify, verify, or state under penalty of perjury in a statement bearing his or her original signature, that the authorization attested to is correct (**if inside the U.S.**); or declare, certify, verify, or state under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct (**if outside the U.S.**).

You may submit the authorization on your letterhead or plain paper but **DO NOT submit Third Party Authorizations on the Department of Justice or U.S. Citizenship and Immigration Services forms**. Those forms only authorize the release of records from their respective agencies, not the Department of State. If you cannot provide the authorization please state so; note, however, that the possibility of obtaining documents will be severely limited as a result. For more information on Third Party Authorization, see **22 CFR 171.32(c)**.

VI. U.S. Passport Records

If you are requesting U.S. passport records, you may request the information from the Office of Information Programs and Services or you may go directly to **Passport Services**. Please note that, while you may receive a quicker response if you go directly to Passport Services, you may be charged additional fees, and it will not be processed under the Freedom of Information Act. To learn more about obtaining passport records directly from Passport Services, go to **www.travel.state.gov**.

UNCLASSIFIED

The following information assists us in searching for your passport records:

- a. Name the passport was issued under;
- b. Passport number;
- c. Date and place of birth of individual;
- d. The date issued (or, if unknown, an approximate range of dates);
- e. The location where the passport was issued;
- f. Additional comments to help locate the record.

VII. Visa Records

Records relating to visas are maintained in various locations. Please review the [Visa Records/Family Issues Chart](#) below before submitting a request for visa records.

The following information must be provided with your request:

- a. Full Name (surname(s), given name(s), other distinguishing information (such as Jr., Sr., III), and any aliases or other names used);
 - b. Date and place of birth;
 - c. Visa type (immigrant/non-immigrant, and specific type of visa within these broad categories);
 - d. Location of embassy/consulate where visa was issued/denied/pending;
 - e. Case number (this is for immigrant visas only);
 - f. Whether the visa was issued or denied, and date of such action (if unknown, please provide an approximate range of dates);
 - g. What specific documents are requested;
 - h. Additional comments to help locate the record.
- Inquiries on visa cases in progress overseas must contact the appropriate **U.S. Embassy or Consulate** handling your case. For a listing of U.S. Embassies and Consulates, go to <http://usembassy.state.gov/>.
 - Immigration records for individuals who already immigrated to the United States and have been issued a permanent resident alien card, also known as a “green card,” are with the **Department of Homeland Security, Bureau of Citizenship and Immigration Services**.
 - Please note that section (b)(3) of the Freedom of Information Act exempts from disclosure those agency records that are otherwise protected from release by federal statutes other than the FOIA. One such statute is section 222(f) of the Immigration and Nationality Act (9 USC, section 1202 (f)), which renders confidential those records of the Department of State pertaining to the issuance or refusal of visas or permits to enter the United States. As a result, you should be aware that Department of State visa records are generally exempt from disclosure under the (b)(3) exemption to the FOIA. This is the case regardless of whether the requester is a third party or the visa applicant him/herself,

UNCLASSIFIED

and regardless of whether the visa applicant has authorized the FOIA request. This exemption also applies if the subject is deceased.

Visa Records Chart

Requested Information	Location
<ul style="list-style-type: none"> ▪ Inquiries into visa cases in progress overseas 	The U.S. Embassy or Consulate handling the case.
<ul style="list-style-type: none"> ▪ Visa denials ▪ Non-immigration visa records ▪ Immigrant visa inquiries ▪ Correspondence to and from an overseas post ▪ Copies of visa applications 	Office of Information Programs and Services A/ISS/IPS U.S. Department of State, SA-2 Washington, DC 20522-8001
<ul style="list-style-type: none"> ▪ Correspondence to or from the National Visa Center ▪ Civil documents presented by petitioner 	National Visa Center Attention: Written Correspondence 32 Rochester Avenue Portsmouth, NH 03801-2909
<ul style="list-style-type: none"> ▪ Immigration records for permanent resident aliens ▪ Copy of visa approval notice ▪ Authorization of permission to work in the U.S. ▪ Adjudication of: -immigrant visa petitions; -naturalization petitions; -asylum and refugee applications 	U.S. Citizenship and Immigration Services 111 Massachusetts Avenue Washington, DC 20529
<ul style="list-style-type: none"> ▪ Visa records from 1910-1940 	Civil Records National Archives & Records Administration Washington, DC 20408
<ul style="list-style-type: none"> ▪ Alien files 	The National Records Center FOIA Division P.O. Box 648010 Lee's Summit, MO 64064-5570

VIII. Current/Former Department of State Employee Records

Current and former Department of State employees should follow the same procedures as described in **Requesting Personal Records – Privacy Act** above to obtain copies of their employment records.

If you are a current Department of State employee and you would like copies of your **medical records**, you may wish to direct your request to the **Chief of the Medical Records Unit**.

The following information will assist us in locating your employment records:

UNCLASSIFIED

- a. Employment status (current or former employee)
- b. Dates and locations of employment and duties
- c. Date and place of birth
- d. Social Security Number (optional)
- e. Type of employment (Civil Service, Foreign Service, or contract employee);
- f. Types of record requested: employment/personnel, medical, security background/clearance, Office of Inspector General (OIG) records, other records (specify);
- g. Additional comments to help locate the record.

XI. Deceased Persons

You may request the records of a deceased person if you can provide proof of death. You should provide the person's date and place of birth and a copy of the death certificate or a newspaper obituary. You should explain the type of material you seek and why you think that the Department of State would have records. Your request will be processed under provisions of the FOIA.

Appealing a FOIA or Privacy Decision

Any adverse determination, including the failure to find material responsive to the request or the denial of access to material, may be administratively appealed within 60 days of the date of receipt by the requester of the Department's denial.

I. Denial of Access

Appeals of denial of access must be made in writing and should be sent to the ***Chairman, Appeals Review Panel, c/o Information and Privacy Coordinator/Appeals Officer, U.S. Department of State, A/ISS/IPS/PP, SA-2, Washington, DC 20522-8100***. The appeal letter should state why the requester disagrees with the determination and provide any additional supporting information. This might include examples of material previously released by the State Department.

For FOIA Requests, the Department has twenty working days from the date the letter of appeals is received to respond to an appeal of denial of access. This may be extended for up to an additional 10 days in unusual circumstances.

For Privacy Act Requests, the Department has thirty working days from the date the letter of appeals is received to respond to an appeal of denial of access. The Panel may extend an additional 30 days to respond for good cause shown.

II. Fee Waiver/Expeditious Handling

The Department's decision to refuse to waive or reduce fees, or grant expedition, may also be appealed within 30 days of the receipt of the denial by writing to ***Chief of the Requester Liaison Division, c/o Information and Privacy Coordinator, U.S. Department of State, A/ISS/IPS/RL, SA-2, Washington, DC 20522-8100***. The appeal letter should contain as much information and documentation as possible to support the request for a waiver or reduction of fees.

For FOIA Requests, the Department has twenty working days from the date the letter of appeal is received to respond to an appeal of a decision of a refusal to reduce or waive fees. For Privacy Act requests, the Department has thirty working days from the date the letter of appeal is received to respond to an appeal of a decision of a refusal to reduce or waive fees.

For FOIA and Privacy Act Requests, the Department has ten working days from the date the letter of appeals is received to respond to an appeal of denial of expeditious processing of a case.

If, on appeal, the denial is upheld in whole or in part, the requester has the right to seek judicial review the Department's actions.

Mandatory Declassification Review (MDR)

I. General

MDR is a mechanism provided in Section 3.5 of **Executive Order 12958, as amended**, (Classified National Security Information) whereby an individual may request the declassification review of specific classified material that (s)he is able to identify so that the agency may retrieve it with reasonable effort.

Section 3.5 provides that information classified under this order or predecessor orders shall be subject to a review for declassification by the originating agency if:

- 1) the request for a review describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort;
- 2) the information is not exempted from search and review under sections 105C, 105D, or 701 of the National Security Act of 1947 (50 U.S.C. 403-5c, 403-5e, and 431); and
- 3) the information has not been reviewed for declassification within the past 2 years. If the agency has reviewed the information within the past 2 years, or the information is the subject of pending litigation, the agency shall inform the requester of this fact and of the requester's appeal rights.

II. Where to File a Request for MDR

MDR requests must be sent to the following address:

**Office of Information Programs and Services
A/ISS/IPS/RL
U. S. Department of State, SA-2
Washington, D. C. 20522-8100**

III. How to Request MDR

The request should specifically mention MDR under E.O. 12958, and not the Freedom of Information or Privacy Acts. The request must identify the document or information to be reviewed with as much specificity as possible, e.g., "Embassy London telegram 88994 of August 22, 1997", or "April 2003 internal communication between Assistant Secretary for Africa and Secretary on the subject of humanitarian relief for Mauritania." As a general rule, MDRs should be filed only for the declassification and release of information known to be classified. MDRs will not be opened for general requests for information, e.g. "information on Tonga-U.S. relations from 2002 to the present", though that may be an appropriate subject of a FOIA request.

Because MDRs can only be filed for specific, readily retrievable information, the processing time for MDR requests may be less than under the Freedom of Information Act.

UNCLASSIFIED

Although the purpose of an MDR is to provide declassification review of classified material, material that has been declassified pursuant to the review may nonetheless be withheld for other reasons, most typically because withholding is required by the FOIA. (See Section 6.2(c) of **Executive Order 12958, as amended**).

VI. Appealing an MDR Decision

Requesters who are denied declassification and release of information pursuant to an MDR request can file an administrative appeal with the Department's Appeals Review Panel (ARP). A negative decision by the ARP may be appealed to the Interagency Security Classification Appeals Panel (ISCAP), the highest appellate body for MDR decisions.

Questions regarding MDR for Department of State records should be directed to (202) 261-8484.

Fee Structure for Requests

UNCLASSIFIED

Fees: FOIA processing fees are based upon prescribed **requester categories**.

Requester Categories: The Freedom of Information Reform Act of 1986 significantly changed the way agencies assessed fees in FOIA requests. FOIA requesters are placed in categories based on their qualifications and intended dissemination of released material. Determinations are made on a case-by-case basis. The fact that a requester has qualified for inclusion in a particular category previously will be taken into consideration, but the category may be different in subsequent requests if the intended use of the records sought is different. The text of the federal regulations cited below can be found in **22 CFR 171**.

Commercial Use Requests: Commercial use request means a request from or on behalf of one who requests information for a use or purpose that furthers the commercial, trade, or profit interest of the requester or the person on whose behalf the request is made. (**22 CFR 171.11(l)**)

The Department will assess charges that recover the full direct costs of searching for, reviewing for release, and duplicating the record sought. (**22 CFR 171.15(a)**)

Educational Institution Requests: Educational institution means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program or programs of scholarly research. (**22 CFR 171.11(m)**)

Note: For Colleges and Universities, a statement signed by the chairperson of the department to which the requester belongs, attesting to the fact that the request is being made on the institution's behalf in accordance with the criteria stated in 22CFR171.15(b), will serve as documentation supporting the requester's inclusion in this category.

The Department shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. (**22 CFR 171.15(b)**)

Noncommercial Scientific Institution Requests: Non-commercial scientific institution means an institution that is not operated on a "commercial" basis and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. (**22 CFR 171.11(n)**)

The Department shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. (**22 CFR 171.15(b)**)

Representatives of the News Media Requests: Representative of the news media means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term news means information that is about current events or that would be of current interest to the public. News media include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase by the general public. (**22 CFR 171.11(o)**)

UNCLASSIFIED

The Department shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. (22 CFR 171.15(c))

Freelance Journalists Requests: Freelance journalists may be regarded as working for a news organization if they can demonstrate, such as by past publication, a likelihood of publication through a representative of the news media, even though not actually employed by it. (22 CFR 171.11(o))

The Department shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. (22 CFR 171.15(c))

All Others Requests are requests from persons not falling within any of the above categories. (22 CFR 171.11(p))

The Department shall charge requesters who do not fit into any of the categories above fees that recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. (22 CFR 171.15(d))

Agreement to Pay Applicable Fees: By making a FOIA request, the requester shall be considered to have agreed to pay all applicable fees up to \$25.00 unless a fee waiver has been granted. If the Department estimates that the search costs will exceed \$25.00, the requester shall be so notified. Such notice shall offer the requester the opportunity to confer with Department personnel with the object of reformulating the request to meet the requester's needs at a lower cost. The request shall not be processed further unless the requester agrees to pay the estimated fees. (22 CFR 171.14 through 22 CFR 171.16)

Fee Limits: Requesters may set a limit on the amount that they are willing to pay. If it is anticipated that fees will exceed the fee limit set by the requester, or if in processing the request, fees begin to exceed the requester's fee limit, the Department will contact the requester. If the requester has provided a telephone number, the Department will attempt to call the requester to resolve the matter quickly.

Fees Owed In Connection With Prior Requests: Requesters who owe fees incurred in connection with the processing of previous requests must pay the fees owed prior to the Department processing any new requests. Such requests will be designated "invalid" until payment in full is received. (22 CFR 171.16(2))

When Fees Are Assessed: Fees are generally assessed by the Department at the conclusion of processing a request. Search and review costs will be calculated based upon the pay scale of the person conducting the search or review. Duplication costs are assessed for only those documents that ultimately are released in full or denied in part; duplication costs are not assessed for documents denied in full, or referred to originating agencies for direct reply.

Fees: The Department charges the following fees:

UNCLASSIFIED

Manual searches. The Department will charge at the salary rate (i.e., basic pay plus 16 percent of basic pay) of the employee making the search.

Computer searches. The Department will charge at the actual direct cost of providing the service. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary attributable to the search.

Review of records. Only requesters who are seeking documents for commercial use may be charged for time spent reviewing records to determine whether they are releasable. Charges may be assessed for the initial review only; i.e., the review undertaken the first time the Department analyzes the applicability of a specific exemption to a particular record or portion of a record.

Duplication of records. Records shall be duplicated at a rate of \$.15 per page.

Fee Waivers: The FOIA permits agencies to furnish documents without charge or at a reduced rate if the disclosure of the requested information would be in the public interest and the information is not primarily in the commercial interest of the requester. **(22 CFR 171.17)**

It is the Department's policy to treat each request for a fee waiver on a case-by-case basis. To help us make a decision about your request for fee waiver or fee waiver appeal, requesters should provide the following information in your request:

- a. State why you believe the subject matter of your request concerns the operations or activities of the Department of State.
- b. From what other sources have you attempted to obtain this information? Have you tried to obtain this information from the *Foreign Relations of the United States Series*, the National Archives and Records Administration, or public libraries? Demonstrate the absence of the requested information from the public domain.
- c. Provide a summary of your educational background and work experience, particularly in the field of foreign affairs, and your expertise in the subject area of your request.
- d. Expand on your ability and intent to disseminate the information requested, e.g., Have you published or disseminated information in this or related fields in the past? Is the information requested to be used in a specific article or paper currently being prepared? When is the article to be published or the program to be aired? To what audience is the article or program aimed?
- e. Identify the particular person who will actually use the requested information in scholarly or other analytic work and then disseminate it.
- f. Describe any commercial interest that would be furthered by the disclosure of the requested information, e.g., Will you be paid for the publication or dissemination of the requested information? If so, how much will you be paid and in what manner will you receive payment? Will you receive any other type of commercial benefit due to your dissemination of the requested

UNCLASSIFIED

information? A "commercial interest" is one that furthers a commercial, trade, or profit interest as those terms are commonly understood.

g. If your request for a fee waiver is not granted, we need your written assurance that you are willing to pay the fees associated with the processing of your request. You may set a limit on the amount you are willing to pay. In some cases, we will not be able to make a determination about a fee waiver until the processing of the request has been completed, at which time an independent evaluation will be made of the releasable material.

No Charge For Requests Under \$10.00: The Department will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself.. This means that if billable costs are less than \$10.00, the requester is not charged.