



## Tipsheet from Negotiating FOIA Fees

### How to Reduce or Eliminate FOIA Fees: A Guide for Journalists

*Reading: The Art of Access: Strategies for Acquiring Public Records by David L. Cuillier (Author), Charles N. Davis*

#### 1. See What's Already Public

Before filing a request, determine whether the records already exist online. Search for agency “FOIA Reading Rooms,” where many agencies post information they’ve already released in response to FOIA requests.

Try:

- Google Advanced Search
- Agency websites
- Open-data portals
- Court records systems
- Prior releases

You may discover the information is already available at no cost.

#### 2. Ask for a Fee Waiver Early

Many federal agencies, and some state and local agencies, allow fee waivers when disclosure is in the public interest.

When requesting a waiver, explain:

- You are a journalist, nonprofit organization, educational institution, or public-interest requester.
- You have no commercial interest in the records.
- The information will contribute significantly to public understanding of government operations or activities.
- You have the ability and intent to disseminate the information to the public.
- Include examples of your previous reporting, publications, broadcasts, or other public-facing work.

Federal fee waiver standard: Under FOIA, agencies may waive fees when disclosure is in the public interest and not primarily in the requester's commercial interest (5 U.S.C. § 552(a)(4)(A)(iii)).

Even when state laws do not explicitly provide fee waivers, it is still worth asking and explaining the public benefit of your request.

### **3. Narrow the Request Before Paying**

One of the fastest ways to reduce fees is to reduce the amount of work required.

Ask the records officer: "What is the most expensive or burdensome part of this request?"

Then consider narrowing:

- Date ranges
- Custodians or offices searched
- Search terms
- Types of records requested
- Geographic scope
- Time periods

An honest conversation with the records officer can often reduce costs dramatically while preserving the records most important to your reporting.

### **4. Request Electronic Records**

Always request records in digital form whenever possible.

Electronic production can eliminate:

- Printing fees
- Duplication costs
- Scanning charges
- Physical media expenses

Ask whether records can be provided as:

- PDFs
- Native electronic files
- Spreadsheet exports
- Database exports
- Rolling electronic productions

As San Francisco Chronicle investigative reporter Jennifer Gollan advises:

"Always confirm that fees for electronic records have been updated to reflect cheaper digital production methods."

### **5. Demand an Itemized Cost Estimate**

If an agency provides a large estimate, ask for a detailed breakdown.

Request:

- Search hours
- Review hours
- Duplication costs
- Hourly rates
- Job titles of personnel performing the work

Look for:

- Double-counted labor
- Excessive review time
- Administrative charges not permitted by law
- High-paid staff assigned to routine retrieval tasks

## **6. Ask for the Lowest Permissible Labor Rate**

When agencies charge labor costs, ask whether the search can be conducted by the lowest-paid employee capable of performing the task.

Many public-records laws allow agencies to charge only the actual cost of retrieval. Senior attorneys or administrators may not be necessary for basic record collection.

## **7. Know the law and use it to Your Advantage**

Cite the applicable law in your initial request.

This can include:

- Federal FOIA provisions
- Agency-specific FOIA regulations
- State public-records statutes
- Attorney General opinions
- Relevant court decisions

The Reporters Committee for Freedom of the Press's [Open Government Guide](#) includes a state-by-state breakdown of open-records laws, including fee structures in each state.

Doing this early signals that you understand your rights and creates a stronger record if you later appeal or litigate.

Each federal agency has its own FOIA regulations, which often contain useful language regarding:

- Fee waivers
- Expedited processing

- Electronic records
- Search obligations

Review those regulations before filing.

## **8. Protect Yourself with a Spending Cap**

Always specify a maximum amount you are willing to pay.

For example: "If no fee waiver is granted and the fees exceed \$100, please contact me before incurring additional costs."

You can set any amount appropriate for your newsroom or budget. This prevents agencies from generating large bills without your approval.

## **9. Request Records About Previous FOIA Releases**

- FOIA logs
- Disclosure logs
- Lists of responsive records previously released

These records often show:

- What has already been disclosed
- Who requested it
- Whether similar records have been released before

If the agency has already produced the records, it becomes harder to justify withholding them or charging excessive search fees.

## **10. Don't Fish, Scout First**

If you're unsure exactly what records exist, start small.

For example, request:

- Email subject lines
- Metadata
- Communication logs
- Document inventories

These records can reveal:

- Exact file names
- Key participants
- Relevant date ranges

You can then submit a much more targeted follow-up request that is faster, cheaper, and harder to deny.

## **11. Use Precedent**

If the agency has previously released similar records:

- Cite the prior release.
- Cite court decisions involving similar records.
- Cite previous disclosures to other journalists or organizations.

Showing precedent strengthens your argument that the records can be produced again.

## **12. Leverage Partnerships**

Freelancers and nonprofit reporters sometimes face additional skepticism.

If possible:

- Partner with a larger newsroom.
- Mention publication partners.
- Explain where the reporting will appear.

Demonstrating a clear plan for public dissemination can strengthen fee-waiver arguments and reassure agencies that the request serves a genuine public purpose.