

## Virginia Department of Elections

### Freedom of Information Act (FOIA) Cost Assessment Policy

#### Purpose

Pursuant to § 2.2-3704.1 of the Code of Virginia, a public body is required to establish a written policy regarding the assessment of charges provided in response to a Freedom of Information Act (FOIA) request. The following policy:

- (i) Explains how the Virginia Department of Elections (ELECT) assesses charges for accessing or searching for requested records; and
- (ii) Notes the current fee charged, if any, by the public body for accessing and searching for the requested records.

#### Background

Pursuant to Section § 2.2-3704 (F) of the Code of Virginia a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body.

#### Charges to Produce Records

Prior to submitting a FOIA request, individuals should be aware that they may have to pay for the records they have requested from ELECT. Charges will be assessed for any request requiring more than one hour to fulfill. Before proceeding with a request, ELECT will notify the requester of any estimated charges to fulfill the request and will request approval for the charges from the requester.

#### *Cost Assessment*

To fulfill a FOIA request, ELECT's staff must assess, search, review, copy, supply, redact and prepare the records for release. The estimated cost of the records request is based on the hourly salary of the person performing the work and the actual time required to fulfill the request.

**[Cost = (Hourly salary of ELECT staff member x Time required to fulfill the request)]**

If the volume of the responsive records necessitates any type of medium to supply the records, ELECT shall charge for the cost of such medium, not to exceed the actual cost.

#### *Deposits*

Pursuant to §2.2-370(H) of the Code of Virginia, in any case where ELECT determines that charges for producing the requested records are likely to exceed \$200, ELECT shall, before continuing to process the request, require the requester to pay a deposit.

- The deposit shall be credited toward the final cost of supplying the requested records.

- Estimates between \$200 and \$2,500 will require the requester pay a 50% deposit before ELECT will proceed in fulfilling the request.
- Estimates more than \$2,500 will require the entire amount of the estimate be paid in full before ELECT will proceed in fulfilling the request.
- The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination, the estimate, and the response of the requester.

Before processing a subsequent request for records, ELECT will require the requester to pay any amounts owed for previous requests for records that remain unpaid 30 days or more after billing.

### Payments

ELECT will provide a requester with an itemized invoice which outlines the estimated charges to fulfill the request, and the method in which payments can be made.

- Payments for FOIA requests will require a copy of the invoice.
- Payments for FOIA requests may be made in the form of credit card or check.
  - Checks are made payable to “Department of Elections” and can be delivered to:

Washington Building, First Floor,  
1100 Bank Street, Richmond 23219

- Payment by credit card can be made by phone at (804) 864-8901
  - There is a 3% service fee for credit card transactions.