

**Federal Communications Commission**

**§0.469**

Grade	Hourly fee
GS-11 .....	34.19
GS-12 .....	40.98
GS-13 .....	48.73
GS-14 .....	57.59
GS-15 .....	67.74

NOTE: These fees will be modified periodically to correspond with modifications in the rate of pay approved by Congress.

(2) The fees in paragraph (a) (1) of this section were computed at Step 5 of each grade level based on the General Schedule effective January 2005 and include 20 percent for personnel benefits.

(b) Search fees may be assessed for time spent searching, even if the Commission fails to locate the records or if the records are determined to be exempt from disclosure.

(c) The Commission shall charge only for the initial review, i.e., the review undertaken initially when the Commission analyzes the applicability of a specific exemption to a particular record. The Commission shall not charge for review at the appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs of such a subsequent review, under these circumstances, are properly assessable.

(d) The fee charged will not exceed an amount based on the time typically required to locate records of the kind requested.

(e) If the Commission estimates that search charges are likely to exceed \$25 or the amount which the requester indicated he/she is prepared to pay, then it shall notify the requester of the estimated amount of fees. Such a notice shall offer the requester the opportunity to confer with Commission personnel with the object of revising or clarifying the request.

(f) When the search has been completed, the custodian of the records will give notice of the charges incurred to the person who made the request.

(g) The fee shall be paid to the Financial Management Division, Office of Managing Director, or as otherwise directed by the Commission.

(h) Records shall be inspected within 7 days after notice is given that they

have been located and are available for inspection. After that period, they will be returned to storage, and additional charges may be imposed for again producing them.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 397; 47 CFR 0.231(d))

[40 FR 7316, Feb. 19, 1975, as amended at 45 FR 85028, Dec. 24, 1980; 49 FR 13368, Apr. 4, 1984. Redesignated and amended at 53 FR 39093, Oct. 5, 1988; 59 FR 21946, Apr. 27, 1994; 64 FR 31139, June 10, 1999; 65 FR 51234, Aug. 23, 2000; 66 FR 42453, Aug. 13, 2001; 67 FR 58543, Sept. 17, 2002; 68 FR 4105, Jan. 28, 2003; 69 FR 13746, Mar. 24, 2004; 70 FR 6593, Feb. 8, 2005]

**§0.468 Interest.**

Interest shall be charged those requesters who fail to pay the fees charged. The agency will begin assessing interest charges on the amount billed starting on the 31st day following the day on which the billing was sent. The date on which the payment is received by the agency will determine whether and how much interest is due. The interest shall be set at the rate prescribed in 31 U.S.C. 3717.

[53 FR 39094, Oct. 5, 1988]

**§0.469 Advance payments.**

(a)(1) The Commission may not require advance payment of estimated FOIA fees except as provided in subsection (a)(2) or where the Commission estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250.00 and the requester has no history of payment. Where allowable charges are likely to exceed \$250.00 and the requester has a history of prompt payment of FOIA fees the Commission may notify the requester of the estimated cost and obtain satisfactory assurance of full payment.

(2) Where a requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing), the Commission may require the requester to pay the full amount owed plus any applicable interest as provided in §0.468, and to make an advance payment of the full amount of the estimated fee before the Commission begins to process a new request or a pending request from that requester.

## §0.470

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(3) When the Commission acts under paragraph (a) (1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denials, plus permissible extensions of these time limits) will begin only after the agency has received the fee payments described above.

(b) [Reserved]

[53 FR 39094, Oct. 5, 1988]

### §0.470 Assessment of fees.

(a)(1) Commercial use requesters. When the Commission receives a request for documents for commercial use, it will assess charges that recover the full direct cost of searching for, reviewing and duplicating the records sought pursuant to §§0.466 and 0.467, above.

(2) Educational and non-commercial scientific institution requesters and requesters who are representatives of the news media. The Commission shall provide documents to requesters in these categories for the cost of reproduction only, pursuant to §0.465 above, excluding reproduction charges for the first 100 pages, provided however, that requesters who are representatives of the news media shall be entitled to a reduced assessment of charges only when the request is for the purpose of disseminating information.

(3) All other requesters. The Commission shall charge requesters who do not fit into any of the categories above fees which cover the full, reasonable direct cost of searching for and reproducing records that are responsive to the request, pursuant to §§0.467 and 0.465 above, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge.

(b)(1) The 100 page restriction on assessment of reproduction fees in paragraphs (a)(2) and (a)(3) of this section refers to 100 paper copies of a standard size, which will normally be “8½×11” or “11×14,” or microfiche containing the equivalent of 100 pages or 100 pages of computer printout. Requesters will not be entitled to 100 microfiche.

(2) When the agency reasonably believes that a requester or group of re-

questers is attempting to segregate a request into a series of separate individual requests for the purpose of evading the assessment of fees, the agency will aggregate any such requests and assess charges accordingly.

(c) When a requester believes he is entitled to a restricted fee assessment pursuant to paragraphs (a)(2) and (a)(3), of this section, or a waiver pursuant to paragraph (e) of this section, the requester must include, in his original FOIA request, a statement explaining with specificity, the reasons demonstrating that he/she qualifies for a restricted fee or a fee waiver. Included in this statement should be a certification that the information will not be used to further the commercial interests of the requester.

NOTE: Anyone requesting a restricted fee must submit the request directly to the Commission and not to the contractor who will provide documents only at the contract price.

(d) If the Commission reasonably believes that a commercial interest exists, based on the information provided pursuant to paragraph (c) of this section, the requester shall be so notified and given an additional 5 working days to provide further information to justify receiving a restricted fee. During this time period, the materials will be available for inspection to the extent that the time period exceeds the 10 or 20 day time period for responding to FOIA requests, as appropriate.

(e) Copying, search and review charges shall be waived or reduced by the General Counsel, when “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. 552(a)(4)(A)(iii).

(f) The Commission shall not assess any fees if the routine cost of collecting the fee would be equal to or greater than the fee itself.

[53 FR 39094, Oct. 5, 1988]