



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

PRIVACY, GOVERNMENTAL  
LIAISON AND DISCLOSURE

April 17, 2013

Control Number: PGLD-11-0313-01  
Expiration Date: 04-17-2014  
Impacted IRM: 11.3.5

MEMORANDUM FOR GLD DEPUTY ASSOCIATE DIRECTORS, DISCLOSURE  
MANAGERS, AND DISCLOSURE EMPLOYEES

FROM:

Bernice B. Fischer

A handwritten signature in black ink that reads "Bernice Fischer".

Director, Governmental Liaison and Disclosure

SUBJECT:

Interim Guidance on Computing Fees When Providing Freedom of Information Act (FOIA) Responses on Removable Electronic Media, and Setting at \$25.00 the Minimum Billing Amount Disclosure Will Charge for FOIA Responses.

Please distribute this memorandum to all affected employees within your organization.

**Purpose:** Due to a recent policy change, the IRS provides most Freedom of Information Act (FOIA) responsive records in an electronic format in lieu of paper and must charge appropriate fees for this method of delivery. This memorandum clarifies and simplifies previous guidance on computing and assessing these fees when responding to FOIA requests. Fees for costs incurred for responding to certain requests may be less than the cost of collecting such fees. This memorandum revises to \$25.00 the minimum fee Disclosure will charge to avoid billing for an amount that is less than the cost of collection. See IRM 11.3.5.8 and other sections addressing the minimum fee amount.

**Background/Source(s) of Authority:** Freedom of Information Act, Electronic Freedom of Information Act Amendments of 1996, 26 CFR 601.702(f)(5), 31 CFR 1.7.

If we photocopy or scan paper files to facilitate our own review of those documents, **we will not** charge the requester for these costs. This includes costs associated with converting (copying, scanning, etc.) records to another medium (electronic) to upload the records into our electronic FOIA processing system to facilitate our review and processing of the records. This also includes costs for any other activity that our FOIA

processing system requires such as copy contract costs incurred to facilitate FOIA reviews.

However, **we will** charge for direct costs related to converting (copying, scanning, etc.) records to another medium (electronic) to facilitate delivery of the records to the requester. For example, if we convert paper files to an electronic format for the purpose of sending them to the requester; the FOIA regulations require us to charge fees that reasonably approximate the cost to the IRS of converting them. This includes fees for the cost of the CD, DVD, flash drive, or other storage medium and any protective case or container used for delivery.

**Procedural Change:** Beginning immediately, Disclosure:

1. Will not charge a fee for the cost of transmitting or copying files to electronic media containing fewer than 1,000 pages;
2. Will assess a \$25.00 fee to cover the costs of transmitting and copying files to electronic media containing 1,000 pages or more; and
3. Will assess an additional \$25.00 for each additional CD, DVD, or other storage device needed to account for the additional transmitting and copying costs.

These standard fee rates are based on a calculation of average current direct costs incurred during normal processing.

These procedures do not change the fee structure for documents provided on paper. Also, Disclosure will not charge a fee when the amount of the fee is less than \$25.00, instead of the previous \$10.00, regardless of the media used to respond. This aligns IRS procedures with the Department of Treasury's minimum fee based on the approximate average cost to process a payment.

**Special Situations:** If you use storage devices other than CDs or DVDs that cost \$5.00 or more each, you must recover this additional cost. Note that CD and DVD costs are minimal, and are already factored into the \$25.00 incremental costs associated with providing responsive documents of 1,000 pages or more. Other storage media, however, such as flash drives, removable hard drives, and other potential data storage solutions may have significant costs.

**Example:** You decide to use a 16 gigabyte flash drive for your response. The cost of the flash drive is \$15.00. Add this cost to the \$25.00 cost of transmitting and copying the files for a total cost to the requester of \$40.00.

**Caution:** The fees covered above do not include the cost of searching a database or other costs related to retrieving responsive records (including paper files). The business unit supplying the records must provide a summary of their costs related to these activities.

**Example:** A business unit must write a computer program to strip responsive records from a file that contains other records not responsive to the request. The business unit informs you that the cost of writing, debugging, reviewing, and running

that program is \$3,400.00. You will add this to the cost of transmitting and copying the non-exempt responsive records and providing them on CD.

**Effect on Other Documents:** This guidance will be incorporated into IRM 11.3.5 by April 17, 2014.

**Effective Date:** April 17, 2013

**Contact:** Frank Weber, 202.622.5606; Rhonda O'Reilly, 860.756.4673

**Distribution:** [www.irs.gov](http://www.irs.gov)