

§ 294.108

- Chicago Region—John C. Kluczynski Federal Building, 30th Floor, 230 South Dearborn Street, Chicago, IL 60604.

- Dallas Region—1100 Commerce Street, Dallas, TX 75242.

- Philadelphia Region—William J. Green, Jr., Federal Building, 600 Arch Street, Philadelphia, PA 19106-1596.

- San Francisco Region—211 Main Street, 7th Floor, San Francisco, CA 94105.

(e) *When an organization does not have records in its custody.* When an OPM organization receives a Freedom of Information Act request for OPM records that it does not have in its possession, it will normally either—

- (1) Retrieve the records from the organization that has possession of them; or

- (2) Promptly forward the request to the appropriate organization. If a person has asked to be kept apprised of anything that will delay the official receipt of a request, OPM will provide notice of this forwarding action. Otherwise, OPM may, at its option, provide such notice.

(f) *Applying the time limits.* When applying the time limits in section 552 of title 5, United States Code, OPM will not officially consider any request to be received until it arrives in the OPM organization that has responsibility for the records sought.

(g) *Records from other Government agencies.* When a person seeks records that originated in another Government agency, OPM may refer the request to the other agency for response. Ordinarily, OPM will provide notice of this type of referral.

(h) *Creating records.* If a person seeks information from OPM in a format that does not currently exist, OPM will not ordinarily compile the information for the purpose of creating a record to respond to the request. OPM will advise the individual that it does not have records in the format sought. If other existing records would reasonably respond to the request or portions of it, OPM may provide these. If fees as provided in §294.109 apply to any alternative records, OPM will advise the requester before providing the records.

[54 FR 25094, June 13, 1989, as amended at 57 FR 32150, July 21, 1992; 58 FR 32044, June 8, 1993]

5 CFR Ch. I (1-1-05 Edition)

§ 294.108 Procedures for obtaining records.

(a) *Mailing or delivering a request.* Any person may ask for records under section 552 of title 5, United States Code, by directing a letter to one of the organizations listed in §294.107, or by delivering a request in person at the addresses listed in that section during business hours on a regular business day.

(b) *Proper marking.* Each request for records should have a clear and prominent notation on the first page, such as "Freedom of Information Act Request." In addition, if sent by mail or otherwise submitted in an envelope or other cover, mark the outside clearly and prominently with "FOIA Request" or "Freedom of Information Act Request."

(c) *Contents of request letter.* A request must describe the records sought in sufficient detail to enable OPM personnel to locate the records with a reasonable amount of effort.

- (1) OPM will regard a request for a specific category of records as fulfilling the requirements of this paragraph, if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive to OPM operations.

- (2) Whenever possible, a request should include specific information about each record sought, such as the date, number, title or name, author, recipient, and subject matter of the record.

- (3) If an OPM organization determines that a request does not reasonably describe the records sought, it will either provide notice of any additional information needed or otherwise state why the request is insufficient. OPM will also offer the record seeker an opportunity to confer, with the objective of reformulating the request so that it meets the requirements of this section.

(d) *Medical records.* OPM or another Government agency may disclose the medical records of an applicant, employee, or annuitant to the subject of the record, or to a representative designated in writing. However, medical records may contain information about an individual's mental or physical condition that a prudent physician would hesitate to give to the individual.

Under such circumstances, OPM may disclose the records, including the exact nature and probable outcome of the condition, only to a licensed physician designated in writing for that purpose by the individual or his or her designated representative.

(e) *Publications.* If the subject matter of a request includes material published and offered for sale (e.g., by the Superintendent of Documents, Government Printing Office), OPM will explain where a person may review and/or purchase the publications.

(f) *Responses within 10 working days.* Except in unusual circumstances (as defined in 5 U.S.C. 552(a)(6)(B)), OPM will determine whether to disclose or deny records within 10 working days after receipt of the request (excluding weekends and holidays) and will provide notice immediately of its determination and the reasons therefor, and of the right to appeal any adverse determination.

[54 FR 25094, June 13, 1989, as amended at 58 FR 32044, June 8, 1993]

§ 294.109 Fees.

(a) *Applicability of fees.* (1) OPM will furnish, without charge, reasonable quantities of material that it has available for free distribution to the public.

(2) OPM may furnish other materials, subject to payment of fees intended to recoup the full allowable direct costs of providing services. Fees for these materials may be waived if the request meets the requirements specified in paragraph (f) of this section.

(3) If a request does not include an acceptable agreement to pay fees and does not otherwise convey a willingness to pay fees, OPM will promptly provide notification of the estimated fees. This notice will offer an opportunity to confer with OPM staff to reformulate the request to meet the requester's needs at a lower cost. Upon agreement to pay the required fees, OPM will further process the request.

(4) As described in §294.107, OPM ordinarily responds to FOIA requests in a decentralized manner. Because of this, OPM may at times refer a single request to two or more OPM entities to make separate direct responses. In such cases, each responding entity may

assess fees as provided by this section, but only for direct costs associated with any response it has prepared.

(5) If fees for document search are authorized as provided in paragraph (c) of this section, OPM may assess charges for employee time spent searching for documents and other direct costs of a search, even if a search fails to locate records or if records located are determined to be exempt from disclosure. Searches should be conducted in the most efficient and least expensive manner so as to minimize the cost for both the agency and the requester, e.g., personnel should not engage in line-by-line search when photocopying an entire document would be a less expensive and quicker way to comply with a request.

(6) Services requested and performed but not required under the FOIA, such as formal certification of records as true copies, will be subject to charges under the Federal User Charge Statute (31 U.S.C. 483a) or other applicable statutes.

(b) *Rates used to compute fees.* The following rates form the basis for assessing reasonable, standard charges for document search, duplication, and review as required by 5 U.S.C. 552(a)(4). The listing of rates below should be used in conjunction with the fee components listed in paragraph (c) of this section:

Service	Rate
Employee time	Salary rate plus 16% to cover benefits.
Photocopies (up to 8½"×14")	\$.013 per page.
Printed materials, per 25 pages or fraction thereof.	\$.025.
Computer time	Actual direct cost.
Supplies and other materials	Actual direct cost.
Other costs not identified above.	Actual direct cost.

(c) *Assessing fees based on requester's category.* Rates are assessed differently for the different categories of requesters as defined in §294.103. Requests have three cost components for the purpose of assessing fees: the cost of document search, the cost of duplication, and the cost of review. OPM will apply the rates in paragraph (b) of this section to the cost components that apply to the requester's category as follows: