

§ 2105.48 When will the Agency require advance payment?

(a) The Agency may require advance payment before starting further work when it finds the estimated fee is over \$250.

(1) When the Agency determines or estimates that a total fee to be charged under this section will exceed \$250.00, it may require that you make an advance payment up to the amount of the entire anticipated fee before beginning to process the request. The Agency may elect to process the request prior to collecting fees when it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(2) If you have previously failed to pay a properly charged FOIA fee within 30 calendar days of the billing date, the Agency may require that you pay the full amount due, plus any applicable interest on that prior request. The Agency may require that you make an advance payment of the full amount of any anticipated fee before it begins to process a new request or continues to process a pending request or any pending appeal.

(b) If the Agency believes that you did not pay a previous FOIA fee within 30 calendar days of the date of billing, the Agency will require you to either:

(1) Demonstrate you paid prior fee within 30 calendar days of the date of billing; or

(2) Pay any unpaid amount of the previous fee, plus any applicable interest penalties (see § 2105.51), and pay in advance the estimated fee for the new request.

(c) When the Agency notifies you that an advance payment is due under paragraph (a) of this section, it will give you an opportunity to reduce the fee by modifying the request.

(d) Your payment of the funds you owe the Agency for work it has already completed before records are sent to you is not an advance payment under paragraph (a) of this section.

(e) If the Agency requires advance payment, it will start further work only after receiving the advance payment. It will also notify you that it will not be able to comply with your FOIA request unless you provide the advance payment. Unless you pay the advance payment within 20 workdays after the date of the Agency's fee letter, the Agency will presume that you are no longer interested and will close the file on the request.