



KEN PAXTON
ATTORNEY GENERAL *of* TEXAS

Charges for Public Information

What and When Charges Apply

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Before You Calculate Costs

- Copies or inspection?
 - Requestor's choice
- How does the information exist?
 - Paper records, electronic records, or both

Let's Compare

	Copies	Inspection
Labor*	✓	x
Programming/ Manipulation of Data	✓	✓
Overhead	✓	x
Computer resources	✓	x
Paper copies*	✓	x
Miscellaneous supplies	✓	x

*In certain instances, governmental bodies can charge for labor and paper copies when a requestor chooses to inspect.

General Rule—Copies

- Section 552.261
 - The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead.

Exceptions

- Less than 50 pages of paper records
 - Then only charge for the cost of the copies
 - No labor or overhead
 - UNLESS records are kept in two or more separate buildings or a remote storage facility

What are the allowable charges for copies?

- \$0.10 per page for paper copies
- \$1.00 per CD
- \$3.00 per DVD
- Actual Costs for a USB or hard drive
- \$15.00 per hour for labor
- Overhead
 - Twenty percent of the labor as overhead

When Labor Charges Apply

Texas Administrative Code 70.3(d)

- Locate
 - Time spent finding the records that are responsive to the request
- Compile
 - Time spent gathering and pulling together the responsive information
- Manipulate data
 - Section 552.003(4) of the Government Code
 - Time spent modifying, reordering, or decoding information with human intervention
 - Example: Redacting information
- Reproduce information
 - Time spent copying the responsive records

When Labor Charges Do Not Apply

- 1 Texas Administrative Code 70.3(d)(3)
- May not charge labor for the time spent to:
 - Determine whether exceptions apply
 - Research or prepare a request for ruling
- You cannot charge for the time spent looking for responsive information if none is found.
- Remember: You do not need to create any new information, conduct legal research, or answer questions.

Inspection of Paper Records (Slide 1 of 2)

- Section 552.271 of the Government Code
 - Generally, a charge may not be imposed when making records available for inspection.
- Section 552.271(b) of the Government Code
 - You may charge the cost of a photocopy for a page where confidential information must be redacted because it is mixed with public information on the same page.

Inspection of Paper Records (Slide 2 of 2)

- Section 552.271(c) of the Government Code, more than 15 full-time employees
 - You may charge for labor if the records:
 - Are more than five years old or completely fill six archival boxes; and
 - You estimate that more than five hours will be required to make the information available for inspection.
- Section 552.271(d) of the Government Code, fewer than 16 full-time employees
 - You may charge for labor if the records:
 - Are more than three years old or completely fill three archival boxes; and
 - You estimate that more than two hours will be required to make the information available for inspection.

Inspection of Electronic Records

- Section 552.272 of the Government Code
 - You may not impose a charge for records that exist in an electronic medium unless complying with the request will require programming or manipulation of data.

Programming Definition

- Section 552.003(4) of the Government Code
 - "Programming" means the process of producing a sequence of coded instructions that can be executed by a computer.

Programming Examples

- John Bates, IT Analyst, codes a script to create a query in order for the computer to search for responsive e-mails based on certain parameters.

✓ Meets the definition of programming

- Anna Smith, legal intern, types a keyword into her Outlook search bar to locate responsive e-mails.

X Does not meet the definition of programming

Cost Estimates - Section 552.2615

- \leq \$40.00
 - Invoice or bill the requestor upon completion of work.
- $>$ \$40.00 and \leq \$100.00
 - Must provide a cost estimate prior to the work being completed.
- $>$ \$100.00
 - Must provide a cost estimate prior to the work being completed.
 - May request a deposit.

Cost Estimate Requirements (Slide 1 of 2)

- Section 552.2615(a) of the Government Code, the statement of estimated charges must contain certain notices
 - You must inform the requestor that he or she may contact you regarding a less costly alternative (inspection is almost always less costly).
 - You must inform a requestor that they must respond within 10 business days and the manners in which they may respond.
- Note: You cannot withdraw a request by operation of law unless the written itemized statement contains the proper notices.

Cost Estimate Requirements (Slide 2 of 2)

- Section 552.2615(b) of the Government Code, ways in which the requestor may properly respond
 - Accept the estimated charges
 - Modify the request in response to the itemized statement
 - Notify you that a complaint has been sent to the Attorney General's Office alleging the requestor has been overcharged

Public Information Cost Estimate Model

This model will calculate costs associated with a request for **COPIES** of information, but not a request to **INSPECT** information. For questions about estimating costs when a requestor asks to **INSPECT** information, please call our toll-free Cost Hotline at 1-888-OR COSTS (1-888-672-6787).

Date request was received:

Government Body's Information	Requestor's Information
Agency Name: <input type="text"/>	<input type="radio"/> Mr. <input type="radio"/> Ms.
Contact Name: <input type="text"/>	First/Last Name: <input type="text"/>
Address: <input type="text"/>	Address: <input type="text"/>
City: <input type="text"/>	City: <input type="text"/>
State/Zip: <input type="text"/>	State/Zip: <input type="text"/>

Itemization of costs:

Did the requestor ask for standard paper copies? Yes | No

Did the requestor ask for copies of nonstandard documents (e.g., oversized paper, DVD, or VHS tape)? Yes | No

Add labor costs? Yes | No

Are overhead charges applicable? Yes | No

Are computer resource charges applicable? Yes | No

Are remote document retrieval charges applicable? Yes | No

Will there be charges for miscellaneous supplies? Yes | No

Will there be postage? Yes | No

If the total charges exceed \$100, will you require a prepayment deposit? Yes | No

OR

If the total charges exceed \$100, will you require a prepayment bond? Yes | No

Request

- Please provide a copy of all documents and correspondence sent or received by the city related to the maintenance of the park for the last year.

- PIA_Requestor@gmail.com

Responsive Information

- The city has the following:
 - A copy the contract for park maintenance (5 pages)
 - 20 e-mails among city personnel discussing park maintenance (totaling 50 pages of electronic PDFs)
 - 12 letters from the vendor containing invoices (24 pages)
 - 15 proposals from service providers (totaling 100 pages of electronic PDFs)

Did the Requestor Ask for Standard Paper Copies?

- Yes
 - 29 pages of paper records
- \$2.90
 - 29 x \$0.10

Did the Requestor Ask for Copies of Nonstandard Documents?

- Yes
- E-mails and electronic proposals
 - \$2.50 for a Flash Drive (actual cost obtained from accounting)
- Note: This can cover everything from a hard drive to VHS tape to blueprints.

Can Labor Charges be Added?

- Yes
- Request includes electronic information.
 - And therefore, falls under the general rule and is not only fewer than 50 pages of paper records.
- The city estimates the following after conducting a sample test:
 - 1.5 hours to locate, compile, and reproduce the responsive information
 - 1 hour to review information to determine if redactions are necessary
 - 2 hours to redact confidential information electronically from the third parties' proposals
- \$52.50
 - 3.5 hours x \$15.00

Are Overhead Charges Applicable?

- Yes
 - Because there was a labor charge
- \$10.50
 - 20% of \$52.50

Overhead

- Section 70.3(e)
- Whenever a labor charge is applicable to a request for copies, a governmental body may include overhead.
- Overhead is computed at 20% of the labor charge.

Are Computer Resource Charges Applicable?

- No
 - This was a simple search.
- When might they apply?
 - When the computer is processing a request for a measurable amount of time.
 - Never charged for the same time a labor charge is already being charged to a requestor.

Computer Resource Charges

- Section 70.3(h)
- Based on the type of computer being used:
 - \$10.00 per CPU minute for a mainframe
 - \$1.50 per CPU minute for a midsize
 - \$2.20 per clock hour for a client/server
 - \$1.00 per clock hour for a PC/LAN
- Actual time required by a computer to execute a program

Are Remote Document Retrieval Charges Applicable?

- No
 - All of this information was located at the city's main office.
- When might they apply?
 - If the requested information was stored off-site
 - For example, because it older and out of use

Remote Document Retrieval

- Section 70.3(g)
- If documents are stored off-site, it is permissible to recover costs if a request otherwise qualifies for labor.
- A governmental body may charge the fee a private company charges the governmental body to locate, retrieve, deliver, and return to storage.
 - No other labor costs may be added for these tasks.

Will There be Charges for Miscellaneous Supplies?

- No
- Section 70.3(i)
 - Actual cost of miscellaneous supplies

Will There be Postage?

- No
 - The requestor will pick up the requested information.
- Section 70.3(j)
 - Actual cost necessary to transmit the information
 - May not charge for certified mail

Final Costs

Itemized List of Charges:

Description	Qty x Price	Total
Standard sized copies	29 x \$0.10	\$ 2.90
Flash Drive	1 x \$2.50	\$ 2.50
Labor minutes (\$15/hour)	210 x \$0.25	\$ 52.50
Overhead charges	.20 x \$52.50	\$ 10.50
Postage cost		\$ 0.00
Total cost		\$ 68.40



Mr. PIA Requestor
PIA_Requestor@gmail.com

Dear Mr. Requestor:

We have received your request for information dated: 10/25/2021.

We have determined that complying with your request will result in the imposition of a charge that exceeds \$40. Therefore, we are providing you with this cost estimate as required by section 552.2615 of the Texas Government Code.

Itemized List of Charges:

Description	Qty x Price	Total
Standard sized copies	29 x \$0.10	\$2.90
Other electronic media		\$2.50
Labor minutes (\$15/hour)	210 x \$0.25	\$52.50
Overhead charges	20% of \$52.50	\$10.50
Total cost		\$68.40

There is a less expensive way for you to obtain this information. You may view the information in person at our offices. If you choose to view the information in person, please provide me with three dates and times when it will be convenient for you to come.

Your request will be considered automatically withdrawn if you do not notify us in writing within ten business days from the date of this letter that you either:

- (a) accept the charges;
- (b) wish to modify your request; OR
- (c) have sent to the Open Records Division of the Office of the Attorney General a complaint alleging that you are being overcharged for the information you have requested.

Sincerely,

PIA Coordinator
City

Modified Request

- I am withdrawing my request for all documents. I only want a copy of the contract and submitted invoices.

Previous Responsive Information

- The city has the following:
 - A copy the contract for park maintenance (5 pages)
 - 20 e-mails among city personnel discussing park maintenance (totaling 50 pages of electronic PDFs)
 - 12 letters from the vendor containing invoices (24 pages)
 - 15 proposals from service providers (totaling 100 pages of electronic PDFs)

New Responsive Information

- The city has the following:
 - A copy the contract for park maintenance (5 pages)
 - 12 letters from the vendor containing invoices (24 pages)

Cost for Paper Copies

- \$2.90
 - For the paper copies
- No other charges apply
 - There are fewer than fifty pages of paper records. Therefore, no labor may added.

Request to Inspect

- Actually, I want to inspect all of the information before I decide if I want copies.

Previous Final Costs

Itemized List of Charges:

Description	Qty x Price	Total
Standard sized copies	29 x \$0.10	\$ 2.90
Flash Drive	1 x \$2.50	\$ 2.50
Labor minutes (\$15/hour)	210 x \$0.25	\$ 52.50
Overhead charges	.20 x \$52.50	\$ 10.50
Postage cost		\$ 0.00
Total cost		\$ 68.40

Inspection Final Costs

Itemized List of Charges:

Description	Qty x Price	Total
Standard sized copies	29 x \$2.90	\$ 0.00
Flash Drive	1 x \$2.50	\$ 0.00
Labor minutes (\$15/hour) (2 hours manipulating data)	120 x \$0.25	\$ 30.00
Overhead charges	.20 x \$52.50	\$ 0.00
Postage cost		\$ 0.00
Total cost		\$ 30.00

Deposits and Bonds

- Section 552.263(a) of the Government Code
 - Governmental body may require a deposit or bond if:
 - You have provided a proper written itemized statement as required by section 552.2615, and
 - The charge for providing the requested information exceeds
 - \$100 if you have more than 15 full-time employees, or
 - \$50 if you have fewer than 16 full-time employees.

Do the Ruling Deadlines Change?

- Section 552.2615(g) of the Government Code
 - Sending a cost estimate does not affect a governmental body's deadlines to request a ruling.
- Section 552.263 of the Government Code
 - A governmental body is considered to receive a request on the date it receives the deposit or bond.
 - If a requestor modifies, a governmental body is considered to receive a request on the date it receives the modification.

When are Charges Different? (Slide 1 of 3)

- Pursuant to section 552.262(a), a non-state agency may charge up to 25% more than these established rules.
- A governmental body may request an exemption pursuant to section 552.262(c).
- If more specific rules govern
 - For example: Charges for a CR-3 are governed by section 550.065 of the Transportation Code and are \$6.00 each.

When are Charges Different? (Slide 2 of 3)

- Section 552.275
 - Governmental body may adopt a monthly or yearly time limit
 - Requires timely notices to requestor
 - Once requestor reaches limit, labor charges may apply when they normally would not

When are charges different? (Slide 3 of 3)

- Section 552.261(e)
 - Governmental body may combine requests received in one calendar day for cost purposes

Questions?

OAG's Open Government Hotline

(877) OPEN TEX

(512) 478-6736

OAG website

www.texasattorneygeneral.gov