

**Department of the Interior**  
**Departmental Manual**  
Freedom of Information Act Handbook  
(383 DM 15)

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**Effective Date:** 4/24/04

**Chapter 4:** Fees and Fee Waivers

**Originating Office:** Office of the Chief Information Officer

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4.1 Scope. This Chapter sets forth policies and procedures to be followed in determining, assessing, and collecting fees from a requester for the search, review, and duplication of Department of the Interior (DOI) records.

4.2 Authority. Under the Freedom of Information Act (FOIA), DOI is authorized to charge fees to recover the direct costs of searching for, duplicating, and, in the case of commercial-use requesters, reviewing documents to respond to a FOIA request.

4.3 Policy.

A. Unless waived, fees for responding to FOIA requests will be charged in accordance with the provisions of 43 CFR 2.15 through 2.20 and 43 CFR Part 2, Appendix C.

B. DOI will not charge the requester if the fee is \$30 or less, as the cost of collection would be greater than the fee.

C. Where there is a reasonable basis to conclude that a requester or group of requesters has divided a request into a series of requests on a single subject or related subjects to avoid fees, the requests may be aggregated and fees charged accordingly. Multiple requests involving unrelated matters will not be aggregated.

(1) Bureaus may presume that multiple requests of this type that are made within a 30-day period have been made in order to avoid fees.

(2) Where requests are separated by a longer period, bureaus will aggregate them only where there exists a solid basis for determining that aggregation is warranted under all the circumstances involved.

D. Where a bureau responds to a request on behalf of more than one bureau, the fees that would be chargeable by all bureaus involved will be considered in determining whether the total FOIA processing fee is \$30 or less.

E. If a bureau is responding on behalf of more than one bureau and the requester falls under:

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(1) The educational/noncommercial scientific institution or news media category, he/she will be entitled to receive up to a total of 100 pages of duplication without charge (there is no charge for searching for responsive records).

(2) The other requester category, he/she will be entitled to receive up to a total of 100 pages of duplication and two hours of search time without charge.

F. If a bureau obtains research data solely in response to a FOIA request, it may charge the requester a reasonable fee equaling the full cost of obtaining the research data from the recipient (see paragraph 3.24 of Chapter 3). This fee is in addition to any fees the bureau may charge the requester to process his/her request.

4.4 Fee Schedule. The following uniform fee schedule applies to all bureaus and offices within the Department (see 43 CFR Part 2, Appendix C). The duplicating fees provided in the schedule also are applicable to requests processed under the Privacy Act.

A. Search and review (review applies to commercial-use requesters only). Fees are based on: the average hourly salary (base salary plus D.C. locality payment), plus 16 percent for benefits, of employees in the following three categories. The average grade was established by surveying the bureaus to obtain the average grade of employees conducting FOIA searches and reviews. Fees will be increased annually consistent with Congressionally approved pay increases. Fees are charged in quarter hour increments.

- (1) Clerical--Based on GS-6, Step 5, pay  
(all employees at GS-7 and below)
- (2) Professional--Based on GS-11, Step 7, pay  
(all employees at GS-8 through GS-12)
- (3) Managerial--Based on GS-14, Step 2, pay  
(all employees at GS-13 and above)

B. Duplication.

Pages no larger than 8.5 x 14 inches, when reproduced by standard office copying machines.	\$ .13 per page (\$.26 for double-sided copying)
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Color copies of pages no larger than 8.5 x 11 inches.	\$ .90 per page
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Pages larger than 8.5 x 14 inches	Direct cost to DOI
Color copies of pages no larger than 11 x 17 inches.	\$1.50 per page

Photographs and records requiring special	Direct cost to DOI
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handling (e.g., because of age, size, or format).

C. Electronic Records.

Charges for services related to processing requests for electronic records.

Direct cost to DOI

D. Certification.

Each certificate of verification attached to authenticate copies of records.

\$.25

E. Postage/Mailing.

Charges that exceed the cost of first class postage. Examples of such charges are express mail or overnight delivery.

Postage or Delivery charge

F. Other Services.

Cost of special services or materials, other than those provided for by this fee schedule, when requester is notified of such costs in advance and agrees to pay them. (Note: This includes certain special searches for records conducted by contractors. For example, if DOI must pay a contractor special fees to conduct searches of databases due to contractual provisions, DOI would pass that charge on to the requester provided the requester consented in advance to the special search and its additional fees.)

Direct cost to DOI

4.5 Categories of Requesters.

A. There are four categories of requesters for the purposes of assessing fees. When submitting a FOIA request, a requester should specify what fee category he/she is in, e.g., commercial-use, news media requester, etc. If a requester is submitting a FOIA request on behalf of another person or organization (for example, if a requester is an attorney submitting a request on behalf of a client), it is the underlying requester's identity and intended use that determines the fee category. Based on the information provided by the requester, the bureau office processing the request will decide the fee category. The fees set forth in paragraph 4.4 of this Chapter apply with the following exceptions:

(1) Commercial-use requesters are charged fees for costs incurred in document search, review, and duplication. They are not entitled to any duplication or search time without charge.

(2) Educational/noncommercial scientific institutions are charged for document duplication alone, except that the first 100 pages of paper copies (or the equivalent cost thereof if the records are in some other form) will be provided without charge. The bureau will not charge such requesters for document search and review. The following are examples of how these fees are calculated.

(a) A request that results in 200 pages of material. No fee would be assessed for duplication of 200 pages. The reason is that these requesters are entitled to the first 100 pages without charge. The charge for the remaining 100 pages would be \$13. This amount would not be billed because it is less than \$30.

(b) A request that results in 500 pages of material. The requester in this case would be charged \$52.

(3) News media requesters (including qualified freelance journalists) are charged for document duplication alone, except that the first 100 pages of paper copies (or the equivalent cost thereof if the records are in some other form) will be provided without charge. The bureau will not charge such requesters for document search and review.

(4) Requesters not covered by paragraph 4.5A (1) through 4.5A (3) above, “other requesters,” are charged fees for document search and duplication, except that they are entitled to the first two hours of search time and the first 100 pages of paper copies without charge (or the equivalent cost thereof if the records are in some other form). The bureau will not charge such requesters for document review.

B. The following table summarizes the chargeable fees for each category of requester.

Category	Search fees	Review fees	Duplication fees
Commercial Use.....	Yes.....	Yes.....	Yes.....
Educational Institution.....	No.....	No.....	Yes..... (100 pages free)
Non-Commercial Scientific Institution...	No.....	No.....	Yes..... (100 pages free)
News Media.....	No.....	No.....	Yes..... (100 pages free)
All Other.....	Yes ..... (2 hours free)...	No.....	Yes..... (100 pages free)

4.6 When Additional Information is Needed to Determine Category of Requester. If the requester does not submit sufficient information in the FOIA request for the bureau to determine the fee category (see paragraph 4.5A (1) through 4.5A (4) of this Chapter), the bureau may ask the requester to provide additional clarification (see Appendix B, Illustration 22). This applies to

all requesters. The bureau will notify the requester promptly when additional information is needed. In these circumstances, the 20-workday statutory time limit for responding to the request will not begin to run until the requester provides sufficient information. If the bureau requests additional clarification and does not hear from the requester within 20 workdays, it will assume that the requester is no longer interested in pursuing the request. The responsible official will advise the requester in writing that it is closing the file since it has not received a response from him/her clarifying the initial request.

#### 4.7 Searches.

A. Searches will be conducted in the most efficient and least expensive manner, so as to minimize costs for both the requester and the bureau. Except where provided in paragraph 4.5A (2) through 4.5A (4) of this Chapter, bureaus will charge for time spent in the following search activities (see DOI's FOIA home page at <http://www.doi.gov/foia/> for applicable fees):

(1) Time spent in trying to locate records which come within the scope of the request, whether or not documents responsive to the request are located or the records located are exempt from disclosure; and

(2) Direct costs involving the use of computer time to locate requested records.

B. DOI will not charge for the time spent in monitoring a requester's inspection of releasable records.

#### 4.8 Reviews (Commercial-use Requests Only).

A. Bureaus will charge commercial-use requesters (see DOI's FOIA home page at <http://www.doi.gov/foia/> for applicable fees) for

(1) Time spent by bureau staff and attorneys in reviewing requested records to determine whether they may be withheld in whole or in part; and

(2) Time spent in deleting exempt information being withheld from any records otherwise made available.

B. Review costs will be assessed even if a record ultimately is not disclosed.

#### 4.9 Notice of Anticipated Fees.

A. Unless the requester has been granted a fee waiver or has previously agreed to pay all the fees associated with the request, or the anticipated fee is \$30 or less, the bureau will:

(1) Promptly notify the requester of the estimated costs and ask the requester to provide written assurance of payment of all fees or fees up to a designated amount; and

(2) Give the requester an opportunity to modify the request at that time to reduce the fee (see Appendix B, Illustration 19).

B. After the bureau begins processing the request, if it finds that the actual cost will exceed the amount the requester previously agreed to pay, the bureau will:

(1) Stop processing the request;

(2) Promptly notify the requester of the higher amount and ask the requester to provide written assurance of payment or modify the request to reduce the fee; and

(3) Resume processing once the requester has agreed to pay the higher amount or modify the request to reduce the fee.

#### 4.10 Advance Payment.

A. The bureau will require advance payment when the estimated fee is over \$250 and:

(1) The requester has never made a FOIA request to DOI requiring the payment of fees; or

(2) The requester did not pay a previous FOIA fee promptly.

B. If the requester has previously failed to pay a fee within 30 calendar days of the date of billing, the bureau will require the requester to:

(1) Pay the full amount owed plus any applicable interest penalties (see paragraph 4.13 of this Chapter) and to make an advance payment of the full amount of the estimated fee of the new request; or

(2) Demonstrate that the prior fee has been paid.

C. At the same time the bureau notifies the requester that an advance payment is due, it will give the requester an opportunity to modify the request to reduce the fee (see Appendix B, Illustrations 20 and 21).

4.11 Unresolved Fee Issues. The bureau will not start processing a request until the fee issue has been resolved (see paragraph 3.2 of Chapter 3). If the bureau seeks clarification from the requester about a fee issue and does not hear from the requester within 20 workdays, the bureau will assume that the requester is no longer interested in this matter and will close the file on the request. The responsible official should advise the requester in writing that he/she is closing the file since a response has not been received from the requester clarifying the fee issue. However, if the requester has asked for a fee waiver, the bureau must make a determination on the fee waiver request within 20 workdays based on the information on hand (see 43 CFR 2.19(a)).

4.12 Billing Procedures. If the requester is required to pay a fee associated with the request, the bureau that processes the request will send the requester a bill for collection. Bills will be processed under the bureau's financial/accounting procedures. The requester should submit a check or money order made payable to the "Department of the Interior" or the bureau furnishing the information. The term United States or the initials "U.S." should not be included on the check or money order. Where appropriate, the official responsible for handling a request may require that payment be made in the form of a certified check. The requester also may pay by credit card if the bureau accepts such payments.

4.13 Failure to Pay Fees. The bill for collection or the response letter will include a statement that interest will be charged in accordance with 31 U.S.C. 3717, as amended, if the fees are not paid within 30 calendar days of the date of the bill. This requirement does not apply if the requester is a state, local, or tribal government. The Debt Collection Improvement Act of 1996 will be used, as appropriate, to collect fees (Pub. L. 104-134).

4.14 Fee Waivers.

A. If a requester is seeking a fee waiver, it is his/her responsibility to provide detailed information to support it. The requester must submit this information with the FOIA request. The requester should explain how the release of the information contributes significantly to the public's understanding of the Government's operations and activities. The burden is on the requester to justify entitlement to a fee waiver.

B. The bureau will evaluate each request on its own merit—the bureau will not grant "blanket" fee waivers. The fact that a requester has received a fee waiver in the past does not mean the requester is automatically entitled to a fee waiver for every request he or she may submit, because the essential element of any fee waiver determination is whether the release of the particular documents sought in the request will likely contribute significantly to public understanding of the operations or activities of the Government.

C. The bureau will provide records without charge or at a reduced charge if disclosure of the information is in the public interest because it--

(1) Is likely to contribute significantly to public understanding of the operations and activities of the Government; and

(2) Is not primarily in the requester's commercial interest.

D. In deciding whether the requester is entitled to a fee waiver, the bureau will consider the criteria in paragraph 4.14D (1) through 4.14D (4), below. The requester should address each of these criteria in his/her letter.

(1) How do the records concern the operations or activities of the Government?

(2) If the records concern the operations or activities of the Government, how will disclosure likely contribute to public understanding of these operations and activities?

(a) How are the contents of the records the requester is seeking meaningfully informative on the Department's or a bureau's operations and activities? Is there a logical connection between the content of the records and the operations or activities the requester is interested in?

(b) Other than enhancing the requester's knowledge, how will disclosure of the requested records contribute to the understanding of the public at large or a reasonably broad audience of persons interested in the subject?

(c) The requester's identity, vocation, qualifications, and expertise regarding the requested information (whether the requester is affiliated with a newspaper, college or university, have previously published articles, books, etc.) may be relevant factors. However, the requester merely stating that he/she is going to write a book, research a particular subject, or perform doctoral dissertation work, is insufficient, without demonstrating how the requester plans to disclose the information in a manner which will be informative to a reasonably broad audience of persons interested in the subject.

(d) Does the requester have the ability and intention to disseminate the information to the general public or a reasonably broad audience of persons interested in the subject?

(i) How and to whom does the requester intend to disseminate the information?

(ii) How does the requester plan to use the information to contribute to public understanding of the Government's operations or activities?

(3) If there is likely to be a contribution to public understanding, will release of the requested records contribute significantly to public understanding?

(a) Is the information being disclosed new?

(b) Does the information being disclosed confirm or clarify data which has been released previously?

(c) How will disclosure increase the existing level of public understanding of the operations or activities of the Department or a bureau?

(d) Is the information already publicly available? If the Government previously has published the information that the requester is seeking or if it is routinely available to the public in a library, reading room, through the Internet, or as part of the administrative record for a particular issue (e.g., the listing of the spotted owl as an endangered species), it is less likely that there will be a significant contribution from release.

(4) Would disclosure be primarily in the requester's commercial interest?

(a) Does the requester have a commercial interest that would be furthered by disclosure? A commercial interest is a commercial, trade, or profit interest as these terms are commonly understood. The requester's status as "profitmaking" or "non-profitmaking" is not the deciding factor. Not only profitmaking entities, but other organizations or individuals may have a commercial interest to be served by disclosure, depending on the circumstances involved.

(b) If the requester does have a commercial interest that would be furthered by disclosure, would disclosure be primarily in that interest? Would the public interest in disclosure be greater than any commercial interest the requester or the requester's organization may have in the documents? If so, how would it be greater?

(c) The requester's identity, vocation, and the circumstances surrounding the request are all factors to be considered in determining whether disclosure would be primarily in the requester's commercial interest. For example:

(i) If the requester is a representative of a news media organization seeking information as part of the news gathering process, the bureau will presume that the public interest outweighs the requester's commercial interest.

(ii) If the requester represents a business/corporation/association or the requester is an attorney representing such an organization, the bureau will presume that the requester's commercial interest outweighs the public interest unless the requester demonstrates otherwise.

E. The bureau will rely on the fee waiver justification the requester has submitted in his/her request. If the requester does not submit sufficient justification, the fee waiver request will be denied. The bureau may, at its discretion, communicate with the requester to request additional information if necessary (see Appendix B, Illustration 23). However, the bureau must make a determination on the fee waiver request within 20 workdays, even if the bureau has not received such additional information.

F. The bureau should consider only the releasable portions of the responsive documents in determining eligibility for a fee waiver, because exempt portions of documents will not contribute to public understanding. The general importance or sensitivity of the underlying subject matter of the FOIA request should not override the analysis of whether release of the information itself will contribute significantly to public understanding.

4.15 Reducing the Fee (Partial Fee Waivers). Under the FOIA and DOI's regulations, fees may be reduced (in contrast to a total fee waiver) when release of some of the records qualifies for a fee waiver. The criteria for reducing the fees are the same as those for a total fee waiver.

A. A fee reduction may be appropriate when it is determined that only some of the requested records would be likely to contribute significantly to public understanding of the operations or activities of the Government, and when disclosure would not be primarily in the commercial interest of the requester.

B. Fees in these cases would be prorated based on the percentage of records that meets the fee waiver criteria. Where the documents may be segregated, the bureau should calculate the exact cost of processing those records that do not qualify for a fee waiver.

#### 4.16 Fee Waiver Requests.

A. Denying a Request. If a request for a fee waiver or reduction is denied, the bureau will notify the requester, in writing, of the following (see Appendix B, Illustration 24):

- (1) The basis for the denial, including a full explanation of why the fee waiver request did not meet DOI's fee waiver criteria;
- (2) The name(s) and title(s) or position(s) of each person responsible for the denial;
- (3) The name and title of the Office of the Solicitor attorney consulted;
- (4) His/her right to appeal, in writing, within 30 workdays after the date of the denial letter to the FOIA Appeals Officer; and
- (5) That it will not start processing the request until it receives his/her written assurance of payment of all fees or the maximum amount that he/she is willing to pay. The bureau also may give the requester an opportunity to narrow the scope of his/her request to reduce the fee.

B. Granting a Request. If a bureau decides to grant the fee waiver request, it will notify the requester, in writing, that it is granting the fee waiver because disclosure of the requested information (1) is likely to contribute significantly to public understanding of the agency's operations and activities, and (2) is not primarily in his/her commercial interest. The bureau will explain the basis for its decision, i.e., how the request meets the criteria for granting a fee waiver under DOI's FOIA regulations (43 CFR 2.19 and Appendix D).

#### 4.17 Discretionary Fee Waivers.

A. A bureau may waive fees at its discretion if a request involves:

- (1) Furnishing a copy of a document that the bureau has reproduced for free distribution;
- (2) Furnishing one copy of a personal document (e.g., a birth certificate) to a person who has been required to furnish it for retention by the Department;

- (3) Furnishing one copy of the transcript of a hearing before a hearing officer in a grievance or similar proceeding to the employee for whom the hearing was held;
  - (4) Furnishing records to donors with respect to their gifts;
  - (5) Furnishing records to individuals or private nonprofit organizations having an official, voluntary or cooperative relationship with the Department to assist the individual or organization in working with the Department;
  - (6) Furnishing a reasonable number records to members of the U.S. Congress, state, local, and foreign governments, public international organizations, and Indian tribes, when to do so without charge is an appropriate courtesy, or when the recipient is carrying on a function related to that of the Department and to do so will help to accomplish the work of the Department;
  - (7) Furnishing records when to do so is in conformance with generally established business custom (e.g., furnishing personal reference data to prospective employers of former Department employees); or
  - (8) Furnishing one copy of a single record in order to assist the requester in obtaining financial benefits to which he or she may be entitled (e.g., veterans or their dependents, employees with Government employee compensation claims).
- B. The requester cannot appeal the denial of a discretionary fee waiver.