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Does your library ever make Freedom of Information Act (FOIA) requests? If so, you may well have to pay search costs in addition to reproduction costs in the future. If you answered no, don't stop reading! If your users depend on government information and data that is no longer being published, but is still compiled for internal agency use, the FOIA may be your only recourse. For instance, the Treasury Department stopped publishing comprehensive annual reports in 1981 (with the 1980 report). The information formerly compiled in the annual reports is partly scattered in other sources not widely available, and partly not published at all. FOIA requests may be the only recourse.

The increased FOIA request fees are due to Office of Management and Budget (OMB) uniform FOIA fee schedule guidelines published in the March 27, 1987 FEDERAL REGISTER, pp. 10012-21. The guidelines implement amendments passed by Congress last year to improve the fee and fee waiver provisions of the Act for the news media and public interest users of FOIA. But in implementing the amendments, the Administration has taken a very restrictive approach. Only two categories of requesters are to be charged for the cost of reproduction alone—educational and noncommercial scientific institutions and representatives of the news media. ALA protested the narrow definition of educational institution in the preliminary guidelines because it excluded libraries. OMB's final version, although broader than the draft, still excludes a library unless it is connected to an educational institution which operates a program of scholarly research, thus excluding many academic research libraries.

Numerous federal agencies have published FOIA regulations in the FEDERAL REGISTER during April and May based on the OMB guidelines. The Department of Justice (DOJ) Office of Legal Policy issued new fee waiver policy guidance to all federal agencies on April 2. In a discussion of what evidence is sufficient to establish that a contribution to understanding by the general public will ultimately result from a disclosure, the DOJ guidelines observed about libraries that:

"This consideration is not satisfied simply because a fee waiver request is made by a library or other record repository, or requester who intends merely to disseminate information to such an institution. Such requests, like those of other requesters, should be analyzed to identify a particular person who will actually use the requested information in scholarly or other analytic work and then disseminate it to the general public; absent that, it cannot be determined that disclosure to the requester will contribute to the public's understanding of government operations or activities....Thus, such requesters should make the same fee waiver showing that a person would have (cont'd on inside back cover)



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## (Washington Hotline, cont'd)

to make to obtain a fee waiver directly, including a representation by that person of intent to perform the work involved."

There is congressional concern about the way the Administration has interpreted the FOIA amendments, but Congress needs examples of the guidelines' detrimental effect before hearings take place late this summer. The ALA Washington Office is interested in hearing about library experience in using the FOIA.