

SUBCHAPTER A—GENERAL

PART 1100—STATEMENT FOR THE GUIDANCE OF THE PUBLIC—ORGANIZATION, PROCEDURE AND AVAILABILITY OF INFORMATION

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§ 1100.1 Definitions.

(a) *Agency* means the National Endowment for the Arts, the National Endowment for the Humanities, the Institute of Museum and Library Services, or the Federal Council on the Arts and the Humanities.

(b) *Commercial use request* means a request by or on behalf of anyone who seeks information for a use or purpose that furthers the commercial trade or profit interests of the requestor (or the person on whose behalf the request is made.) The agency must determine the use to which a requestor will put the document. Where the agency has reasonable cause to doubt the use to which a requestor will put the records sought or the use is not clear from the request, the agency may seek additional clarification. The requestor fears the burden of demonstrating the use or purpose of the information requested.

(c) *Direct costs* means those expenditures which an agency actually incurs in searching for and duplication documents to respond to a Freedom of Information Act (FOIA) request. In the case of commercial use requests, the term shall also include expenditures for reviewing documents.

(d) *Duplication* means the process of making a copy of a document necessary to respond to a FOIA request. Such copies may be in the form of

paper, microfilm, machine readable documents, or other materials.

(e) *Educational institution* means a preschool, elementary, or secondary school, an institution of graduate or undergraduate higher education, an institution of professional education, or an institution of vocational education, which operates a program or programs of scholarly research.

(f) *Non-commercial scientific institution* means an institution that is not operated on a "commercial use" basis as defined in paragraph (b) of this section and which is operated solely for the purposes of conducting scientific research the results of which are not intended to promote any particular product or industry.

(g) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast information that is about current events or that would be of current interest to the public. Freelance journalists may be regarded as working for a news organization if they can demonstrate a sound basis for expecting publication though that organization, even though not actually employed by it.

(h) *Review* means the process of examining a document located in response to a commercial use request to determine whether any portion is permitted to be withheld. Review includes processing documents for disclosure, including all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(i) *Search* means all the time that is spent looking for material that responds to a request, including page-by-page or line-by-line identification of material in documents. Searches may be done manually or by computer using existing programs.

§ 1100.2 Organization.

The National Foundation on the Arts and the Humanities was established by the National Foundation on the Arts