

Department of Health and Human Services

§ 5.45

specified grade and step, adding 16% of that rate to cover benefits, and rounding to the nearest whole dollar. As of November 25, 1988, these rates were \$10, \$20, and \$37 respectively. When a search involves employees at more than one of these levels, we will charge the rate appropriate for each.

(b) Computer searching and printing—the actual cost of operating the computer plus charges for the time spent by the operator, at the rates given in paragraph (a) of this section.

(c) Photocopying standard size pages—\$0.10 per page. FOI Officers may charge lower fees for particular documents where—

(1) The document has already been printed in large numbers,

(2) The program office determines that using existing stock to answer this request, and any other anticipated FOI requests, will not interfere with program requirements, and

(3) The FOI Officer determines that the lower fee is adequate to recover the prorated share of the original printing costs.

(d) Photocopying odd-size documents (such as punchcards or blueprints), or reproducing other records (such as tapes)—the actual costs of operating the machine, plus the actual cost of the materials used, plus charges for the time spent by the operator, at the rates given in paragraph (a) of this section.

(e) Certifying that records are true copies. This service is not required by the FOIA. If we agree to provide it, we will charge \$10 per certification.

(f) Sending records by express mail, certified mail, or other special methods. This service is not required by the FOIA. If we agree to provide it, we will charge our actual costs.

(g) Performing any other special service that you request and we agree to—actual costs of operating any machinery, plus actual cost of any materials used, plus charges for the time of our employees, at the rates given in paragraph (a) of this section.

§ 5.44 Procedures for assessing and collecting fees.

(a) *Agreement to pay.* We generally assume that when you request records you are willing to pay the fees we

charge for services associated with your request. You may specify a limit on the amount you are willing to spend. We will notify you if it appears that the fees will exceed the limit and ask whether you nevertheless want us to proceed with the search.

(b) *Advance payment.* If you have failed to pay previous bills in a timely fashion, or if our initial review of your request indicates that we will charge you fees exceeding \$250, we will require you to pay your past due fees and/or the estimated fees, or a deposit, before we start searching for the records you want. If so, we will let you know promptly upon receiving your request. In such cases, the administrative time limits prescribed in § 5.35 of the part (i.e., ten working days from receipt of initial requests and 20 working days from receipt of appeals from initial denials, plus permissible extensions of these time limits) will begin only after we come to an agreement with you over payment of fees, or decide that fee waiver or reduction is appropriate.

(c) *Billing and payment.* We will normally require you to pay all fees before we furnish the records to you. We may, at our discretion, send you a bill along with or following the furnishing of the records. For example, we may do this if you have a history of prompt payment. We may also, at our discretion, aggregate the charges for certain time periods in order to avoid sending numerous small bills to frequent requesters, or to businesses or agents representing requesters. For example, we might send a bill to such a requester once a month. Fees should be paid in accordance with the instructions furnished by the person who responds to your requests.

§ 5.45 Waiver or reduction of fees.

(a) *Standard.* We will waive or reduce the fees we would otherwise charge if disclosure of the information meets both of the following tests:

(1) It is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(2) It is not primarily in the commercial interest of the requester.

These two tests are explained in paragraphs (b) and (c) of this section.