

FOIA Fees

The FOIA generally requires that requestors pay fees for processing their requests. If costs associated with the processing of a FOIA request are \$15.00 or less, no fees are charged. Each FOIA request is reviewed for the purpose of placing a requestor in one of four fee categories described below:

1. **Commercial use requestor:** Responsible for all direct costs; i.e. search for responsive documents, review of documents located for responsiveness; 16% administrative costs; reproduction cost of \$.05 per page; and the time it took the FOIA Contact Person to process the request.
2. **Requestors who are representative of the news media:** Responsible for reproduction costs after the first 100 pages.
3. **Educational and non-commercial scientific institution requestors:** Responsible for reproduction costs after the first 100 pages.
4. **All other requestors:** Responsible for search costs after the first 2 hours and reproduction costs after the first 100 pages.

Your FOIA request should address your willingness to pay fees, offering a limit, or request a waiver of fee. All issues concerning fees associated with the processing of your request must be resolved before the processing of your request can begin.

The Act provides that “documents” shall be furnished without any charge or a reduced charge below the fees established under cause (ii), if 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 requestor. See 5 U.S.C. 552 (a)(4)(a)(iii).

The DOE has implemented this statutory standard for fee waivers or reduced fees in its FOIA regulation at Title 10, Code of Federal Regulations (CFR), Section 1004.9(a). The regulation set forth the following factors that are considered by the agency in applying the criteria:

1. The subject of the request: 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: Whether the disclosure is “likely to contribute” to an understanding of government operations or activities.
3. The contribution of an understanding by the general public of the subject likely to result from disclosure (i.e., the requestor must have the ability and intention to disseminate this information to the public).
4. The significance of the contribution to public understanding: Whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities.

Pursuant to 10 CFR Section 1004.9(a)(8)(i), a requestor who satisfies the four factors of the public interest listed above must then address the following factors by showing that disclosure of the information is not primarily in his or her commercial interest.

1. The existence and magnitude of a commercial interest: Whether the requestor has a commercial interest that would be furthered by the requested disclosure, and if so
2. The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requestor is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requestor.”