

## M E M O R A N D U M

**DATE:** July 19, 2011

**TO:** Interested Media

**FROM:** Brian Burgess, Communications Director, Executive Office of the Governor

**CC:** Governor's Agencies - Communications Directors

**RE:** Amendment to Cost Recovery Policy

Governor Rick Scott is committed to providing Floridians with access to information that allows citizens to hold government accountable. To provide full and expeditious compliance with Florida's public records laws, Governor Scott issued [Executive Order 11-03](#), re-establishing the Office of Open Government.

As noted in a March 3, 2011 memorandum, however, the processing of an unprecedented volume of public-records requests has taken a great toll on existing information technology and other labor resources. Expenditure of these resources has greatly increased the costs associated with public-records management, and these costs ultimately fall on the Florida taxpayer.

Due to these unprecedented circumstances and the need for fiscal accountability in government, the Executive Office of the Governor, in accordance with section 119.07, Florida Statutes, previously adopted a cost-recovery policy for public-records requests. That policy, which ensures that taxpayer money is responsibly spent, remains in effect, but as of the date of this memorandum a few amendments will take effect, as outlined described below. These changes apply only prospectively and do not have any effect on public-records requests that have already been fulfilled. The amended policy will apply to public-records requests that are pending but have not yet been fulfilled.

### Cost Recovery Charges

#### **Estimates:**

Upon receiving requests for public records, the Office of Open Government will provide an itemized estimate to the person initiating the request. The estimate will include the estimated costs required to fulfill the request (including estimated labor hours, duplication costs, and other material costs).

If, upon receiving an initial estimate of charges, a requestor changes or otherwise limits a request, the Office of Open Government will provide a revised estimate of charges based on the amended request.

## Amendment to Cost Recovery Policy

Page 2

### Fee Guidelines – Special Service Charge:

- A special service charge will be imposed if the nature or volume of public records requested requires extensive use of information technology resources and/or extensive clerical or supervisory assistance by agency personnel.
  - A special service charge will be warranted if the nature or volume of the public records requested to be inspected or copied requires more than thirty minutes of agency resources. Once thirty minutes of agency resources have been expended on a request, the charge will apply only to any time expended in addition to the first thirty minutes. In other words, there will not be a special service charge for the first thirty minutes of time regardless of how long it takes to fulfill the request.
  - Clerical or supervisory assistance includes searching for and/or locating the requested record, reviewing records for legally exempt or confidential information, deletion of such exempt or confidential information, and preparing, copying, and re-filing of the requested records.
  - If multiple agency divisions are involved, the special service charge will be based on the aggregate amount of time expended by all personnel and information technology resources, if applicable.
  - The rate charged for clerical or supervisory assistance will be based on the lowest paid full-time personnel in the Office of Open Government capable of processing public-records requests in general (based on salary and benefits), even if a specific request requires labor by higher-paid employees within or outside of the Office of Open Government (such as managerial review). In those cases where legal review is necessary, the charge will be at the lowest attorney rate (salary and benefits) in the Office of General Counsel.
- The special service charge is in addition to any charges for the actual cost of duplication.
- When documents can be sent by email, EOG will do so in the interest of efficiency and to minimize costs. In these cases, EOG will only charge a service charge for extensive time. However, when a large volume of documents is requested and must therefore be placed on a CD or DVD, the costs of those materials will be recovered.
- If the record is in electronic form, then EOG will copy onto CD or DVD, as needed. EOG will charge for the actual costs of the disk, not for the time to copy the documents onto the media.
- If the cost for providing paper or electronic copies of records is less than \$5.00, including postage and special service charges, the records will be provided at no charge as long as it is not cost-effective to collect such fees.

## Amendment to Cost Recovery Policy

Page 3

### Collecting Recovered Costs:

- Payment for costs assessed will be collected before documents are copied, reviewed, redacted, or otherwise processed for release if their production meets the threshold for extensive time or material costs.
- If the actual costs incurred are less than such payment as estimated, the overpayment will be refunded to the requestor. The requestor will be required to remit additional monies upon release of the documents to pay for any costs in excess of the estimate.
- In the event the requestor fails to remit additional monies to cover costs in excess of the deposit, the requested public records will not be released.

### Material Costs:

One-sided Copy:	\$ 0.15 per page of not more than 8½ x 14 inches
Double-sided copy:	\$ 0.20 per page of not more than 8½ x 14 inches
All other copies	Actual cost of duplication (material and supplies, not labor)
CD-ROM:	\$0.85 each
DVD:	\$1.15 each
Certified Copies:	\$1.00 per page
Packaging and shipping charges:	Estimated costs may be changed to reflect actual cost incurred.

### Reducing Costs and Limiting Charges:

- Labor costs can be reduced significantly if requests include keywords instead of open-ended terms such as “all documents or emails.” Similarly, narrowing a request to certain individuals or divisions can greatly reduce the use of extensive labor.
- Many easily accessible records are available online for no charge. EOG will continue to add documents and information as we identify some of the most frequently requested public records. EOG will help direct requestors to free, online sources whenever possible.

If you have any questions or need additional information, please call Governor Scott's press office at (850) 488-5394.

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