

August 12, 2024

Virginia Freedom of Information Advisory Council (“VFOIA Council”)
c/o Alan Gernhardt, Esq., Executive Director
Pocahontas Building, 10th Floor
900 East Main Street
Richmond, VA 23219

Via email: foiacouncil@dls.virginia.gov

Dear Mr. Gernhardt,

Pursuant to Code of Virginia § 30-179(1) and other applicable sections, please respond to the following:

1.) The Virginia Freedom of Information Act (“VFOIA”) states in part that “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.” Va. Code § 2.2-3704(F). What percentage of the VFOIA-related charges collected by public bodies in Virginia is attributable to the cost of reviewing and redacting/excising documents? Stated differently, what percentage of the total charges, identified in Va. Code § 2.2-3704(F–J) and assessed by public bodies, is for the process of reviewing and studying documents that are responsive to a VFOIA request to determine if an exclusion/exemption applies, and the act of redacting/excising those documents? If the VFOIA Council does not have this information, please advise if you are aware of another source for this information.

2.) In instances when a public body assesses review and redaction charges¹ pursuant to VFOIA, are those funds received directly by the public body or are they deposited into the account of a central authority such as the Virginia Department of the Treasury?

a.) If/When the funds described in Question 2 are deposited directly into the account of the public body, are those funds allocated to the public body’s general budget or does the individual(s) who performed the review and redaction services receive the funds directly (e.g., as a supplement to his/her salary)?

b.) If/When the funds described in Question 2 are deposited into the account of a central authority such as the Virginia Department of the Treasury, are those funds then redirected to the public body that performed the review and redaction services and if so, what is the process and procedure for such redirection of funds?

¹ If the information available to the VFOIA Council is not segregable to the level of review and redaction charges, then please respond to Question 2 for VFOIA charges in general (i.e., charges assessed pursuant to Va. Code § 2.2-3704(F–J)).

3.) Regarding the possibility of amending VFOIA and adding a petition/request process for a public interest-related fee waiver,² please confirm that the Senate Bill 324 (Roem, 2024) Work Group decided, by consensus, to not consider this issue. Please also provide the date on which this consensus decision was reached.

Please respond in writing. The foregoing questions are not specific to any pending litigation. If you and I have previously discussed all or part of one or more of the foregoing questions, then the reiteration herein is for the purposes of confirmation and accuracy. Your responses may be published. Thank you in advance.

Very truly yours,

Ramin Seddig

Ramin Seddig
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McLean, VA 22103
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² For example, a provision such as the following: *Records shall be furnished without any charge or at a charge reduced below the fees established by the public body if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.*



Ramin Seddiq <ramins2536@gmail.com>

Citizen Inquiry - 08-12-2024

2 messages

Ramin Seddiq <ramins2536@gmail.com>
To: FOIA Council <foiacouncil@dls.virginia.gov>

Mon, Aug 12, 2024 at 9:04 AM

Good morning Mr. Gernhardt,

I hope you're well. Attached, please find questions for the VFOIA Council.

Best regards,

Ramin Seddiq
ramins2536@gmail.com

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**RS - Questions to VFOIA Council - 08-12-2024.pdf**
156K

FOIA Council <foiacouncil@dls.virginia.gov>
To: Ramin Seddiq <ramins2536@gmail.com>

Mon, Aug 12, 2024 at 1:38 PM

Dear Mr. Seddiq:

- 1) The FOIA Council does not have this information, nor do I know of any source for it other than contacting individual public bodies to ask whether they track the information.
- 2) FOIA does not direct where funds are to be deposited or how the funds may be disbursed, so I do not have specific answers to this question. Anecdotally, my understanding is that it may vary as some public bodies such as local government bodies may accept funds directly to their own accounts while others, such as state agencies, would deposit funds into the state Treasury. However, it is again something not addressed under FOIA itself or tracked by the FOIA Council, so you might want to contact individual public bodies to ask how each processes charges.
- 3) I raised the issue of fee waivers to the workgroup at its meeting on July 8, 2024, and they decided not to proceed in that area. You can see the video of the meeting on the 2024 Subcommittees [webpage](#).

- Alan

[Quoted text hidden]

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Thank you for contacting this office. I hope I have been of assistance.

Alan Gernhardt, Esq., Executive Director
Joseph Underwood, Esq., Senior Attorney
Lauren Waller, Program Administrator
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The staff of the Freedom of Information Advisory Council is authorized to issue advisory opinions. Please be advised that any staff advisory opinion delivered by e-mail is based solely upon the facts and information presented in your attached e-mail inquiry.