

Federal Mediation and Conciliation Service

§ 1401.34

(b) The Legal Services Office will determine what office or division within FMCS is custodian of the records. The Office will then send the request to the appropriate FMCS office or division as provided in §1401.32(b) of this part.

§ 1401.32 Logging of written requests.

(a) All requests for records should be clearly and prominently identified as a request for information under the Freedom of Information Act, and if submitted by mail or otherwise submitted in an envelope or other cover, should be clearly and prominently identified as such on the envelope or other cover.

(b) Upon receipt of a request for records from the FMCS Legal Services Office, the FMCS office or division responding to the request shall enter it in a public log. The log shall state the date and time received, the name and address of person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to §1401.34 (b) and (d), the date(s) any records are subsequently furnished, the number of staff hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

§ 1401.33 Description of information requested.

(a) Each request should reasonably describe the records being sought, in a way that they can be identified and located. A request should include all pertinent details that will help identify the records sought.

(b) If the description is insufficient, the officer processing the request will so notify the person making the request and indicate the additional information needed. Every reasonable effort shall be made to assist in the identification and location of the records sought.

§ 1401.34 Time for processing requests.

(a) All time limitations established pursuant to this section shall begin as of the time at which a request for records is logged in by the officer or employee processing the request pursuant to §1401.32(b). An oral request for records shall not begin any time requirement. A written request for

records sent to an office or division of FMCS other than the one having authority to grant or deny access to the records shall be redirected to the appropriate office for processing, and the time shall begin upon its being logged in there in accordance with §1401.32(b).

(b) The officer or employee passing upon the request for records shall, within ten (10) working days following receipt of the request, respond in writing to the requester, determining whether, or the extent to which, the Agency shall comply with the request.

(1) If all of the records requested have been located and a final determination has been made with respect to disclosure of all the records requested, the response shall so state.

(2) If all of the records have not been located or a final determination has not been made with respect to disclosure of all records requested, the response shall state the extent to which the records involved will be disclosed pursuant to the rules established in this part.

(3) If the request is expected to involve an assessed fee in excess of \$50.00, the response shall specify or estimate the fee involved and shall require prepayment before the records are made available.

(4) Whenever possible, the response relating to a request for records that involves a fee of less than \$50.00, shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Agency.

(c) In the following circumstances, the time for passing upon the request may be extended for up to an additional 10 working days by written notice to the person making the request, setting forth the reasons for such extension and the time within which a determination is expected to be made:

(1) The need to search for and collect the requested records from the field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect and appropriately examine a voluminous amount of records which are demanded in a single request; or

§ 1401.35

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

(b) If any request for records is denied in whole or in part, the response required by paragraph (b) of this section shall notify the requester of the denial. Such denial shall specify the reason therefor and also advise that the denial may be appealed to the Office of Deputy Director of the Agency as specified in § 1401.35.

§ 1401.35 Appeals from denials of request.

(a) Whenever any request for records is denied, a written appeal may be filed with the Deputy Director, FMCS, 2100 K Street, NW., Washington, DC 20427, within 30 days after requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial. The appeal shall state the grounds for appeal, including any supporting statements or arguments.

(b) Final action on the appeal shall be taken within 20 working days from the time of receipt of the appeal. Where novel and complicated questions have been raised or unusual difficulties have been encountered, the Deputy Director may extend the time for final action up to an additional 10 days, depending upon whether there had been an extension pursuant to § 1401.34(c) at the initial stage. In such cases, the applicant shall be notified in writing of the reasons for the extension of time and the approximate date on which a final response will be forthcoming.

(c) If on appeal the denial of the request for records is upheld in whole or in part, the Deputy Director shall notify the applicant of the reasons therefor, and shall advise the requester of the provisions for judicial review under 5 U.S.C. 552(a) (4) and (6).

29 CFR Ch. XII (7-1-06 Edition)

§ 1401.36 Freedom of Information Act fee schedules.

(a) *Definitions.* For purposes of § 1401.36, the following definitions apply:

(1) *Direct costs* means those expenditures which are actually incurred in searching for and duplicating and, in the case of commercial use requesters, reviewing to respond to a FOIA request.

(2) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page and line-by-line identification of material within documents. Searches may be done manually or by computer.

(3) *Duplication* refers to the process of making a copy of a document necessary to respond to a FOIA request. Copies may be in various forms including machine readable documentation (e.g. magnetic tape or disk) among others. The copy provided shall be in a form that is reasonably usable by the requester.

(4) *Review* refers to the process of examining documents located in response to a request that is for commercial use, to determine whether a document or any portion of any document located is permitted to be withheld. It includes processing any documents for disclosure to the requester, e.g., doing all that is necessary to excise them or otherwise prepare them for release.

(5) *Commercial use request* refers to a request from or on behalf of one who seeks 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.

(6) *Educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate or professional education or an institution of vocational education, which operates a program or programs of scholarly research.

(7) *Representative of the news media* refers to 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