

Fees For Providing Copies of Public Government Data

Effective August 1, 2005

This document is intended to guide government entities in determining an appropriate fee for providing copies of public government data when the requester is not the subject of the data *and* the copy fee is not established specifically by statute.

Minnesota Statutes, section 13.03 provides that, if a person requests copies or electronic transmittal of public government data, and the requester is not the subject of the data, the responsible authority for the government entity *may* require the requester to pay a fee. Amendments to section 13.03 in 2005 require entities to calculate any fee that is charged by using *one* of the two methods below. (Minnesota Session Laws 2005, Chapter 163, section 8, effective August 1, 2005.) Regardless of which method is used, the entity may not charge for separating public data from not public data.

Fee Calculation Method I

If 100 or fewer pages of black and white, letter or legal size paper copies are requested, the entity **may** charge a **per-page fee** of not more than 25 cents for each page copied (50 cents for a two-sided copy). The entity is authorized to charge *only* the per-page fee and *cannot* require the requester to pay *any* of the costs listed in Fee Calculation Method II. This provision should not be interpreted to permit division of a single request into requests for copies of fewer than 100 pages in order to avoid charging a fee based on the actual costs of providing copies.

Fee Calculation Method II

In all other circumstances, including requests to provide data via facsimile, the entity **may** require the requester to pay the **actual costs** of *searching* for and *retrieving* the data, including the cost of employee time, and for *making, certifying, compiling* and *electronically transmitting* copies of the data or the data themselves. Additional criteria for determining copy costs using Method II are set forth at Minnesota Rules, part 1205.0300, subpart 4. **The entity may not charge a minimum fee.**

Certain advisory opinions, issued pursuant to Minnesota Statutes, section 13.072, have established the following criteria for determining copy costs using Method II. (See the opinion index on IPAD's website; specifically, the topical index category, Copy costs.)

A. Costs that *may be included* as long as they are *reasonable*:

- ◆ Staff time required to:
 - Retrieve documents
 - Sort and label documents, *only* if necessary to identify the data to be copied
 - Remove staples or paper clips
 - Take documents to copier for copying
 - Copy documents

Notes: The entity may not assess a fee for labor costs (wages/salary plus benefits) that exceed those of the lowest-paid employee who could complete the task(s) performed. The requirement that data be kept in a manner that makes them easily accessible for convenient use may limit the entity in charging for staff time.

- ◆ Materials (paper, copier ink, staples, magnetic tapes, video or audio cassettes, etc.)
- ◆ Special costs associated with making copies from computerized data, such as writing or modifying a computer program to format data. *Note:* Computerized data must be kept in a manner

that makes the data easily accessible for convenient use.

- ◆ Mailing costs
- ◆ Vehicle costs directly involved in transporting data to the appropriate facility when necessary to provide copies (for example, when the entity is unable to provide copying services for photographs, oversized documents, videos, etc.)
- ◆ Electricity costs when the requester uses own scanner to make an unusually large number of copies

B. Costs that *may not* be included:

- ◆ Purchase or rental of copier
- ◆ Maintenance of copier
- ◆ Normal operating expenses of computer/copier, including electricity used, and machine wear/tear
- ◆ Depreciation of copier
- ◆ Staff time required to:
 - Separate public from not public data
 - Open a data request that was mailed
 - Sort, label or review data, *if not necessary* to identify the data to be copied
 - Return documents to storage
 - Provide information about the data to the requester (i.e., explain content and meaning of data)
 - Prepare data for mailing
 - Prepare cover letter, fax sheet or invoice for copies
 - Credit payment and perform other associated accounting functions

Note: The entity may not assess a fee for labor costs (wages/salary plus benefits) that exceed those of the lowest-paid employee who could complete the task(s) performed
- ◆ Administrative costs that are not related to copying
- ◆ Records storage
- ◆ Sales tax
- ◆ The entire cost of operating a multi-tasked computer for a measured unit of time, when fulfilling a request for copies was only one of the tasks performed during that unit of time
- ◆ Costs incurred because data are not maintained in a manner that makes them easily accessible for convenient use
- ◆ Search and retrieval costs when data are inspected but no copies are requested