

April 22, 2008

Joseph W. Lambert
Director of Information Management Services
Central Intelligence Agency
Washington, DC 20505

Dear Mr. Lambert:

This is a comment on the CIA's proposed revision of 32 CFR §1900.11 *Preliminary Information*. The last sentence of 32 CFR §1900.11 currently reads:

“Requests and appeals on requests, referrals, or coordinations received from members of the public who owe outstanding fees for information services at this or other federal agencies will not be accepted and action on all pending requests shall be terminated in such circumstances.”

The CIA's proposed revision would change it to:

“CIA will not accept a request for information under the FOIA or an appeal of an adverse determination submitted by a member of the public who owes outstanding fees for information services at this or other federal agencies and will terminate the processing of any pending requests submitted by such persons to the CIA or to another agency.”

I suggest a less restrictive rule that uses some the wording of 5 U.S.C. §552 (a)(4)(A)(v), which addresses similar concerns about fees. Rather than “outstanding fees” being the condition for “termination,” I suggest that “failure to pay fees in a timely fashion or a fee exceeding \$250” be the condition for “suspension.” A fee could be interpreted as outstanding as soon as an agency mails the requested documents, before the requester even receives them or the bill. Such a bill, even if recently received, shouldn't warrant the complete termination of another FOIA request.

It should be clarified whether processing of appeals would be terminated. The handling of new requests and new appeals are each covered by the proposed revision, but the handling of pending appeals isn't mentioned while the handling of pending requests is.

Sincerely,

Barry Kaminsky

APPROVED FOR
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