

## Assessing Fees for PIA Requests

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Periodically, the Public Access Ombudsman receives questions from both agencies and requestors about the procedures surrounding Maryland Public Information Act (PIA) requests and responses. Below is one such question and answer that the Ombudsman's Office thinks may be of value to all PIA stakeholders.

*\*\*The advice given is not legal advice nor is it a binding legal opinion.*

**Dear Ombudsman,**

Q. I write with a query about calculation of costs for the PIA that I do not believe is addressed in the Office of the Attorney General's PIA Manual. From time-to-time, our agency receives multiple requests for the same information over a certain period of time. In those instances, if we end up charging a fee to the first requestor and that requestor pays, what would be a "best practice" for the second or successive requestors who ask for the same information? Additionally, what would be the "best practice" when there are multiple contemporaneous requests for the same information for which a fee can be assessed? Should the costs be allocated?

A. In my view, the guiding principle should be that an agency can only recoup its actual costs—in fact, that's the law. See PIA § 4-206. In the second circumstance you describe, it would be reasonable for an agency to spread the costs evenly among all the requestors, or possibly, if public interest justifies it, to make the documents available on the agency's website at no charge. There's no definitive answer to this question in the PIA or case law in Maryland.

The cost spreading option may be more difficult or impractical in the first scenario you describe, in which there may be multiple requests for the same material over a protracted period of weeks or months. If you receive a request and suspect that additional requests for that same information might be forthcoming, you could notify the initial requestor of an estimated fee range depending on anticipated demand, but wait to charge the actual fee until the total demand is better known (of course, you would want to give the initial estimate range within 10 business days of receiving the first request). And as always, an agency might want to consider waiving the fees entirely, especially where it anticipates that the public will have high interest in specific documents.

In any case, I think this would be a good topic for a written policy, or even regulations, which would then enable the agency to readily explain and document its process to requestors.

*\*\*Send your PIA questions to the Ombudsman at [pia.ombuds@oag.state.md.us](mailto:pia.ombuds@oag.state.md.us).*