

## Comm. for Pur. from Blind, Severely Disabled

## §51-8.13

public provide their own copying equipment, in which case no copying fee will be charged (although search and review fees may still be assessed).

(d) Fees for records and related services are as follows:

(1) The fee for photocopies of pages 8½"x14" or smaller shall be \$0.20 for each page;

(2) The fee for photocopies larger than 8½"x14" shall be \$0.50 per linear foot of the longest side of the copy;

(3) The fee for other forms of duplicated information, such as microfilm, audio-visual materials, or machine-readable documentation (i.e., magnetic tape or disk) shall be the actual direct cost of producing the document(s);

(4) Manual searches shall be charged at the salary rate of the employee conducting the search, plus 16 percent of the employee's basic pay.

(e) Computer searches and services shall be charged at the rate of \$22.00 per minute. The \$22.00-per-minute rate includes the cost of operating the central processing unit (CPU), and the computer operator's salary. When the services of a computer programmer or a computer program analyst are required in connection with an FOIA request, the fee for those services shall be \$16.00 and \$20.00 per hour, respectively.

(f) Charges for unsuccessful searches, or searches which fail to locate records or which locate records which are exempt from disclosure, shall be assessed at the same fee rate as searches which result in disclosure of records.

(g) The fee for providing review services shall be the hourly salary rate (i.e., basic pay plus 16 percent) of the employee conducting the review to determine whether any information is exempt from mandatory disclosure.

### §51-8.13 Fees charged by category of requester.

(a) Under the FOIA, as amended, there are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each category.

(b) Commercial use requesters. For commercial use requesters, the Com-

mittee shall assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents referenced in §51-8.12(c)(1). The Committee may charge for the cost of searching for and reviewing records for commercial use requesters even if there is ultimately no disclosure of records.

(1) A commercial use requester is defined as one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(2) In determining whether a requester properly belongs in this category the Committee must determine whether the requester will put the documents to a commercial use. Where the Committee has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Committee may seek additional clarification from the requester.

(c) Educational and non-commercial scientific institution requesters. Fees for this category of requesters shall be limited to the cost of providing duplication service alone, minus the charge for the first 100 reproduced pages. No charge shall be made for search or review services. To qualify for this category, requesters must show that the request is being made as authorized by and under the auspices of an eligible institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly research (if the request is from a non-commercial scientific institution).

(1) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

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(2) The term “non-commercial scientific institution” refers to an institution that is not operated on a “commercial” basis, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(d) Requesters who are representatives of the news media—Fees for this category of requesters shall also be limited to the cost of providing duplication service alone, minus the charge for the first 100 reproduced pages. No charge shall be made for providing search for review services. Requests in this category must not be made for a commercial use.

(1) The term “representative of the news media” refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.

(2) The term “news” means information that is about current events or that would be of current interest to the public.

(3) Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals which disseminate news and who make their products available for purchase or subscription by the general public.

(4) “Freelance” journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(e) All other requesters. Fees for requesters who do not fit into any of the above categories shall be assessed for the full reasonable direct cost of searching for and duplicating documents that are responsive to a request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge.

### §51-8.14 Fee waivers and reductions.

The Committee will waive or reduce fees on requests for information if disclosure of the information is deemed to be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and is

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not primarily in the commercial interest of the requester.

(a) In determining when fees shall be waived or reduced, the Committee will consider the following six factors:

(1) The subject of the request, i.e., whether the subject of the requested records concerns “the operations or activities of the Government;”

(2) The informative value of the information to be disclosed, i.e., whether the disclosure is “likely to contribute” to an understanding of Government operations or activities;

(3) The contribution to an understanding of the subject by the general public likely to result from disclosure, i.e., whether disclosure of the requested information will contribute to “public understanding”;

(4) The significance of the contribution to public understanding, i.e., whether the disclosure is likely to contribute “significantly” to public understanding of Government operations or activities;

(5) The existence and magnitude of a commercial interest, i.e., whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so,

(6) The primary interest in disclosure, i.e., 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.”

(b) The Committee may waive or reduce fees associated with a request for disclosure regardless of whether a waiver or reduction has been requested if the Committee determines that disclosure will primarily benefit the general public.

(c) Fees shall be waived in all circumstances where the amount of the fee is \$10 or less as the cost of collection would be greater than the fee. This minimum shall be applied separately to each Committee response when it is necessary for the Committee to make more than one response to a request for records.

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