§ 4.9 Fees.

(a) Exceptions to fee charges—(1) General. Except for a commercial use requester, the Commission will not charge a fee to any requester for the first two hours of search time and the first 100 pages of duplication in response to any FOIA request.

(2) Free computer search time. For purposes of this paragraph, the term search time is based on the concept of a manual search. To apply this to a search conducted by a computer, the Commission will provide the equivalent dollar value of two hours of professional staff time, calculated according
to paragraph (c)(4) of this section, in computer search time. Computer
search time is determined by adding the cost of the computer connect time
actually used for the search, calculated at the rate of $25.00 per hour, to the
cost of the operator’s salary for the time spent conducting the computer
search, calculated at the professional staff time rate set forth at paragraph
(c)(4) of this section.

(3) Definition of pages. For purposes of
this paragraph, the word pages refers to
paper copies of a standard agency size
which will normally be 8½” × 11” or 8½”
× 14”. Thus, while a requester would not
be entitled to 100 free computer disks,
for example, a requester would be enti-
tled to 100 free pages of a computer
printout.

(4) Minimum charge. The Commission
will not charge a fee to any requester
when the allowable direct cost of that
FOIA request is equal to or less than
the Commission’s cost of routinely col-
lecting and processing a FOIA request
fee.

(b) Fee reduction or waiver—(1) The Com-
mission will consider requests for
the reduction or waiver of any fees as-
sessed pursuant to paragraph (c)(1) of
this section if it determines, either as
a result of its own motion or in re-
response to a written submission by the
requester, that disclosure of the infor-
mation is in the public interest because
it is likely to contribute significantly
to public understanding of the oper-
ations or activities of the government
and that disclosure of the information
is not primarily in the commercial in-
terest of the requester.

(2) A request for a reduction or waiv-
er of fees shall be made in writing by
the FOIA requestor; shall accompany
the relevant FOIA request so as to be
considered timely; and shall include a
specific explanation as to why the fee
for that FOIA request should be re-
duced or waived, applying the standard
stated in paragraph (b)(1) of this sec-
tion to the facts of that particular re-
quest. In addition, the explanation
shall include: the requester’s (and
user’s, if the requester and the user are
different persons or entities) identity,
qualifications and expertise in the sub-
ject area, and ability and intention to
disseminate the information to the
public; and a discussion of any com-
mercial or personal benefit that the re-
questor (and user, if the requester and
user are different persons or entities)
expects as a result of disclosure, in-
cluding whether the information dis-
closed would be resold in any form at a
fee above actual cost.

(c) Fees to be charged. (1) The FOIA
services provided by the Commission in
response to a FOIA request for which
the requestor will be charged will de-
depend upon the category of the re-
questor. The categories of FOIA re-
questors are as follows:

(i) Commercial use requestors. A re-
questor of documents for commercial
use will be assessed reasonable stand-
ard charges for the full allowable di-
rect costs of searching for, reviewing
for release and duplicating the records
sought, according to the Commission’s
schedule of fees as set forth at para-
graph (c)(4) of this section. A commercial use requestor is not
entitled to two hours of free search
time nor 100 free pages of duplication
of documents.

(ii) Educational and non-commercial
scientific institution requestors. The Com-
mission will provide documents to re-
questors in this category for the cost of
duplication of the records provided by
the Commission in response to the re-
quest, according to the Commission’s
schedule of fees as set forth at para-
graph (c)(4) of this section, excluding
charges for the first 100 pages of dupli-
cation. Requestors in this category will
not be charged for search time. To be
eligible for inclusion in this category,
requestors must show that the request
is being made as authorized by and
under the auspices of a qualifying in-
stitution and that the records are not
sought for a commercial use, but are
sought in furtherance of scholarly (if
the request is from an educational in-
stitution) or scientific (if the request is
from a non-commercial scientific insti-
tution) research.

(iii) Requestors who are representa-
tives of the news media. The Commission
will provide documents to requestors in
this category for the cost of duplica-
tion of the records provided by the
Commission in response to the request,
according to the Commission’s sched-
ule of fees as set forth at paragraph
(c)(4) of this section, excluding charges for the first 100 pages of duplication. Requestors in this category will not be charged for search time. To be eligible for inclusion in this category, the requestor must meet the criteria listed at 11 CFR 4.1(n) and his or her request must not be made for a commercial use. A request for records supporting the news dissemination function of the requestor shall not be considered to be a request that is for a commercial use.

(iv) All other requestors. The Commission will charge requestors who do not fit into any of the categories listed in paragraph (c)(1)(i), (ii) or (iii) of this section the full direct costs of searching for and duplicating records in response to the request, according to the Commission’s schedule of fees as set forth at paragraph (c)(4) of this section, excluding charges for the first two hours of search time and the first 100 pages of duplication. Requests from persons for records about themselves will continue to be treated under the fee provisions of the Privacy Act of 1974, which permit fees only for duplication.

(2) The Commission may assess fees for the full allowable direct costs of searching for documents in response to a request even if the Commission fails to locate any documents which are responsive to that request and, in the case of commercial use requestors, of reviewing documents located in response to a request which the Commission determines are exempt from disclosure.

(3) If the Commission estimates that search or duplication charges are likely to exceed $25.00, it will notify the requestor of the estimated amount of the fee unless the requestor has indicated in advance a willingness to pay a fee as high as that estimated by the Commission. Through this notification, the Commission will offer the requestor the opportunity to confer with Commission staff to reformulate the original request in order to meet the requestor’s needs at a lower cost.

(4) The following is the schedule of the Commission’s standard fees. The cost of staff time will be added to all of the following fees, generally at the professional rate listed below, except for the cost of Photocopying from photocopying machines which has been calculated to include staff time.

**Photocopying**
- Photocopying from photocopying machines—$.07 per page
- Photocopying from microfilm reader-printer—$.15 per page
- Paper copies from microfilm-paper print machine—$.05 per frame page

**Reels of Microfilm**
- Daily film (partial or complete roll)—$2.85 per roll
- Other film (partial or complete roll)—$5.00 per roll

**Publications: (New or Not from Available Stocks)**
- Cost of photocopying document—$.07 per page
- Cost of binding document—$.30 per inch

**Publications: (Available Stock)**
If available from stock on hand, cost is based on previously calculated cost as stated in the publication (based on actual cost per copy, including reproduction and binding). Commission publications for which fees will be charged include, but are not limited to, the following: Advisory Opinion Index, Report on Financial Activity, Financial Control and Compliance Manual, MUR Index, and Guideline for Presentation in Good Order.

**Computer Tapes**
Cost to process the request at the rate of $25.00 per hour connect time plus the cost of the computer tape ($25.00) and professional staff time (see Staff Time).

**Computer Indexes (Including Name Searches)**
Cost to process the request at the rate of $25.00 per hour connect time plus the cost of professional staff time (see Staff Time).

**Staff Time**
- Clerical: $4.50 per each half hour (agency average of staff below a GS–11) for each request.
- Professional: $12.40 per each half hour (agency average of staff at GS–11 and above) for each request.

**Other Charges**
- Certification of a Document: $7.35 per quarter hour.

Transcripts of Commission meetings not previously transcribed: $7.50 per half hour (equivalent of a GS–11 executive secretary).

The Commission will not charge a fee for ordinary packaging and mailing of records.
requested. When a request for special mailing or delivery services is received the Commission will package the records requested. The requestor will make all arrangements for pick-up and delivery of the requested materials. The requestor shall pay all costs associated with special mailing or delivery services directly to the courier or mail service.

(5) Upon receipt of any request for the production of computer tape or microfilm, the Commission will advise the requestor of the identity of the private contractor who will perform the duplication services. If fees are charged for production of computer tape or microfilm, they shall be made payable to that private contractor and shall be forwarded to the Commission.

(d) Interest charges. FOIA requestors should pay fees within 30 days following the day on which the invoice for that request was sent to the requestor. If the invoice is unpaid on the 31st day following the day on which the invoice was sent, the Commission will begin assessing interest charges, which will accrue from the date the invoice was mailed. Interest will be charged at a rate that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point, pursuant to 31 U.S.C. 3717. The accrual of interest will be stayed by the Commission’s receipt of the fee, even if the fee has not yet been processed.

(e) Aggregating requests. A requestor may not file multiple requests, each seeking portions of a document or documents, in order to avoid payment of fees. When the Commission reasonably believes that a FOIA requestor or group of requestors acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Commission will aggregate any such requests and charge the appropriate fees. In making this determination, the Commission will consider the time period in which the requests have occurred, the relationship of the requestors, and the subject matter of the requests.

(f) Advance payments. The Commission will require a requestor to make an advance payment, i.e., a payment before work is commenced or continued on a request, when:

(1) The Commission estimates or determines that allowable charges that a requestor may be required to pay are likely to exceed $250. In such a case, the Commission will notify the requestor of the likely cost and, where the requestor has a history of prompt payment of FOIA fees, obtain satisfactory assurance of full payment, or in the case of a requestor with no FOIA fee payment history, the Commission will require an advance payment of an amount up to the full estimated charges; or

(2) A requestor has previously failed to pay a fee in a timely fashion (i.e., within 30 days of the date of the billing). In such a case, the Commission may require that the requestor pay the full amount owed plus any applicable interest or demonstrate that the fee has been paid and 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 requestor.

(3) If the provisions of paragraph (f) (1) or (2) of this section apply, the administrative time limits prescribed in 11 CFR 4.7(c) will begin only after the Commission has received the payments or the requestor has made acceptable arrangements to make the payments required by paragraph (f) (1) or (2) of this section.

[52 FR 39213, Oct. 21, 1987, as amended at 75 FR 31, Jan. 4, 2010]

PART 5—ACCESS TO PUBLIC DISCLOSURE DIVISION DOCUMENTS

Sec.
5.1 Definitions.
5.2 Policy on disclosure of records.
5.3 Scope.
5.4 Availability of records.
5.5 Request for records.
5.6 Fees.

AUTHORITY: 2 U.S.C. 437(d), 437g(a)(4)(B)(ii), 438(a), and 31 U.S.C. 9701.

SOURCE: 45 FR 31293, May 13, 1980, unless otherwise noted.

§ 5.1 Definitions.

(a) Commission means the Federal Election Commission established by