

SCHEDULE OF REASONABLE CHARGES FOR COPIES OF PUBLIC RECORDS

Section 6 of Public Chapter 1179, Acts of 2008 ("Public Chapter 1179") adds T.C.A. Section 8-4-604(a)(1) which requires the Office of Open Records Counsel ("OORC") to establish a schedule of reasonable charges ("Schedule of Reasonable Charges") which may be used as a guideline in establishing charges or fees, if any, to charge a citizen requesting copies of public records under the Tennessee Public Records Act (T.C.A. Sections 10-7-503, et seq.) ("TPRA"). The Schedule of Reasonable Charges has a development date of October 1, 2008. Notification of the development was given to the Tennessee Code Commission on October 31, 2008. This Schedule of Reasonable Charges will be reviewed at least annually by the OORC.

The TPRA grants Tennessee citizens the right to request a copy of a public record to which access is granted under state law. Public Chapter 1179 adds T.C.A. Section 10-7-503(a)(7)(A) which expressly prohibits a records custodian from charging a fee for inspection under the TPRA unless otherwise required by law. However, the TPRA in T.C.A. Section 10-7-506 does permit records custodians to charge for copies or duplication pursuant to properly adopted reasonable rules.

This Schedule of Reasonable Charges should not be interpreted as requiring a records custodian to impose charges for copies or duplication of public records. If a records custodian determines to charge for copies or duplication of public records, such determination and schedule of charges must be pursuant to a properly adopted rule and evidenced by a written policy authorized by the governmental entity's governing authority. Application of an adopted schedule of charges shall not be arbitrary. Additionally, excessive fees and other rules shall not be used to hinder access to non-exempt, public records. A records custodian may reduce or waive, in whole or in part, any charge only in accordance with the governmental entity's properly adopted written policy. Pursuant to Tennessee case law, a records custodian may also require payment for the requested copies or duplication prior to the production of the copies or duplication.

Copy Charges

- A records custodian may assess a charge of 15 cents per page for each standard 8 ½ x11 or 8 ½ x14 black and white copy produced. A records custodian may assess a requestor a charge for a duplex copy that is the equivalent of the charge for two (2) separate copies.
- If a public record is maintained in color, the records custodian shall advise the requestor that the record can be produced in color if the requestor is willing to pay a charge higher than that of a black and white copy. If the requestor then requests a color copy, a records custodian may assess a charge of 50 cents per page for each 8 ½ x11 or 8 ½ x14 color copy produced.
- If a records custodian's actual costs are higher than those reflected above or if the requested records are being produced on a medium other than 8 ½ x11 or 8 ½ x14

paper, the records custodian may develop its own charges. The records custodian must establish a schedule of charges documenting “actual cost” and state the calculation and reasoning for its charges in a properly adopted policy. A records custodian may charge less than those charges reflected above. Charges greater than 15 cents for black and white, and 50 cents for color, can be assessed or collected only with documented analysis of the fact that the higher charges actually represent such governmental entity’s cost of producing such material; unless there exists another basis in law for such charges.

- The TPRA does not distinguish requests for inspection of records based on intended use, be it for research, personal, or commercial purposes. Likewise, this Schedule of Reasonable Charges does not make a distinction in the charges assessed an individual requesting records under the TPRA for various purposes. Other statutory provisions, such as T.C.A. Section 10-7-506(c), enumerate fees that may be assessed when specific documents are requested for a specific use. Any distinctions made, or waiver of charges permitted, must be expressly permitted in the adopted policy.

Additional Production Charges

- When assessing a fee for items covered under the “Additional Production Charges” section, a records custodian shall utilize the most economical and efficient method of producing the requested records.
- Delivery of copies of records to a requestor is anticipated to be by hand delivery when the requestor returns to the custodian’s office to retrieve the requested records. If the requestor chooses not to return to the records custodian’s office to retrieve the copies, the records custodian may deliver the copies through means of the United States Postal Service and the cost incurred in delivering the copies may be assessed in addition to any other permitted charge. It is within the discretion of a records custodian to deliver copies of records through other means, including electronically, and to assess the costs related to such delivery.
- If a records custodian utilizes an outside vendor to produce copies of requested records because the custodian is legitimately unable to produce the copies in his/her office, the cost assessed by the vendor to the governmental entity may be recovered from the requestor.
- If the records custodian is assessed a charge to retrieve requested records from archives or any other entity having possession of requested records, the records custodian may assess the requestor the cost assessed to the governmental entity for retrieval of the records.

Labor Charges

- “Labor” is defined as the time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records.

- “Labor threshold” is defined as the labor of the employee(s) reasonably necessary to produce requested material for the **first hour** incurred by the records custodian in producing the material. A records custodian is not required to charge for labor or may adopt a labor threshold higher than the one reflected above.
- A records custodian is permitted to charge the hourly wage of the employee(s) reasonably necessary to produce the requested records above the “labor threshold.” The hourly wage is based upon the base salary of the employee(s) and does not include benefits. If an employee is not paid on an hourly basis, the hourly wage shall be determined by dividing the employee’s annual salary by the required hours to be worked per year. For example, an employee who is expected to work a 37.5 hour work week and receives \$39,000 in salary on an annual basis will be deemed to be paid \$20 per hour. Again, a records custodian shall utilize the most cost efficient method of producing the requested records.
- In calculating the charge for labor, a records custodian shall determine the number of hours each employee spent producing a request. The records custodian shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The records custodian will then multiply the total number of hours to be charged for the labor of each employee by that employee’s hourly wage. Finally, the records custodian will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.
- Example:
The hourly wage of Employee #1 is \$15.00. The hourly wage of Employee #2 is \$20.00. Employee #1 spends 2 hours on a request. Employee #2 spends 2 hours on the same request. Because employee # 2 is the highest paid employee, subtract the one hour threshold from the hours employee #2 spent producing the request. Multiply the number of hours each employee is able to charge for producing the request by that employee’s hourly wage and then add the amounts together for the total amount of labor that can be charged (i.e. $(2 \times 15) + (1 \times 20) = \50.00). For this request, \$50.00 could be assessed for labor.

Questions regarding this Schedule of Reasonable Charges should be addressed to the OORC.

Office of Open Records Counsel
505 Deaderick Street, Suite 1700
James K. Polk Building
Nashville, Tennessee 37243
(615) 401-7891, Fax (615) 741-1551 Toll free number: 1-866-831-3750
Email address: open.records@cot.tn.gov



INSPECTION/DUPPLICATION OF RECORDS REQUEST

Requestor Instructions: To make a request for copies of public records fill in sections 1-5, and sign and date section 9 at the time the request is made. Requestors who are retrieving the requested records from the office of the records custodian in person should not sign and date section 11 until the records are received. Requestors who are having the records emailed or mailed to him/her are not required to sign and date section 11 of the form.

Custodian Instructions: For requests to inspect, the **records custodian** is to fill in sections 1-6,8, and sign and date section 10 at the time the request is made. Section 12 should not be signed and dated until the requestor inspects the records. For requests for copies or duplicates, the records custodian is to fill in sections 6-8 and sign and date section 10 at the time the request is made. Section 12 should not be signed and dated until the records are retrieved by or delivered to the requestor.

Note: Tenn. Code Ann. § 10-7-503(a)(7)(A) provides that unless another provision in law specifically requires a written request, a request to inspect public records may not be required to be in writing nor can a fee be assessed for inspection of records.

(FRONT)

1. Name of requestor: _____
(Print or Type; Initials of requestor are required for copy requests)

2. (If required) Form of identification provided:

☐ Photo ID issued by governmental entity including requestor's address

☐ Other: _____

3. Requestor's address and contact information: _____

4. Request for: ☐ inspection/access ☐ copy/duplicate [previously inspected on _____ (date) or ☐ inspection waived]

5. Record(s) requested:

a. Type of record: ☐ Minutes ☐ Annual Report ☐ Annual Financial Statements
☐ Budget ☐ Employee file ☐ Other

b. Detailed Description of the record(s) including relevant date(s) and subject matter:

6. Request submitted to: _____
(Name of Governmental Entity, Office or Agency)

a. Employee receiving request: _____
(Print or Type and Initial)

b. Date and time request received: _____

c. Response: ☐ Same day ☐ Other _____

7. Costs (if assessed):

a. Number of pages to be copied: _____ ☐ Estimated

b. Cost

(1) per page letter or legal sized: ☐ \$ _____ (justification required if more than \$0.15) per black and white ☐ \$ _____ (justification required if more than \$0.50) per color;

(2) per page other sized or other medium _____: ☐ \$ _____ (justification required)

Costs continued:

- c. Estimate of labor costs to produce the copy (for time exceeding 1 hour): _____
☐ Labor at \$ _____ /hour for _____ hour(s).
☐ Labor at \$ _____ /hour for _____ hour(s).
☐ Labor at \$ _____ /hour for _____ hour(s).
- d. Programming cost to extract information requested: _____
- e. Method of delivery and cost: _____ ☐ Estimated
☐ On-site pick-up ☐ U.S. Postal Service ☐ Other: _____
- f. Estimate of total cost to produce request: _____
- g. Estimate provided to requestor: ☐ in person ☐ by U.S.P.S. ☐ by phone ☐ Other: _____

8. Payment:

- a. Form of payment: ☐ Cash ☐ Check ☐ Other _____
- b. Amount of payment: _____
- c. Date of payment: _____
- d. Actual cost (and adjustment if prepaid): _____

9. _____
 Signature of Requestor

 Date Records Requested

10. _____
 Signature of Records Custodian

 Date of Receipt of Request

Delivery/Retrieval of Records

11. _____
 Signature of Requestor

 Date Records Retrieved

12. _____
 Signature of Records Custodian

 Date Records Retrieved/Delivered
 Or

 Date Records Inspected by the Requestor



RECORDS PRODUCTION LETTER

Dear Sir or Madam:

On _____, _____ received
your open records request to inspect/receive copies of _____

Tennessee Code Annotated § 10-7-503(a) provides the following:

(2)(B) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure. In the event it is not practicable for the record to be promptly available for inspection, the custodian shall within seven (7) business days:

- (i) Make such information available to the requestor;
- (ii) Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the basis for the denial; or
- (iii) Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce such record or information. [emphasis added]**

This Office is currently in the process of retrieving, reviewing, and/or redacting the requested records. In accordance with the above-cited law, this letter is being sent to inform you that by _____ either the records you have requested to inspect/receive copies of will be available or a determination of accessibility and availability will be made regarding the requested records.

If you have any additional questions please contact _____

Sincerely,

Records Production Letter
Tenn. Code Ann. § 10-7-503(a)(2)(B)(iii)

NOTICE OF AGGREGATION OF MULTIPLE REQUESTORS



Mail completed form to:

Office of Open Records Counsel
Suite 1700, James K. Polk State Office Building
505 Deaderick Street
Nashville, Tennessee 37243
(615) 741-1551 (fax) or Open.records@cot.tn.gov (e-mail)

Records Custodian: _____

(Name of Governmental Entity, Office or Agency)

Employee/official authorizing aggregation: _____

(Name and title)

Address and phone number: _____

Other Offices or Custodians included in aggregation: _____

(_____) of Requestors being aggregated:
(Number)

Requestor's name, address and contact information:

Requestor's name, address and contact information:

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Requestor's name, address and contact information:

Explanation of basis for aggregation and description of scope (records included/excluded):

Requestors have been notified that a properly adopted aggregation policy exists, that the decision to aggregate has been made, and that there is a right to appeal the decision to the Office of Open Records Counsel.

Signature of Records Custodian, date

Signature of Requestor, date

Signature of Requestor, date

Signature of Requestor, date

Signature of Requestor, date