

Guidance

FOIA Fees, Request for a Fee Waiver, Request for Expedited Review

Updated - February 2020

NASA FOIA officers 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. Fees will be determined on October 1st of each year based on the appropriate General Schedule (GS) base salary, plus the District of Columbia locality payment, plus 16 percent for benefits of employees.

For further information you may want to read NASA's FOIA regulation related to fees (**Subpart E—Fees Associated With Processing Requests**) 14 CFR § 1206.500 through 1206.505 accessible at:

https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=97fb51c6e62b667333b7f1645d203f11&rgn=div5&view=text&node=14:5.0.1.1.8&idno=14#se14.5.1206_1504

Cost Breakdown

Duplication Charge (including cost for scanning)

\$.15 per page for standard-size paper

Search and Review Fees

*See the Chart below under **Categories of requesters §1206.507** (also accessible at the link above).

*For a schedule of current fees, see the PDF document on this website titled “*Schedule of FOIA Fees as of [DATE].*” 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.

(a) The burden is on the requester to justify entitlement to a fee waiver. (See §1206.507 for a discussion on fee categories.)

(b) 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.

(c) 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.

(d) In deciding whether the standards of paragraph (c)(1) of this section are satisfied, the Agency must consider the factors described in paragraphs (d)(1) through (3) of this section:

(1) Disclosure of the requested information would shed light on the operations or activities of the Government. The subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated.

(2) Disclosure of the requested information would be likely to contribute significantly to public understanding of those operations or activities. The factor in this paragraph (d)(2) is satisfied when the following criteria are met:

(i) Disclosure of the requested records must be meaningfully informative about Government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(ii) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area, as well as the requester's ability and intention to effectively convey information to the public, must be considered. NASA will presume that a representative of the news media will satisfy the consideration in this paragraph (d)(2)(ii).

(3) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest of the requester, components will consider the following criteria:

(i) NASA, and its Centers processing requests, must identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters must be given an opportunity to provide explanatory information regarding the consideration in this paragraph (d)(3)(i).

(ii) If there is an identified commercial interest, NASA must determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirements of paragraphs (d)(1) and (2) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. NASA ordinarily will presume that when a news media requester has satisfied the requirements of paragraphs (d)(1) and (2) of this section, the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(4) Where only some of the records to be released satisfy the requirements for a waiver of fees under this section, a waiver shall be granted for those records.

(5) Requests for a waiver or reduction of fees should be made when the request is first submitted to NASA and should address the criteria referenced in paragraph (d) of this section. 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 shall be required to pay any costs incurred up to the date the fee waiver request was received.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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, the FOIA office 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, which can include furthering those interests through litigation, 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 two (2) hours of search time or to 100 pages of duplication of documents without charge.

(2) ***Education and non-commercial scientific institution requesters.*** To be eligible for inclusion in the category in this paragraph (c)(2), 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 non-commercial scientific institution) research.

(i) Educational institution is any school that operates a program of scholarly research. A requester in the fee category in this paragraph (c)(2) must show that the request is made in connection with the requester's role at the educational institution. NASA may seek assurance from the requester that the request is in furtherance of scholarly research and will advise requesters of their placement in the category in this paragraph (c)(2). A request for educational purposes may be presumed if submitted on the Institution's letterhead and signed by the Dean of the School or Department.

(A) *Example 1.* A request from a professor of geology at a university for records relating to soil erosion, written on the letterhead of the Department of Geology, would be presumed to be from an educational institution.

(B) *Example 2.* A request from the same professor of geology seeking drug information from the Food and Drug Administration in furtherance of a murder mystery he is writing would not be presumed to be an institutional request, regardless of whether it was written on institutional stationery.

(C) *Example 3.* A student, who makes a request in furtherance of the student's coursework or other school-sponsored activities and provides a copy of a course syllabus or other reasonable documentation to indicate the research purpose for the request, would qualify as part of the fee category in this paragraph (c)(2).

(ii) 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.*** (i) NASA shall provide documents to requesters in the category in this paragraph (c)(3) for the cost of duplication alone, excluding charges for the first 100 pages.

(ii) Representative of the news media is any person or entity that gathers information of potential interest to a segment of the public, uses editorial skills to turn the raw materials into a

distinct work, and distributes that work to an audience. The term “news” means information that is about current events or that would be of current interest to the public. Examples of new 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, including news organizations that disseminate solely on the internet. These examples are not all inclusive. As methods of news delivery evolve, alternative news media entities may come into existence. A request for records supporting the news-dissemination function of the requester will not be considered to be for a commercial use. “Freelance” journalists who demonstrate a solid basis for expecting publication through a news media entity will be considered as a representative of the news media. A publishing contract would provide the clearest evidence that publication is expected; however, agencies can also consider a requester's past publication record in making this determination. Agencies will advise requesters of their placement in the category in this paragraph (c)(3).

(iii) Requesters seeking the fee category in this paragraph (c)(3) who do not articulate sufficient information to support their request will not be included in the fee category in this paragraph (c)(3). Additionally, FOIA staff may grant a reduction of fees if the requester can articulate the information of this section 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 in paragraph (b) of this section.

Requesting Expedited Review

Requests for expedited processing will be considered according to NASA’s FOIA regulations at [14 C.F.R. §1206.400](#).

Section 1206.400 of NASA’s FOIA regulations states:

Procedures for processing queues and expedited processing.

(a) The FOIA office will normally process requests in the order in which they are received in each of the processing tracks.

(b) FOIA offices use three queues for multi-track processing depending on the complexity of the request. Once it has been determined the request meets the criteria in accordance with subpart C of this part, the FOIA office will place the request in one of the following tracks:

(1) Simple—A request that can be processed within 20 working days.

(2) Complex—A request that will take over 20 working days to process. (A complex request will generally require coordination with more than one office and a legal 10 working day extension for unusual circumstances ([see §1206.403](#)) may be taken either up front or during the first 20 days of processing the request.)

(3) **Expedited processing**—A request for expedited processing will be processed in this track if the requester can show exceptional need or urgency that their request should be processed out of turn in accordance with paragraph (c) of this section.

(c) Requests and appeals will be processed on an expedited basis whenever it is determined that they involve one or more of the following:

(1) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(2) Circumstances in which there is an urgency to inform the public about an actual or alleged Federal Government activity if the FOIA request is made by a person primarily engaged in disseminating information;

(i) In most situations, a person primarily engaged in disseminating information will be a representative of the news media and therefore, will qualify as a person primarily engaged in disseminating information.

(ii) To substantiate paragraph (c)(2) of this section, the requested information must be the type of information which has particular value that will be lost if not disseminated quickly; this ordinarily refers to a breaking news story of general public interest. Information of historical interest only or information sought for litigation or commercial activities would not qualify, nor would a news media deadline unrelated to breaking news; or

(3) The loss of substantial due process rights.

(d) A request for expedited processing must contain a statement that:

(1) Explains in detail how the request meets one or more of the criteria in paragraph (c) of this section; and

(2) Certifies that the explanation is true and correct to the best of the requester's knowledge and belief.

(3) If the request is made referencing paragraph (c)(2) of this section, the requester must substantiate the public interest.

(e) A request for expedited processing may be made at any time. Requests must be submitted to the FOIA office responsible for processing the requested records.

(f) The FOIA office must notify the requester of its decision to grant or deny expedited processing within 10 calendar days from the date of receipt.

(g) If expedited processing is granted, the request will be processed on a first-in, first-out basis in that queue.

(h) If expedited processing is denied, the FOIA office will notify the requester and provide information on appealing this decision in accordance with Subpart G ([14 CFR §1206.700](#)) of this part and place the request in the appropriate processing queue.

(i) If the FOIA office processing the request does not provide notification of either granting or denying the request for expedited processing within 10 calendar days from the date of receipt, the requester may file an appeal for non-response in accordance with subpart G of this part.