
31 C.F.R. § 1.7

Fees.

(a) *In general.* Components may charge for processing requests under the FOIA in accordance with the provisions of this section or may issue their own fee schedules as long as they are consistent with the OMB Guidelines. In order to resolve any fee issues that arise under this section, a component may contact a requester for additional information. A component ordinarily will collect all applicable fees before sending copies of records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States, or by other means specified at <https://home.treasury.gov/footer/freedom-of-information-act>.

(b) *Definitions.* For purposes of this section:

(1) *Commercial-use request* is a request for information for a use or a purpose that furthers a commercial, trade, or profit interest, which can include furthering those interests through litigation.

(2) *Direct costs* are those expenses that a component expends in searching for and duplicating (and, in the case of commercial-use requests, reviewing) records in order to respond to a FOIA request. For example, direct costs include the salary of the employee performing the work (*i.e.*, the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating computers and other electronic equipment, such as photocopiers and scanners. Direct costs do not include overhead expenses such as the costs of space, and of heating or lighting a facility. Components shall ensure that searches, review, and duplication are conducted in the most efficient and the least expensive manner.

(3) *Duplication* is reproducing a copy of a record or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, audiovisual materials, or electronic records, among others.

(4) *Educational institution* is any school that operates a program of scholarly research. A requester in this category must show that the request is made in connection with the requester's role at the educational institution. Components may seek assurance from the requester that the request is in furtherance of scholarly research and will advise requesters of their placement in this category.

(5) *Noncommercial scientific institution* is an institution that is not operated on a “commercial” basis, as defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research and not for a commercial use.

(6) *Representative of the news media* is any person or entity that actively gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term “news” means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations

broadcasting news to the public at large and publishers of periodicals that disseminate “news” and make their products available through a variety of means to the general public. A request for records that supports the news-dissemination function of the requester shall not be considered to be for a commercial use. “Freelance” journalists who demonstrate a solid basis for expecting publication through a news media entity shall be considered as a representative of the news media. A publishing contract would provide the clearest evidence that publication is expected; however, components shall also consider a requester's past publication record in making this determination.

(7) *Other requester* refers to a requester who does not fall within any of the previously described categories.

(8) *Review* is the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. Review time includes time spent processing any record for disclosure, such as doing all that is necessary to prepare the record for disclosure, including the process of redacting the record and marking the appropriate exemptions. Review time also includes time spent obtaining and considering any formal objection to disclosure made by a confidential commercial information submitter under § 1.5 of this subpart, but it does not include time spent resolving general legal or policy issues regarding the application of exemptions. Review costs are properly charged even if a record ultimately is not disclosed.

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