

Federal Communications Commission

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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.

NOTE: The criterion considered in acting on a waiver request is whether "waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public." 5 U.S.C. 552(a)(4)(A). The following factors are relevant in applying that criterion: the number of persons to be benefited, the significance of the benefit, the private interest of the requester which the release may further, the usefulness of the materials to be released to the general public and the likelihood that a tangible public benefit will be realized. (See Attorney General's 1974 FOI Amdts. Memorandum, at 15.)

(3) Requests for copies by representatives of foreign governments or persons residing in foreign countries shall be submitted to the General Counsel and will be reviewed by the General Counsel under criteria established by the Department of Commerce for controlling the export of technical data.

(4) Certified Documents. Copies of documents which are available or made available, for inspection under §§0.451 through 0.465, will be prepared and certified, under seal, by the Secretary, or for documents located in the Commission's Gettysburg, Pennsylvania Office by his deputy. Requests shall be in writing, specifying the exact documents, the number of copies desired, and the date on which they will be required. The request shall allow a reasonable time for the preparation and certification of copies. The fee for preparing copies shall be the same as that charged by the Commission as described in §0.465(c)(2). The fee for certification shall be \$10 for each document.

(d)(1) Computer maintained data bases produced by the Commission may be obtained from the FCC's internet web site at www.fcc.gov.

NOTE: The Commission awards a contract to provide the public with direct electronic access to a portion of the non-Government Master Frequency File data base released for access and residing on the contractor's computer system. The name, address, telephone number, and schedule of fees for the current contractor are published annually at the time of contract award or renewal in a Pub-

lic notice. This information may be obtained from the Office of Congressional and Public Affairs, Consumer Assistance and Small Business Division, Telephone (202) 632-7000.

(2) Copies of computer generated data stored as paper printouts or on microfiche may also be obtained from the Commission's duplicating contractor (see paragraph (a) of this section).

(d)(3) Copies of computer source programs and associated documentation produced by the Commission shall be obtained from the Office of the Managing Director.

(e) This section has no application to printed publications, which may be purchased from the Superintendent of Documents or private firms (see §§0.411 through 0.420). Nor does it apply to application forms or information bulletins, which are prepared for the use and information of the public and are available upon request (see §§0.421 and 0.423).

(f) Anyone requesting copies of documents pursuant to this section may select either the Commission or the contractor to fulfill the request. If a request goes directly to the contractor, the requester will be charged by the contractor pursuant to the price list set forth in the latest contract. If a request goes directly to the Commission, it shall be sent to the Office of the Managing Director for appropriate processing according to the fee standards established under the FOIA.

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

[32 FR 10573, July 19, 1967, as amended at 41 FR 51610, Nov. 23, 1976; 45 FR 85028, Dec. 24, 1980; 49 FR 13368, Apr. 4, 1984; 51 FR 34982, Oct. 1, 1986; 52 FR 36774, Oct. 1, 1987; 53 FR 39093, Oct. 5, 1988; 64 FR 60725, Nov. 8, 1999; 67 FR 13222, Mar. 21, 2002]

§0.466 Definitions.

(a) For the purpose of §§0.467 and 0.468, the following definitions shall apply:

(1) The term *direct costs* means those expenditures which the Commission actually incurs in searching for and duplicating (and in case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include the salary of the employee performing the work (the basic rate of pay

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for the employee plus 16 percent of that rate to cover benefits), and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses, such as costs of space, and heating or lighting the facility in which the records are stored.

(2) The term *search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material contained within documents. Such activity should be distinguished, however, from “review” of material in order to determine whether the material is exempt from disclosure (see paragraph (a)(3) of this section).

(3) The term *review* refers to the process of examining documents located in response to a commercial use request (see paragraph (a)(4) of this section) to determine whether any portion of a document located is exempt from disclosure. It also includes processing any documents for disclosure, e.g., performing such functions that are necessary to excise them or otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of FOIA exemptions.

(4) The term *commercial use* request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial interests of the requester. In determining whether a requester properly falls within this category, the Commission shall determine the use to which a requester will put the documents requested. Where the Commission has reasonable cause to question the use to which a requester will put the documents sought, or where that use is not clear from the request itself, the Commission shall seek additional clarification before assigning the request to a specific category.

(5) The term *educational institution* refers to a preschool, a public or private elementary or secondary school, an institution or graduate higher education, an institution of professional education and an institution of vocational education, which operates a program or programs of scholarly research.

(6) The term *non-commercial scientific institution* refers to an institution that is not operated on a commercial basis

as that term is referenced in paragraph (a)(4) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(7) The term *representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. 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 in those instances where they can qualify as disseminators of “news”) who make their products available for purchase or subscription by the general public. These examples are not intended to be all inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of “freelance” journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

[53 FR 39093, Oct. 5, 1988]

§0.467 Search and review fees.

(a)(1) Subject to the provisions of this section, an hourly fee shall be charged for recovery of the full, allowable direct costs of searching for and reviewing records requested under §0.460(e) or §0.461, unless such fees are precluded or waived pursuant to §0.470. The fee is based on the grade level of the employee(s) who conduct(s) the search or review, as specified in the following schedule:

Grade	Hourly fee
GS-1	12.10
GS-2	13.18
GS-3	14.84
GS-4	16.67
GS-5	18.65
GS-6	20.78
GS-7	23.10
GS-8	25.58
GS-9	28.26
GS-10	31.12