

requester has a commercial interest that would be furthered by the requested disclosure; and, if so,

(ii) The primary interest in disclosure, *i.e.*, whether the magnitude of the 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.

(b) The Department may refuse to consider waiver or reduction of fees for requesters (persons or organizations) from whom unpaid fees remain owed to the Department for another information access request.

(c) Where only some of the records to be released satisfy the requirements for a waiver or reduction of fees, a waiver or reduction shall be granted for only those records.

(d) The Department's decision to refuse to waive or reduce fees may be appealed in accordance with § 171.51.

Subpart C—Executive Order 12958 Provisions

§ 171.20 Definitions.

As used in this subpart, the following definitions shall apply:

(a) *Agency* means any executive branch agency, as defined in 5 U.S.C. 105, any military department, as defined by 5 U.S.C. 102, and any other entity within the executive branch that comes into possession of classified information.

(b) *Classified information* means information that has been determined pursuant to E.O. 12958 or any predecessor order on national security information to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

(c) *Declassification* means the authorized change in the status of information from classified information to unclassified information.

(d) *Department* means the U.S. Department of State, including its field offices and Foreign Service posts abroad.

(e) *FOIA* means the Freedom of Information Act, 5 U.S.C. 552.

(f) *Foreign government information* means:

(1) Information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;

(2) Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or

(3) Information received and treated as foreign government information under the terms of a predecessor executive order.

(g) *Information* means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics that is owned by, produced by or for, or is under the control of the United States Government.

(h) *Mandatory declassification review* means the process by which specific classified information is reviewed for declassification pursuant to a request under § 171.21.

(i) *National Security* means the national defense or foreign relations of the United States.

(j) *Certain former government personnel* includes former officials of the Department of State or other U.S. Government agencies who previously have occupied policy-making positions to which they were appointed by the President under 3 U.S.C. 105(a)(2)(A) or by the Vice President under 3 U.S.C. 106(a)(1)(A). It does not include former Foreign Service Officers as a class or persons who merely received assignment commissions as Foreign Service Officers, Foreign Service Reserve Officers, Foreign Service Staff Officers and employees.

(k) *Senior Agency Official* means the Under Secretary of State for Management.

§ 171.21 Declassification review.

(a) *Scope*. All information classified under E.O. 12958 or predecessor orders