

§ 1206.703

(1) Disclosure of the information 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.

(b) Where these two statutory requirements are satisfied, based upon information supplied by the requester or otherwise made known to NASA, the FOIA fee shall be waived or reduced. Where one or both of these requirements is not satisfied, a fee waiver or reduction is not warranted under the statute.

(c) In determining whether disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the following considerations shall be applied:

(1) Whether the subject of the requested records concerns "the operations or activities of the government";

(2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(3) Whether disclosure of the requested information will contribute to "public understanding"; and

(4) Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(d) In determining whether disclosure of the information "is not primarily in the commercial interest of the requester," the following consideration shall be applied:

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

(2) 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."

§ 1206.703 Aggregation of requests.

A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of

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fees. When NASA has reason to believe that a requester or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, NASA will aggregate any such requests and charge accordingly. NASA will consider that multiple requests made within a 30-day period were so intended, unless there is evidence to the contrary. Where the relevant time period exceeds 30 days, NASA will not assume such a motive unless there is evidence to the contrary. In no case will NASA aggregate multiple requests on unrelated subjects from one requester.

§ 1206.704 Advance payments.

(a) NASA will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) NASA estimates or determines that the allowable charges are likely to exceed \$250. NASA will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee in a timely fashion (within 30 days of billing), then NASA may require the requester to pay the full amount owed plus any applicable interest as provided below (see § 1206.706(a)), or demonstrate that he/she has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the Agency begins to process a new request or a pending request from that requester.

(b) When NASA acts under paragraphs (a)(1) and (2) of this section, the administrative time limits will begin only after NASA has received the fee payments described in paragraph (a) of this section.

§ 1206.705 Form of payment.

Payment shall be made by check or money order payable to the "National Aeronautics and Space Administration" and sent per instructions in the initial determination.