

Texas Administrative Code

<u>TITLE 1</u>	ADMINISTRATION
<u>PART 5</u>	TEXAS BUILDING AND PROCUREMENT COMMISSION
<u>CHAPTER 111</u>	EXECUTIVE ADMINISTRATION DIVISION
<u>SUBCHAPTER C</u>	COST OF COPIES OF PUBLIC INFORMATION
RULE §111.63	Charges for Providing Copies of Public Information

(a) The charges in this section to recover costs associated with providing copies of public information are based on estimated average costs to governmental bodies across the state. When actual costs are 25% higher than those used in these rules, governmental bodies other than agencies of the state, may request an exemption in accordance with §111.64 of this title (relating to Requesting an Exemption).

(b) Copy charge.

- (1) Standard paper copy. The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has a printed image is considered a page.
- (2) Nonstandard copy. The charges for nonstandard copies are:
 - (A) diskette--\$1.00;
 - (B) magnetic tape--\$11.00-\$13.50 (depending on width--see §111.70 of this title (relating to the Texas Building and Procurement Commission Charge Schedule);
 - (C) data cartridge--\$17.50-\$35 (depending on series--see §111.70);
 - (D) tape cartridge--\$38-\$45 (depending on memory--see §111.70);
 - (E) VHS video cassette--\$2.50;
 - (F) audio cassette--\$1.00;
 - (G) oversize paper copy (i.e.: 11 inches by 17 inches, greenbar, bluebar)--\$.50;
 - (H) Mylar--\$.85-\$1.35/linear foot (depending on thickness--see §111.70);
 - (I) Blueprint/Blueline paper--\$.20/linear foot (all widths).
- (3) The charges in this subsection are to cover the cost of materials onto which information is copied and do not reflect any additional charges that may be associated with a particular request.

(c) Programming personnel. If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the governmental body may charge for the programmer's time.

- (1) The hourly charge for a programmer is \$26 an hour, including fringe benefits. Only programming services shall be charged at this hourly rate.
- (2) Governmental bodies that do not have in-house programming capabilities shall comply with requests in accordance with §552.231 of the Public Information Act.
- (3) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of Government Code, Chapter 552, §552.261(b).

(d) Other Personnel charge.

- (1) The charge for other personnel costs, incurred in processing a request for public information is \$15 an hour, including fringe benefits. Where applicable, the other personnel charge may include the actual time to locate, compile, and reproduce the requested information.

- (2) An other personnel charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in:
 - (A) two or more separate buildings that are not physically connected with each other; or
 - (B) a remote storage facility.
- (3) Other personnel time shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:
 - (A) to determine whether the governmental body will raise any exceptions to disclosure of the requested information under Subchapter C of the Public Information Act; or
 - (B) to research or prepare a request for a ruling by the attorney general's office pursuant to §552.301 of the Public Information Act.
- (4) When confidential information is mixed with public information in the same page, personnel time may be recovered for time spent to obliterate, blackout, or otherwise obscure confidential information in order to release the public information.
- (5) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of Government Code, Chapter 552, §552.261(b).
- (6) For purposes of subsection (d)(2)(A) of this section, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.

(e) Overhead charge.

- (1) Whenever any personnel charge is applicable to a request, a governmental body may include in the charges direct and indirect costs, in addition to the specific personnel charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If a governmental body chooses to recover such costs, a charge shall be made in accordance with the methodology described in paragraph (3) of this subsection. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.
- (2) An overhead charge shall not be made for requests for copies of 50 pages or fewer of standard paper records.
- (3) The overhead charge shall be computed at 20% of the charge made to cover any personnel costs associated with a particular request. Example: if one hour of personnel (programming, other personnel or a combination of both) is used for a particular request, the formula would be as follows: $\$15.00 \times .20 = \3.00 ; or $\$26.00 \times .20 = \5.20 ; or $\$41.00 \times .20 = \8.20 .

(f) Microfiche and microfilm charge.

- (1) If a governmental body already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the governmental body should make a copy of the microfiche or microfilm. The charge for a copy shall not exceed the cost of its reproduction. The Texas State Library and Archives Commission has the capacity to reproduce microfiche and microfilm for state agencies. Governmental bodies that do not have in-house capability to reproduce microfiche or microfilm may charge the actual costs of having the reproduction made commercially.
- (2) If only a master copy of information in microform is maintained, the charge is \$.10 per page for standard size paper copies, plus any applicable personnel and overhead charge for more than 50 copies.

- (g) Remote document retrieval charge.
- (1) Due to limited on-site capacity of storage of documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by governmental bodies to store current records on-site. State agencies are encouraged to store inactive or non-current records with the Texas State Library and Archives Commission. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services.
 - (2) If a governmental body has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional personnel charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the governmental body, the boxes must still be searched for records that are responsive to the request, a personnel charge is allowed according to subsection (d)(1) of this section.
- (h) Computer resource charge.
- (1) The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.
 - (2) These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.
 - (3) The charges in this subsection are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each governmental body using this cost recovery charge shall determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s), and set its charge accordingly. Type of System--Rate: Mainframe--\$10 per minute; Midsize--\$1.50 per minute; Client/Server--\$2.20 per hour; PC or LAN--\$1.00 per hour.
 - (4) The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather, it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is set forth in subsection (d) of this section. No charge should be made for computer print-out time. Example: If a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows: $\$10 / 3 = \3.33 ; or $\$10 / 60 \times 20 = \3.33 .
 - (5) A governmental body that does not have in-house computer capabilities shall comply with requests in accordance with the Public Information Act, Government Code, Chapter 552, §552.231.
- (i) Miscellaneous supplies. The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.
- (j) Postal and shipping charges. Governmental bodies may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.
- (k) Sales tax. Sales tax shall not be added on charges for public information.
- (l) The commission shall reevaluate and update these charges as necessary.

Source Note: The provisions of this §111.63 adopted to be effective September 18, 1996, 21 TexReg 8587; amended to be effective February 20, 1997, 22 TexReg 1625; amended to be effective December 3, 1997, 22 TexReg 11651; amended to be effective December 21, 1999, 24 TexReg 11255; amended to be effective January 16, 2003, 28 TexReg 439