

**WAC 44-14-07001 General rules for charging for copies.** (1) **No fees for costs of locating records or preparing records for inspection or copying.** An agency cannot charge a fee for locating public records or for preparing the records for inspection or copying. RCW 42.56.120.<sup>1</sup> An agency cannot charge fees for a person to inspect or access records on the agency's public internet web site. An agency cannot charge a fee for access to or downloading records the agency routinely posts on its public internet web site prior to the receipt of a request unless the requestor has specifically requested that the agency provide copies of such records through other means. RCW 42.56.120 (2) (e).

An agency cannot charge a "redaction fee" for the staff time necessary to prepare the records for inspection, for the copying required to redact records before they are inspected, or an archive fee for getting the records from off-site. Op. Att'y Gen. 6 (1991). These are the costs of making the records available for inspection or copying and cannot be charged to the requestor.

(2) **Actual costs.** If assessing actual costs, an agency must establish a statement of the "actual cost" of the copies it provides, which must include a "statement of the factors and the manner used to determine the actual per page cost." RCW 42.56.070(7) and 42.56.120 (2) (a).<sup>2</sup> The actual costs include the actual cost of the paper and the per page cost for use of agency copying (including scanning) equipment; the actual cost of the electronic production or file transfer of the record; the use of any cloud-based data storage and processing service; costs directly incident to the cost of postage or delivery charges and the cost of any container or envelope used; and, the costs directly incident to transmitting such records in an electronic format, including the cost of any transmission charge and the use of any physical media device provided by the agency. An agency may include staff salaries, benefits or other general administrative or overhead charges only if those costs are directly related to the actual cost of copying or transmitting the public records. Staff time to copy and send (transmit) the records may be included in an agency's actual costs. An agency's calculations and reasoning need not be elaborate but should be detailed enough to allow a requestor or court to determine if the agency has properly calculated its copying charges. An agency should generally compare its copying charges to those of commercial copying centers.

An agency's statement of such actual costs may be adopted by an agency only after providing notice and public hearing. RCW 42.56.070(7).

(3) **Statutory default costs.** If an agency opts for the default copying charges pursuant to RCW 42.56.120, it need not calculate its actual costs. RCW 42.56.120 (2) (b). However, it must declare the reasons for why calculating the actual costs would be unduly burdensome, and then it is limited to the statutory costs for those records. *Id.*

The statutory default costs include different charges per record or groups of records, or an alternative flat fee of up to two dollars for any request when the agency reasonably estimates and documents that the allowable statutory costs are clearly equal to or more than two dollars. RCW 42.56.120 (2) (d). If using the statutory flat fee, the agency can charge the flat fee only for the first installment for records produced in multiple installments, and no fees can be assessed for subsequent installments.

Statutory default charges can be combined to the extent that more than one type of charge applies to a particular request, unless the agency is assessing the statutory flat fee for a request. RCW 42.56.120 (3)(c). The statutory default costs include actual costs of digital storage media, mailing containers, and postage. RCW 42.56.120 (3)(d).

(4) **Fee schedule.** The agency should make its fee schedule publicly available on its web site and through other means.

(5) **Estimate of costs for requestor.** If a requestor asks, an agency must provide a summary of the applicable charges before copies are made and the requestor may revise the request to reduce the number of copies to be made, thus the applicable charges. RCW 42.56.120 (2)(f). An agency must also provide a requestor, in advance, information concerning customized service charges if the request involves customized service. RCW 42.56.120(3).

(6) **Copying charges apply to copies selected by requestor.** Often a requestor will seek to inspect a large number of records but only select a smaller group of them for copying. Copy charges can only be charged for the records selected by the requestor. RCW 42.56.120 (charges allowed for "providing" copies to requestor).

The requestor should specify whether he or she seeks inspection or copying. The agency should inform the requestor that inspection is free. This can be noted on the agency's request form. If the requestor seeks copies, then the agency should inform the requestor of the copying charges for the request. An agency should not assemble a large number of records, fail to inform the requestor that inspection is free, and then attempt to charge for copying all the records.

Sometimes a requestor will choose to pay for the copying of a large batch of records without inspecting them. This is allowed. Informing the requestor on a request form that inspection is free is sufficient.

(7) **Use of outside vendor.** Typically an agency makes the requested copies. However, an agency is not required to copy records at its own facilities. An agency can send the project to a commercial copying center and bill the requestor for the amount charged by the vendor.<sup>3</sup> An agency is encouraged to do so when an outside vendor can make copies more quickly and less expensively than an agency. An agency can arrange with the requestor for him or her to pay the vendor directly. This is an example of where any agency might enter into an alternative fee arrangement under RCW 42.56.120(4). An agency cannot charge the default charges when its "actual cost" at a copying vendor is less. The default rates are only for agency-produced copies. RCW 42.56.120.

(8) **Sales tax.** An agency cannot charge sales tax on copies it makes at its own facilities. RCW 82.12.02525 and 82.08.02525.

(9) **Costs of mailing or sending records.** If a requestor asks an agency to mail copies, the agency may charge for the actual cost of postage and the shipping container (such as an envelope or CD mailing sleeve). RCW 42.56.070 (7)(a).

(10) **Sample fee statutory default schedule.** A sample statutory default fee schedule is provided in this comment. Some agencies may have other statutes that govern fees for particular types of records and which they may want to also include in the schedule. See RCW 42.56.130. Or, an agency may use the statutory default schedule for the majority of its records and go through the process to determine actual costs for some specialized records (for example, for large blueprints or oversized colored maps that are printed onto paper).

While not included in the sample schedule below, an agency might also decide to use the up to two dollar statutory flat fee for some types of requests, per RCW 42.56.120 (2) (d).

<b>(Name of Agency) Fee Schedule</b>	
<b>Inspection:</b>	
No fee	Inspection of agency records on agency public internet web site or scheduled at agency office.
No fee	Accessing or downloading records the agency routinely posts on its public internet web site, unless the requestor asks the agency for records to be provided through other means (the following copy charges below then apply).
<b>Copies:</b>	
15 cents/page	Photocopies, printed copies of electronic records when requested by the requestor, or for the use of agency equipment to make photocopies.
10 cents/page	Scanned records, or use of agency equipment for scanning.
5 cents/each 4 electronic files or attachment	Records uploaded to email, or cloud-based data storage service, or other means of electronic delivery.
10 cents/gigabyte	Records transmitted in electronic format or for use of agency equipment to send records electronically.
Actual cost	Digital storage media or devices <i>(list):</i> • CD • DVD • Thumb drive • Other
Actual cost	Postage or delivery charges – Specific amount based upon postage/delivery charges for specific mailings or deliveries.
(Varies)	Records for which other costs are authorized pursuant to specific fee statutes. <i>(Describe)</i>
↑ <i>Copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a particular request.</i>	
<b>Customized Service:</b>	
Actual cost	Data compilations prepared or accessed as a customized service (cost is in addition to above fees for copies).

Notes:

<sup>1</sup>See also Op. Att'y Gen. 6 (1991).

<sup>2</sup>The costs of staff time is allowed only for making and sending copies. An agency cannot charge for staff time for locating records or other noncopying functions. See RCW 42.56.120. ("No fee shall be charged for locating public documents and making them available for copying.")

<sup>3</sup>*Benton County v. Zink*, 191 Wn. App. 269, 361 P.3d 801 (2015).

[Statutory Authority: RCW 42.56.570. WSR 18-06-051, § 44-14-07001, filed 3/2/18, effective 4/2/18. Statutory Authority: 2005 c 483 § 4,

RCW 42.17.348. WSR 06-04-079, § 44-14-07001, filed 1/31/06, effective 3/3/06.]