

Fee Waiver Requests

Army Regulation (AR) 25-55, The Department of the Army Freedom of Information Act Program, Chapter 6, paragraph 6-103 (c) includes specific measures and balancing tests which must be considered before we can fairly analyze any request for a fee waiver. First, at subparagraph (iii), the AR states the following:

The contribution to an understanding of the subject by the general public likely to result from disclosure. The key element in determining the applicability of this factor is whether disclosure will inform, or have the potential to inform the public, rather than simply the individual requester or small segment of interested persons. The identity of the requester is essential in this situation in order to determine whether such requester has the capability and intention to disseminate the information to the public. Mere assertions of plans to author a book, researching a particular subject, doing doctoral dissertation work, or indigence are insufficient without demonstrating the capacity to further disclose the information in a manner which will be informative to the general public. Requesters should be asked to describe their qualifications, the nature of their research, the purpose of the requested information, and their intended means of dissemination to the public. (*Emphasis added*)

Subparagraph (iv) further provides:

The significance of the contribution to public understanding. In applying this factor, Components must differentiate the relative significance or impact of the disclosure against the current level of public knowledge, or understanding which exists before the disclosure. In other words, will disclosure on a current subject of wide public interest be unique in contributing previously unknown facts, thereby enhancing public knowledge, or will it basically duplicate what is already known by the general public. A decision regarding significance requires objective judgment, rather than subjective determination, and must be applied carefully to determine whether disclosure will likely lead to a significant public understanding of the issue. Components shall not make value judgments as to whether the information is important enough to be made public. (*Emphasis added*)

In typical fee waiver situations, requesters are more often than not seeking materials that can be obtained without incurring excessive costs (e.g. over \$250.00, which is the maximum amount we can bill a requester without approval).

You must first specifically address how the information you have requested will be used and/or disseminated to the general public, and how that intended use will benefit the public at large.

Second, a description of how the information you have requested will benefit the general public is required. As stated in the regulations, there must be a basis for which the information you have requested will somehow increase the knowledge of the public at large – not simply a relatively small group or groups.

If there are any questions or concerns about the FOIA process, including fees and fee waiver requests, please contact our office for assistance.