

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(b) *Additional time.* Where an extension of more than ten working days will be necessary due to exceptional circumstances, the correct office will give the requester an opportunity to modify the request so it may be processed within the usual time limits in paragraph (a) of this section, or to arrange an alternative time period for processing the request or a modified request.

(c) *Expedited processing.* (1) SBA will give expedited processing to requests and appeals upon written request, if one of the following conditions is met:

(i) You demonstrate someone's life or physical safety will be in imminent danger if SBA does not expedite its response to your request; or

(ii) You are a news media representative (as defined in § 102.6(b)(8)) who demonstrates an urgent need to inform the public about an actual or alleged Federal government activity.

(2) You must provide a written statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail one of these circumstances of "compelling need" and submit it to the correct office. Within 10 working days of its receipt of such a statement, or sooner, if SBA concludes that circumstances warrant, that office will notify you of its decision whether or not to grant expedited processing. If expedited processing is granted, the request shall be given priority and processed as soon as practicable. If an expedited processing request is denied, an appeal may be submitted which will be acted on expeditiously.

(d) *Multiple requests.* Where an office believes that multiple requests submitted by a requester, or by a group of collaborating requesters, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they will be aggregated for processing.

#### § 102.5 Responses to requests.

Within the time limits described in § 102.4, SBA will respond to your request in writing. SBA's response will do one or more of the following:

(a) Advise you that SBA is releasing the requested documents;

(b) Explain why SBA has decided not to give you all or some of the records

requested, citing specific FOIA exemptions where applicable and noting the number of pages withheld (except where noting the number of pages withheld would harm an interest protected by an exemption), and explain how to appeal that decision;

(c) Provide a cost estimate or bill you for the actual fee, less any advance payment you have made. SBA will not provide any records until payment in full is received; and/or

(d) Advise you that SBA will refer your request for records generated by another Federal agency to that agency for proper processing.

#### § 102.6 Fees.

(a) *In general.* SBA will charge fees for processing requests as outlined in this section. Fees must be paid by check or money order made payable to SBA.

(b) *Definitions and applicable fees.*

For purposes of this section:

(1) *Direct costs* means those expenses that SBA actually incurs in searching for and duplicating (and, in the case of commercial use requesters, reviewing) documents in response to an FOIA request. Direct costs include the salary of the employee performing the work and the cost of operating duplication machinery.

(2) *Search* means the process of looking for and retrieving records responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. SBA may charge search fees even if they fail to locate records or if records located are determined to be exempt from disclosure. Search fees are \$30 per hour.

(3) *Duplication* means the making of a copy of a record. Copies can take the form of paper, microfilm, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others. SBA will charge \$.10 per page for photocopy duplication and the actual cost for other methods. SBA will honor a requester's specified preference of form or format of disclosure if the record is readily reproducible with reasonable efforts in the requested form or format by the office responding to the request.

(4) *Review* refers to the examination of documents responsive to a request in order to determine whether any portion of it is exempt from disclosure. It includes processing any record for disclosure, e.g., all necessary redaction and preparation for disclosure. It also includes time spent considering any formal objection to disclosure made by

a business submitter under § 102.7, but does not include time spent resolving general legal or policy issues regarding the application of exemptions. Review costs are recoverable even if a record is ultimately not disclosed. Only commercial use requesters are assessed review costs. Review costs are \$30 per hour.

(5) *A commercial use request* refers to a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade or profit interests, which can include furthering those interests through litigation. When it appears the requester will put the requested records to a commercial use, either because of the nature of the request itself or where SBA has reasonable cause to doubt a requester's stated use, SBA will seek additional clarification. SBA will charge commercial use requesters the full direct costs of searching for, reviewing for release, and duplicating the records sought.

(6) *Educational institution* means a state-certified preschool, elementary or secondary school; an accredited college or university; an accredited institution of professional education; or any accredited or state-certified institution of vocational education that operates a program of scholarly research. An educational institution requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research. SBA will provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages.

(7) *Noncommercial 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. A noncommercial scientific institution requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scientific research. SBA will charge noncommercial scientific institution requesters for the cost of reproduction alone after the first 100 pages.

(8) *A representative of the news media* is a requester actively gathering information for one or more news media who:

(i) Is employed by a news medium or