FOIA Fees and Fee Waivers

NASA FOIA offices process requests in accordance with our FOIA regulations and the Office of Management and Budget Guidelines on FOIA fees. NASA will generally collect processing fees before releasing records. FOIA Offices are authorized to charge fees to requesters in order to recover the direct costs of search, review and duplication of requested records even if no records are found or if the record(s) are withheld under one of the nine FOIA exemptions. If the total cost of supplying the requested information is less than $50.00, the Agency will not charge the requester. For further information you may want to read the NASA FOIA regulation 14 CFR § 1206.500 at:

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=97fb51c6e62b667333b7f1645d203f11&rgn=div5&view=text&node=14:5.0.1.1.8&idno=14

Cost Breakdown

Duplication Charge (including cost for scanning)

$ .15 per page for standard-size paper

Search and Review Fees *

- Clerical: $5.25 per 15 minutes, ($21 per hour)
- Professional: $9.00 per 15 minutes, ($36 per hour)
- Managerial: $13.00 per 15 minutes, ($52 per hour)
- Other Charges: Direct Costs associated with special services, i.e. extra postage

*There will be a 16% charge for benefits added to the bill

Requesting a Fee Waiver

If you are seeking a fee waiver, it is your responsibility to provide detailed information to support your request. You must submit this information with your FOIA request. Each fee waiver request is judged on its own merit on a case-by-case basis. NASA does not grant "blanket" fee waivers. The fact that you have received a fee waiver in the past does not entitle you to a fee waiver for other requests you submit, since an essential element of any fee waiver determination is whether the release of the particular documents sought will likely contribute significantly to public understanding of the operations or activities of the Government.

NASA FOIA Regulations state:

§1206.506 Requirements for a waiver or reduction of fees.

The burden is on the requester to justify an entitlement to a fee waiver. (See §1206.507 for a discussion on fee categories.) Requests for a waiver or reduction of fees shall be considered on a case-by-case basis using the criteria in this section. These statutory requirements must be

satisfied by the requester before properly assessable fees are waived or reduced under the statutory standard.

Records shall be furnished without charge or at a reduced rate if the requester has demonstrated, based on all available information, that disclosure of the information is in the public interest because it:

(1) Is likely to contribute significantly to public understanding of the operations or activities of the Government; and

(2) Is not primarily in the commercial interest of the requester.

In deciding whether a request for a fee waiver meets the requirements in §1206.506(c)(1), the FOIA office will use the following factors, which must be addressed by the requester:

(1) Does the subject of the request specifically concern identifiable operations or activities of the Agency with a connection that is direct and clear, not remote or attenuated? For example, is the information requested clearly associated to current events?

(2) If the record(s) concern the operations or activities of the Government, is disclosure likely to contribute to an increased public understanding of those operations or activities? For example, are the disclosable contents of the record(s) meaningfully informative in relation to the subject matter of the request?

(3) Is the focus of the requester on contributing to public understanding, rather than on the individual understanding of the requester or a narrow segment of interested persons? The requester must demonstrate how he/she plans to disseminate the information. The dissemination of information must be to the general public or a reasonably broad audience. (Dissemination to a wide audience is not merely posting the documents on a Web site, but using his/her editorial skills to turn raw materials into a distinct work.)

(4) If there is likely to be a contribution to public understanding, will that contribution be significant? A contribution to public understanding will be significant if the information disclosed is new, clearly supports public oversight of Agency operations, including the quality of Agency activities and the effect of policy and regulations on public health and safety, or otherwise confirms or clarifies data on past or present operations of the Agency.

In deciding whether the fee waiver meets the requirements in §1206.506(c)(2), the FOIA office will consider any commercial interest of the requester that would be furthered by the requested disclosure. Requesters are encouraged to provide explanatory information regarding this consideration. A waiver or reduction of fees is justified where the public interest is greater than any identified commercial interest in disclosure. If the requester is a representative of a news media organization seeking information as part of a news gathering process, the FOIA office will presume that the public interest outweighs the requester's commercial interest. If the requester represents a business, corporation, or is an attorney representing such an organization, the FOIA office will presume that the commercial interest outweighs the public interest unless otherwise

demonstrated. Where only some of the records to be released satisfy the requirements for a waiver of fees, a partial waiver shall be granted for those records. Requests for a waiver or reduction of fees should be made when the request is first submitted to the Agency and should address the criteria referenced above. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester will be required to pay any costs incurred up to the date the fee waiver request was received by the office processing the original request. When deciding whether to waive or reduce fees, the FOIA office will rely on the fee waiver justification submitted in the request letter. If the request letter does not include sufficient justification, the FOIA office will either deny the fee waiver request or at its discretion, ask for additional justification from the requester. FOIA offices may make available their FOIA Public Liaison or other FOIA professional to assist any requester in reformulating a request in an effort to reduce fees; however, the FOIA staff may not assist a requester in composing a request, advising what specific records to request, or how to write a request to qualify for a fee waiver

§1206.507 Categories of requesters

(a) A request should indicate the fee category. If the requester does not indicate a fee category, or it is unclear to the FOIA office, they will make a determination of the fee category based on the request. If the requester does not agree with their determination, he/she will be afforded the opportunity to provide information to support a different fee category.

(b) If the request is submitted on behalf of another person or organization (e.g., if an attorney is submitting a request on behalf of a client), the fee category will be determined by considering the underlying requester's identity and intended use of the information.

The following table outlines the basic fee categories and applicable fees:

Requester Category	**Search fees**	**Review fees**	**Duplication fees**
Commercial use requester	Yes	Yes	Yes
Educational and non-commercial scientific institutions	No	No	Yes (first 100 pages, or equivalent volume, without charge)
Representative of news media requester	No	No	Yes (first 100 pages, or equivalent volume, without charge)
All other requesters	Yes (first 2 hours without charge)	No	Yes (first 100 pages, or equivalent volume, without charge)

(c) The FOIA provides for three categories of requesters. However, for clarity purposes, NASA has broken them down to four for the purposes of determining fees. These four categories of FOIA requesters are: Commercial use requesters; educational and noncommercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each of these categories, which is indicated in the FOIA fee table above.

(1) Commercial use requesters. When NASA receives a request for documents appearing to be for commercial use, meaning a request from or on behalf of one whom seeks information for a use or purpose that furthers the commercial, trade, or profit interests of either the requester or the person on whose behalf the request is made, it will assess charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. NASA will not consider a commercial-use request for a waiver or reduction of fees based upon an assertion that disclosure would be in the public interest. A request from a corporation (not a news media corporation) may be presumed to be for commercial use unless the requester demonstrates that it qualifies for a different fee category. Commercial use requesters are not entitled to 2 hours of search time or to 100 pages of duplication of documents without charge.

(2) Education and noncommercial scientific institution requesters. To be eligible for inclusion in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution and that the records are not being sought for a commercial use (not operated for commerce, trade or profit), but are being sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a noncommercial scientific institution) research. A request for educational purposes must be sent on the Institution's letterhead and signed by the Dean of the School or Department. Records requested for the intention of fulfilling credit requirements are not considered to be sought for a scholarly purpose
For the purposes of a non-commercial scientific institution, it must be solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. Requests must be sent on the letterhead of the scientific institution and signed by the responsible official in charge of the project/program associated with the subject of the documents that are being requested.

(3) Representative of the news media. NASA shall provide documents to requesters in this category for the cost of duplication alone, excluding charges for the first 100 pages when the requester demonstrates the following:

(a) The requester's intended dissemination,
(b) Whether the information is current news and/or of public interest, and
(c) Whether the information sought will shed new light on agency statutory operations.

A representative of the news media is any person or entity organized and operated to publish or broadcast news to the public that actively gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. Examples of news media entities include television or radio stations that broadcast ‘‘news’’ to the public at large and publishers of periodicals that disseminate ‘‘news’’ and make their products available through a variety of means to the general public. A request for records that supports the news-dissemination function of the requester shall not be considered to be for a commercial use. ‘‘Freelance” journalists who demonstrate a solid basis for expecting publication through a news media entity shall be considered as working for that entity. A publishing contract would provide the clearest evidence that publication is expected; however, NASA shall also consider a requester’s past publication record in making this determination. NASA’s decision to grant a requester news media status for the purposes of assessing fees will be made on a case-by-case basis based upon the requesters intended use.

Requesters seeking this fee category who do not articulate sufficient information to support their request will not be included in this fee category. Additionally, FOIA staff may grant a partial fee waiver if the requester can articulate the information above for some of the documents.

(4) All other requesters. NASA shall charge requesters who do not fit into any of the categories mentioned in this section fees in accordance with the fee table above.