
Fact Sheet: Fees

The *Access to Information Act* (ATIA) specifies that a public body may require an applicant to pay fees for services in responding to an access to information request.

Fees for Services

The right of access to records in the custody or under the control of a public body is subject to the payment of any required fee. Section 96(1) of the ATIA provides that a public body may require an applicant to pay fees for services as provided for in the regulation.

Fee Structure

There are two types of fees that may apply to an access to information request: “initial fee” and “access to information service fees”.

Initial fee

Section 7(2)(d) requires that any access to information request needs to be accompanied by a fee where a fee is required under this Act.

Section 13 of the Access to Information Regulation, requires payment of a \$25.00 initial fee when an applicant is requesting access to information that is not their own personal information otherwise known as a general access request. Under section 7(2)(d) of the Act, any access to information request needs to be accompanied by a fee where a fee is required.

A continuing access to information request¹ must be accompanied by a \$50.00 initial fee.

Applicants are not required to pay an initial fee when requesting access to their own personal information.

Fees for requests for access to non-personal information (general access requests)

For requests for access to non-personal information otherwise known as general access requests, fees above and beyond the initial fee may be charged if the cost of processing the request is estimated to exceed \$150.

Schedule 1 of the ATI Regulation sets out the services that a public body may charge for when processing a

general access request and the maximum fees that may be charged for each service.

These are as follows:

- searching for, locating, and retrieving records;
- converting or reformatting a record or audio-visual files into a redactable format;
- producing a paper copy of a record (photocopies and computer printouts, from microfiche or microfilm, and plans and blue prints);
- producing a copy of a record by duplication of another media (microfiche and microfilm, computer disks, computer tapes, slides, and audio and video tapes);
- producing a photographic copy printed on photographic paper from a negative, slide or digital image;
- producing a copy of a record by any other process or in any other medium or format;
- preparing and handling a record for disclosure;
- supervising the examination of a record; and
- shipping a record or a copy of a record.

Fees for requests for access to personal information

For a request for an applicant’s own personal information, a public body may assess fees only for producing a copy of the record, and then only if the costs are estimated to exceed \$10.

Fee Estimate

Section 96(3) of the ATIA provides that if an applicant is required to pay fees for services, the public body must give the applicant an estimate of the total fee before providing the services.

When is a fee estimate required?

A fee estimate is an estimation of costs for services undertaken when an access to information request is being processed and is separate from the initial fee. A fee estimate may only be issued when costs for services are expected to exceed \$150 for a general

¹ A continuing request is allow an applicant to receive records concerning a particular subject or issues at regular intervals over time up to 2 years (see section 11 of the Act).

access to information request, or \$10 for a personal information access request.

What needs to be included in a fee estimate?

Once it is determined that a fee estimate is required, the public body must determine what services in Schedule 1 will be needed to process the request and estimate the cost for each of those services. The fee estimate must include both an estimate of total cost and a detailed breakdown, specifying the services involved in processing the request and the estimated fees for each, in accordance with section 15(1) of the ATIA Regulation.

- A fee estimate for a personal information access request is to include only the cost of producing a copy of the record.
- In the case of a continuing request, the fee estimate is to include the total fees payable over the course of the continuing request.

Fee estimate and processing timelines

An applicant has 30 business days from the date of the notice to accept the fee estimate or modify the request to change the amount of fees assessed.

Issuing a fee estimate may also impact the overall processing timelines of a request:

- Processing of a request ceases once a notice has been forwarded to an applicant and recommences immediately upon receipt of an agreement to pay the fee and receipt of payment of 50% of the estimated fee.
- A public body is permitted to consider the request abandoned if a response is not received from the applicant within 30 business days.

Fee Waiver

Section 96(4) of the ATIA provides that an applicant may, in writing, request that the head of a public body excuse the applicant from paying all or part of a fee for services. A public body must give written notice of the decision to grant or refuse the request within 30 business days of receiving the request. If the head refuses an applicant's fee waiver request, the notice must state that the applicant can request a review of that decision by the Commissioner.

In deciding whether to excuse all or part of a fee, the head of the public body must make the decision on a case-by-case basis by considering all the circumstances relating to the particular request.

Section 96(5) states that the head of a public body may excuse the applicant from paying all or part of a fee if, in the opinion of the head,

- the applicant cannot afford the payment or

- for any other reason it is fair to excuse the payment, or,
- the record relates to a matter of public interest, including the environment or public health or safety.

Based on this section, there are three primary grounds for granting or denying a request for fee waiver:

Financial hardship

The head may excuse payment if the applicant cannot afford the payment. It is rarely sufficient for an applicant to request a fee waiver on the basis of a bare statement of the applicant's circumstances. The applicant must provide evidence of his or her inability to pay the fees requested.

Fairness

The head may excuse the applicant from paying all or part of a fee if, in the opinion of the head, it is fair to excuse the payment for any reason other than financial hardship. The reasons to excuse fees on grounds of fairness may relate to any number of matters. Examples of circumstances relevant to fairness considerations may include:

- The public body has not fulfilled its obligations in processing the access request.
- The records are critical for the applicant to exercise their rights or are directly tied to an individual's financial or health management.

Public interest

The head may excuse the applicant from paying all or part of a fee if, in the opinion of the head, the record relates to a matter of public interest, including the environment or public health or safety. A non-exhaustive list of criteria and relevant considerations for determining whether to grant a fee waiver in the public interest was set out in OIPC Order F2006-032 (these criteria are a revised version of thirteen criteria set out in Order 96-002) and can be used as guidance. For more information please see the Office of the Information and Privacy Commissioner's website.

Role of the Information and Privacy Commissioner

The Information and Privacy Commissioner may investigate and attempt to resolve complaints on the charging of fees. Where a request for review is received the Information and Privacy Commissioner can confirm or reduce fees charged.