

---

## 45 C.F.R. § 1171.11

---

### Fees.

---

(a) *In general.* The NEH will assess fees for processing FOIA requests in accordance with this section and with the Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of Management and Budget at 52 FR 10012 (Mar. 27, 1987). In order to resolve any fee issues that arise under this section, the NEH may contact a requester for additional information. The NEH 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.

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

(1) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interest, which can include furthering those interests through litigation. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because the NEH has reasonable cause to doubt a requester's stated use, the NEH will provide the requester a reasonable opportunity to submit further clarification.

(2) *Direct costs* means those expenses that an agency actually incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating duplication machinery. Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(3) *Duplication* means the making of 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, microform, audiovisual materials, or electronic records among others.

(4) *Educational institution* means any school that operates a program of scholarly research. A requester in this category must show that the request is authorized by and made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought to further scholarly research.

(5) *Noncommercial scientific institution* means an institution that is not operated on a "commercial" basis, as defined in paragraph (b)(1) above, 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 made under the auspices of a qualifying institution and that the records are not sought for a commercial use or to promote any particular product or industry, but are sought to further scientific research.

(6) *Representative of the news media* means any person or entity that 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 to the public at large, and publishers of periodicals (but only if such entities qualify as disseminators of “news”) who make their products available for purchase or by subscription or by free distribution to the general public. The NEH will regard “freelance” journalists as working for a news-media organization if they demonstrate a solid basis for expecting publication through that organization. A publication contract would provide the clearest evidence, but the NEH will also consider a requester's past publication record in making this determination.

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)