

Public Records – Fees and Costs

In Florida, providing access to public records is the law. With a few exceptions, the records of state and local agencies are subject to the Florida Public Records Act, from records in the Governor's office to those of your local school board. They must give access to public records for inspection as well as for copying. This session is an overview of the types of costs and fees agencies may charge for providing public documents.

Generally, agencies may not charge a fee for the inspection of public records. For example, agencies may not charge citizens for listening to audio recordings of any hearings, or for reviewing documents unless redaction of exempt material is necessary.

With today's technology, it has never been easier to provide citizens free access to public records through the internet. Agencies may post all public records, from minutes of meetings to contracts, on their public website. This is a simple, efficient, and economical way to give all citizens free access to public information. By posting public records on websites, agencies will avoid the use of employees' time for searching and copying records requested, which saves the agency money and resources. This convenient method also provides citizens with records faster and without the expense of paper copies. Agencies may also wish to consider providing access to a computer terminal for citizens to inspect and examine an agency's non-exempt public records.

The Florida Statutes provide a schedule for copying fees. If no fee is set forth in the statutes, section 119.07(4)(a)1 of the Florida Statutes permits agencies to charge up to 15 cents per one-sided copy for paper copies that are 14 inches by 8 ½ inches or less and an additional 5 cents for two-sided copies. Agencies can also charge one dollar for certified copies of a public record. For other copies, the charge is limited to the cost of the material and supplies used.

A few exceptions exist where agencies may charge more than 15 cents. Among these are all court records, county maps, aerial photographs, and crash and homicide reports. An agency may not charge a sales tax when providing copies of public records.

Sometimes, the nature or the volume of the public records requested will require extensive use of the agency's information technology resources or of the clerical or supervisory personnel assigned to make copies or safeguard records. In these instances, the law allows agencies to charge a service fee for the inspection and copying of public records. All service charges for inspecting public records must be REASONABLE.

Agencies should adopt a policy that addresses the circumstances when a special service charge will be imposed as well as a schedule of charges. The policy must be consistent with the purpose and intent of the Public Records Act and should strike a balance between the agency's responsibility to protect records and its legal duty to ensure unfettered access to public information.

The special service charge should be based on actual labor costs for the personnel who are required to complete the records request. In calculating labor costs, agencies should use the clerical employee's base salary and employee benefits for the time spent making copies, even if an employee at a higher pay level actually did the work.

A higher rate may be charged for requests that involve complex documents containing various exempt or confidential information. Usually this will involve documents that have to be reviewed by an attorney or paralegal with the knowledge necessary to make decisions with respect to potential exemptions. For example, a circuit court judge approved a rate of thirty-five dollars per hour in a case where the agency attorney had reviewed exempt material in a voluminous criminal case file.

The fees authorized under Chapter 119 are not meant to be a profit-making or revenue-generating operation. Agencies may not charge for such things as utilities, office expenses, or travel time and retrieval costs for public records stored off-premises. Similarly, an agency may not charge fees designed to recoup the agencies original cost of developing or producing the records. Agencies should never attempt to prevent access to public records by charging excessive fees.

When an agency receives a request for a large number of records, an estimate of the fee should be communicated to the requestor before the work is undertaken. Agencies may also require a reasonable deposit or advance payment prior to producing the requested records. Agencies may bill for any shortfall between the deposit and the actual cost of copying the public records when the copies have been made and the requesting party subsequently advises that the records are not needed.

It is a good idea for agencies to always provide a written invoice detailing the costs and charges related to public records. This is especially true if the fees include special service charges or are calculated at a rate higher than a clerk's salary. It is also advisable, when possible, to provide the requestor with an estimate of the cost in advance of the production of the requested records. Agencies may ask for the payment in advance of production, but the law does not require it.

Florida law specifically provides that "Each agency that maintains a public record in an electronic recordkeeping system shall provide to any person, pursuant to this chapter, a copy of any public record in the system which is not exempted by law from public disclosure. An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium, and the agency may charge a fee which shall be in accordance with this chapter."

Therefore, agencies are required to provide a copy of the record in the requested format if the agency maintains the record in that format. Agencies are not required to furnish electronic public records in a format other than the standard format routinely maintained by the agency. For example, if asked for a copy of a computer software disk used by an agency, a typed transcript would not satisfy the requirements of the Public Records Law. If an agency chooses to provide records in a requested format that is different than the

standard format used by the agency, the requestor is responsible for the costs of converting or reformatting the information. Once again, it is important that agencies communicate with the requestor any circumstances which will require fees and charges.

The Attorney General's office is always available to answer your questions about public records. Please feel free to call me, Alexis Lambert, at 850-245-0140 or visit the Attorney General's website at www.myfloridalegal.com.

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