



Billing Code 3110-01

## **OFFICE OF MANAGEMENT AND BUDGET**

### **Request for Comments on Revisions to Uniform Freedom of Information Act Fee Schedule and Guidelines**

**AGENCY:** Office of Management and Budget.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Office of Management and Budget (OMB) is proposing revisions to sections of its Uniform Freedom of Information Act Fee Schedule and Guidelines (“Guidelines”) last published in 1987. This action is necessary to conform the Guidelines with statutory amendments to the Freedom of Information Act (FOIA), to provide clarity in light of evolving judicial interpretation, and to clarify the scope of the Guidelines. This action is intended to provide Federal agencies with guidance on the appropriate and uniform application of FOIA processing fees.

**DATES:** Comments are due by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** All comments should be submitted via <https://www.regulations.gov>. Please include your name, organization name (if any), and cite “Revisions to Uniform Freedom of Information Act Fee Schedule and Guidelines” in all correspondence. Comments submitted in response to this notice may be made available to the public. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. Please note that responses to this public comment request containing any routine notice about the

confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Hill, Office of Information and Regulatory Affairs, OMB, at [oir-pb-comments@omb.eop.gov](mailto:oir-pb-comments@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** The Freedom of Information Reform Act of 1986, Pub. L. 99-570 (1986), required OMB to promulgate a uniform schedule of fees and guidelines, pursuant to notice and public comment, for agencies to use when processing FOIA requests. 5 U.S.C. 552(a)(4)(A)(i). OMB issued the Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 FR 10012 (available at [https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/foia\\_fee\\_schedule\\_1987.pdf](https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/foia_fee_schedule_1987.pdf)) on March 27, 1987. In the ensuing years, the FOIA has been amended, notably by the OPEN Government Act of 2007, Pub. L. 110-175 (2007), and the FOIA Improvement Act of 2016, Pub. L. 114-185 (2016). Likewise, judicial interpretation of the statute has and continues to evolve. As a result, OMB is proposing and seeking comment on changes to the Guidelines, in order to ensure they reflect these legislative changes and leading judicial decisions, and also to improve the clarity of Guidelines' scope.

Specifically:

- (1) OMB proposes to revise Section 2. *Scope* to indicate that the Guidelines do not address the waiver or reduction of fees if disclosure is in the public interest;
- (2) OMB proposes to remove Section 6f, which defines “representative of the news media,” given that this term is now defined in statute;

(3) OMB proposes to revise Section 8b. *Educational and Non-commercial Scientific Institution Requesters* to clarify that both teachers and students may be eligible for inclusion in this fee category; and

(4) OMB proposes to add a subsection to Section 9. *Administrative Actions to Improve Assessment and Collection of Fees* to indicate that agencies may not charge certain fees when they fail to comply with the FOIA's time limits, except under certain circumstances provided in the statute.

In addition, OMB proposes to revise Section 4. *Inquiries* to update contact information for questions about the Guidelines.

OMB invites public comment on the revisions to the Guidelines proposed in this notice and only those revisions. Such comments may include, but are not limited to: whether or not these proposed revisions clearly communicate agency requirements and policy, whether and how these proposed revisions can be improved, and whether and where these proposed revisions might be more effectively located within the Guidelines. OMB will not accept nor consider comments on revisions to the Guidelines other than those proposed in this notice.

For the reasons discussed in the Preamble, and under the authority of 5 U.S.C.

552(a)(4)(A)(i) and 44 U.S.C. chapter 35, OMB proposes to amend the Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 FR 10012, by removing Section 6j, adding Section 9f, and revising Sections 2, 4, and 8b to read as follows:

**UNIFORM FREEDOM OF INFORMATION ACT FEE SCHEDULE AND  
GUIDELINES**

\* \* \* \* \*

2. *Scope*— \* \* \* This Fee Schedule and Guidelines, including Sections 6 and 8, does not address the waiver or reduction of fees if the disclosure of the information is in the public interest, as provided in 5 U.S.C. 552(a)(4)(A)(iii).

\* \* \* \* \*

4. *Inquiries*—Inquiries should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, at [oir\\_a\\_pb\\_comments@omb.eop.gov](mailto:oir_a_pb_comments@omb.eop.gov).

\* \* \* \* \*

8. *Fees to be Charged—Categories of Requesters.* \* \* \*

b. Educational and Non-commercial Scientific Institution Requesters— \* \* \* To be eligible for inclusion in this category, requesters – whether teachers or students – must show that the request is being made in connection with their role at the institution, 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 institution) or scientific (if the request is from a non-commercial scientific institution) research. \* \* \*

\* \* \* \* \*

9. *Administrative Actions to Improve Assessment and Collection of Fees*— \* \* \*

f. Failure to Comply with Time Limits—An agency may not charge search fees (or in the case of educational or non-commercial scientific institution requesters, or representatives of the news media, duplication fees) if it has failed to comply with any time limit under 5 U.S.C. 552(a)(6), except as provided in 5 U.S.C. 552(a)(4)(A)(viii).

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