

POLICY MANUAL	POLICY NUMBER	SUPERSEDES/RESCINDS
INFORMATION MANAGEMENT MANUAL	RM 6.3.3	18.2.4
SUBJECT	POLICY EFFECTIVE DATE	SUPERSEDE/RESCIND DATE
Public Records Requests Fees and Charges	April 2, 2018	February 15, 2017
AUTHORITY	NEXT REVIEW DATE	LAST REVIEWED DATE
<a href="#">ORS Chapter 192</a> ; <a href="#">Executive Order 16-06</a>	April 2, 2020	March 29, 2018
HISTORY/BACKGROUND	POLICY CROSS-REFERENCE	
This is a new policy beginning February 15, 2017. All state agencies are required to establish a statewide, standardized policy relating to charging practices and policies for fulfilling requests for public records. This policy replaces 18.2.4 Information Disclosure Fees which has been rescinded.	<a href="#">DAS 107-001-020</a> ; <a href="#">DAS 107-001-030</a> ; RM 6.3.0	
APPROVED BY OREGON STATE ARCHIVIST	DATE APPROVED	
Oregon State Archives Review Meeting	March 29, 2018	

**Policy Statement:** It is the policy of the Oregon Department of Veterans' Affairs (ODVA) that ODVA will comply with the standards established in the Department of Administrative Services (DAS) Statewide Policy, 107-001-030, Public Records Requests Fees and Charges, when fulfilling public records requests for ODVA files and records. ODVA will also comply with the use of the state agency standard process when evaluating requests to reduce or waive fees assessed for fulfilling a request.

These fees **cannot** be charged on a request for information related to a claim filed with the United States Department of Veterans Affairs (USDVA).

**Overview:** ODVA has updated its Public Records Request charging policies, practices and administrative rules to comply with the DAS Statewide Policy [107-001-030](#). The internal processes and procedures will support compliance, deter abuse and detect violations.

The DAS Policy applies to all agencies within the Executive Department, as defined in ORS 174.112, excluding: Secretary of State; State Treasurer; the Attorney General, but only with respect to its authority under ORS 182.124 over information systems security in the Department of Justice; Oregon State Lottery; and State Board of Higher Education or any public university listed in ORS 352.002. There are no other exclusions.

The requirements in the DAS Policy do not supersede, modify or replace the existing legal responsibilities of any state agency. Agencies must continue to meet obligations required by all applicable laws, policies, procedures and standards including without limitation: state and Federal public records laws, privacy laws and regulations, and applicable DAS policies and procedures.

This fee structure does not apply to agency-specific records with established pre-set price per record (e.g., vital records, licenses, police reports; DMV motor-carrier fees, etc.) or fees assessed for notarized/certified copies of public

records.

**Purpose:** The purpose of this policy is to support statewide consistency by complying with the established standards for state agency policies relating to the charging practices and policies for fulfilling requests for public records, and with the use of the state agency standard process when evaluating requests to reduce or waive fees assessed for fulfilling a request.

**Implementation  
Procedures:**

The following exhibits are attached to this policy:

- **Exhibit A:** Statewide Standardized Fee-Structure Process Document
- **Exhibit B:** Statewide Standardized Fee-Schedule
- **Exhibit C:** Public Interest Threshold Evaluation Form (Fee-Waiver or Fee-Reduction Request)
- **Exhibit D:** Statewide Reduced Fee-Schedule

**Statewide Standardized Fee-Structure Process**

The attached **Exhibit A** fee structure process document outlines the decision-making process involved once a public records request is submitted to an agency.

Upon receipt of all public records requests, agencies shall waive a minimum of 30 minutes of staff time after which fees may be assessed for additional staff time, applicable services and supplies required to fulfill the request in accordance with the applicable fee schedule.

An agency may deny eligibility for the 30-minute waiver if abuse by the requester is determined to exist either by:

1. Fragmenting a request that if taken in the aggregate would amount to significantly more than 30 minutes; or
2. Submitting multiple small requests in a short time-frame causing an undue burden on the agency.

Agencies are statutorily required to consider and grant reasonable requests to waive and/or reduce fees associated with fulfilling a public records request when doing so is in the public interest because providing access primarily benefits the general public.

The Public Interest Threshold Criteria that are applied to all requests are:

1. Public Interest Threshold Met
  - a. Full Waiver – all fees are waived;
  - b. Partial Waiver – reduced fee schedule applied for any fees not covered by waiver;
  - c. Reduced Fee Schedule – no waiver available; and

## 2. Public Interest Threshold Not Met – Standard Fee Schedule

An agency is required to communicate with a requester for standard fee, partial fee waiver and reduced fee situations as outlined here:

- Notify requester of initial cost-estimate.
- Seek approval, prior to initiating work to fulfill a Public Records Request, if total costs estimated are more than \$25.
- Work with requester to refine the scope of their request or otherwise reduce out-of-pocket cost when initial cost-estimate is more than \$250.

### **Statewide Standardized Fee-Schedule**

The attached **Exhibit B** outlines the standard fee schedule to be used with public records requests.

Agencies shall waive a minimum of 30 minutes of staff time after which fees may be assessed for additional staff time, applicable services and supplies required to fulfill the request in accordance with the applicable fee schedule.

The hourly rate charged for additional staff time will be based on the level of skill or expertise required to complete the work performed, not the classification level of the employee performing the work.

Agencies will not charge for staff time spent witnessing records inspection when the estimated cost of making public records available for inspection is:

- Less than the cost of providing the requester with a copy of the public record; or
- Insignificant (requested public records are readily accessible and do not require review, redaction or segregation).

Fees will be charged for staff time required to redact exempt information from requested public records prior to release.

### **Staff Time**

Fees for staff time required to fulfill a Public Records Request shall not exceed:

- \$25 per hour for Clerical (administrative, office specialists, other support staff)
- \$40 per hour for Managerial (Program Managers, PIOs)
- \$75 per hour for Professional (IT, HR, High-level Analyst)
- DOJ, special attorney and other applicable legal fees: at the actual hourly rate charged for Public Records Request-related services. Fees are subject to statutory limitation described in ORS 192.324(4)(b).

### **Production of Responsive Records**

Fees generated by providing paper or electronic copies to requesters:

- Copies: based on current state printing and distribution price list.
- Media: based on statewide price agreement with OfficeMax.
- Postage: based on current postal rates.

#### **Additional Cost Considerations**

Miscellaneous fees related to production and release of responsive records:

- Expedited Archive retrieval
- Costs of software companies/contracts (as needed to manage the volume of request)
- Other 3<sup>rd</sup> party costs (in extreme circumstances)

When agencies receive fee-waiver or fee-reduction requests, they are statutorily required to consider and grant reasonable requests to waive and/or reduce fees associated with fulfilling a public records request when doing so is in the public interest because providing access primarily benefits the general public.

**Note:** This fee structure does not apply to agency-specific records with established pre-set price per record (e.g., vital records, licenses, police reports; DMV motor-carrier fees, etc.) or fees assessed for notarized/certified copies of public records.

#### **Fee Waiver/Reduction Request (Public Interest Threshold Evaluation)**

The attached **Exhibit C** documents and form aid the decision-making process by providing standardized criteria to use when evaluating a request for fee-reduction/waiver submitted by a public records requester under ORS 192.324(5). Agencies shall consider each factor to determine whether the public interest in disclosure of the requested records warrants granting a fee reduction/waiver.

All requests will be evaluated on a case-by-case basis using information provided by the requester as well as information independently available to the agency.

**Additional Guidance** is provided in the attached Public Interest Fee-Waiver or Fee-Reduction Request form.

- To adequately balance the State's obligation to be transparent and accessible with the obligation to prudently safeguard public funds and resources, fee-waivers and fee-reductions should be granted when the statutory standard has been met – when disclosure will primarily benefit the general public.
- A request to waive or reduce fees related to a public records request, that requires substantial agency resources to complete, may be denied if the interest of the general public would be better served by preserving agency

resources.

- The public interest is not a fixed concept and the balance of public interest may change over time. It may shift as information becomes older or in the light of issues of the day. The circumstances at the time of the request will be considered.
- A genuine public interest in the subject matter of a request is required as the basis for granting a waiver. The public interest is not necessarily the same as what interests the public. The fact that a topic has been discussed in the media does not automatically mean that there is a public interest in disclosing the information that has been requested about it.
- This standardized fee structure does not supersede, modify or replace the existing legal responsibilities of any state agency. Agencies must continue to meet obligations required by applicable laws, policies, procedures and standards including without limitation: State and Federal public records laws, privacy laws and regulations and fees for certain public records as defined in statute.

**Note:** Request for fee reduction or fee waiver will be evaluated on a case-by-case basis based on:

- The information provided by the requester; and
- The totality of circumstances at the time of the request.

Previous requests and evaluations will not be considered as part of the evaluation.

### **Statewide Reduced Fee-Schedule**

The attached **Exhibit D** document provides the reduced fee schedule for use with fee waiver or fee reduction requests.

Agencies shall waive a minimum of 30 minutes of staff time after which fees may be assessed for additional staff time, applicable services and supplies required to fulfill the request in accordance with the applicable fee schedule.

The hourly rate charged for additional staff time will be based on the level of skill or expertise required to complete the work performed, not the classification level of the employee performing the work.

Agencies will not charge for staff time spent witnessing records inspection when the estimated cost of making public records available for inspection is:

- less than the cost of providing the requester with a copy of the public record; or
- insignificant (requested public records are readily accessible and do not require review, redaction or segregation).

Fees will be charged for staff time required to redact exempt information from

requested public records prior to release.

### Staff Time

Fees for staff time required to fulfill a Public Records Request shall not exceed:

- \$20 per hour for Clerical (administrative, office specialists, other support staff)
- \$32 per hour for Managerial (Program Managers, PIOs)
- \$60 per hour for Professional (IT, HR, High-level Analyst)
- \$75 per hour DOJ, special attorney and other applicable legal fees.

### Production of Responsive Records

Fees generated by providing paper or electronic copies to requesters:

- Copies: based on current state printing and distribution price list.
- Media: based on statewide price agreement with OfficeMax.
- Postage: based on current postal rates.

### Additional Cost Considerations

No additional cost considerations will be included in the invoiced amount passed on to the requester under this reduced fee structure.

**Note:** This fee structure does not apply to agency-specific records with established pre-set price per record (e.g., vital records, licenses, police reports; DMV motor-carrier fees, etc.) or fees assessed for notarized/certified copies of public records.

Since the standardized fee structure does not supersede, modify or replace the existing legal responsibilities of any state agency, agencies must continue to meet obligations required by applicable laws, policies, procedures and standards including without limitation: State and Federal public records laws, privacy laws and regulations and fees for certain public records as defined in statute. See *RM 6.3 RT-10 Records Fees* for the table outlining the records fees that are applicable in these situations.

### Definitions:

**“Access”** is the availability of or permission to use records.

**“Client”** is an individual who requests or receives services from ODVA.

**“Confidential Information”** is information of a private nature that is protected by law from public disclosure.

**“Disclosure”** means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

**“Rescind”** means to revoke, cancel, or repeal a law, order, or agreement, or to declare void; to take something (such as a rule or contract) out of effect. Example: The agency will rescind the policy because many people are

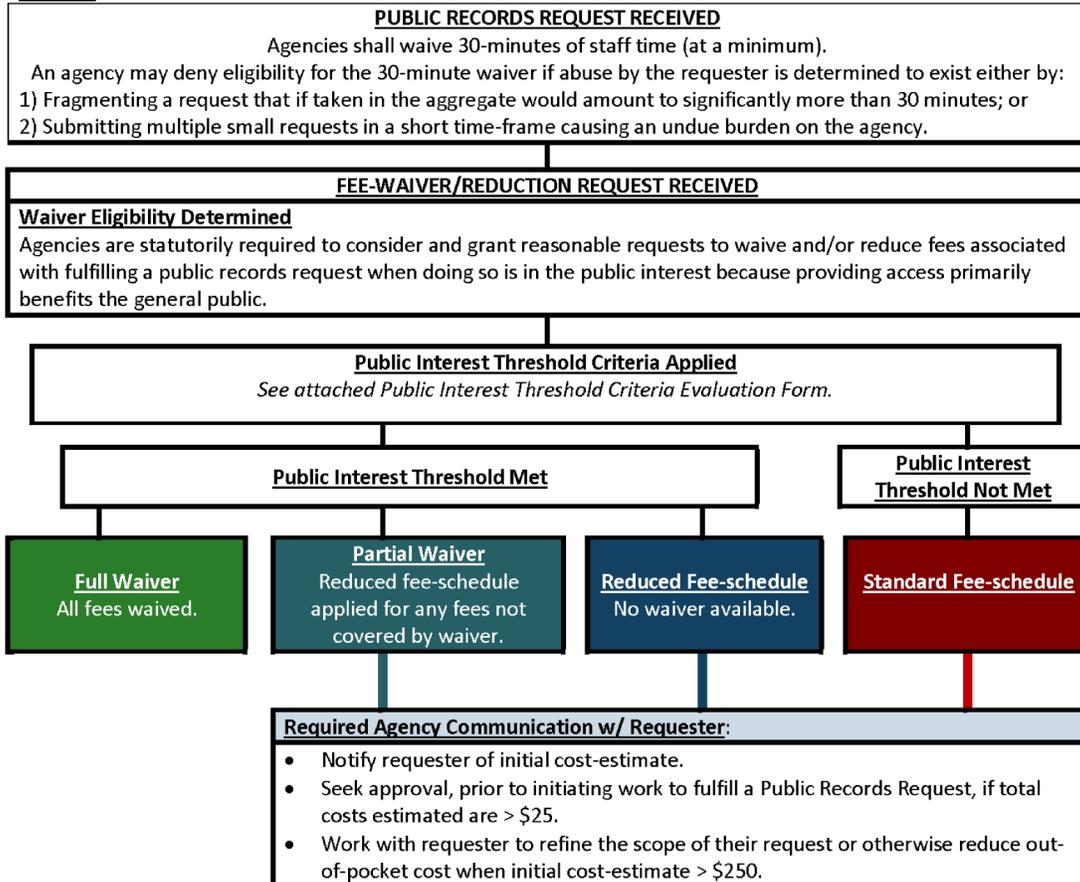
dissatisfied with it.

“**Supersede**” means to take the place of, as by reason of superior worth or right; or to set something aside. Example: A recently enacted statute that repeals an older law is said to supersede the prior legislation.

- Policy Security Level:** ODVA policies are designated as Data Classification Level 1 Published (SL1).
- Access Security Level:** The processes involved in implementing this policy are classified as SL1 Published.
- Records Retention:** ODVA Special Records Retention Schedule; State Archives State Agency General Records Retention Schedules.
- References:** 5 USC Section 552 Chapter 5 (Freedom of Information and Right to Privacy), 12 USC Section 3401 Chapter 35 (Financial Privacy Act), 42 CFR, Part II; ORS Chapter 192; OAR 166-306-010, OAR 274-020-0405, 274-020-0410, 274-020-0411; ORS 174.112; ORS 182.124; ORS 352.002; [Enrolled House Bill 4135](#)
- Forms:** *RM4011 Public Records Request*  
*RM4012 Public Interest Threshold Evaluation*  
*RM4013 Public Interest Fee Waiver or Reduction Request*
- Desk Manuals:** Internal processes and procedures that support compliance, deter abuse and detect violations of this policy may be included in written desk manuals for individual or program sections.

**Exhibit A: Statewide Standardized Fee-Structure Process Document**

**Process**





**Exhibit B: Statewide Standardized Fee-Schedule**

<b>Standard Fee-Schedule</b>
<p>Agencies shall waive a minimum of 30 minutes of staff time for all Public Records Requests after which fees may be assessed for additional staff time, applicable services and supplies required to fulfill a Public Records Request in accordance with the applicable fee-schedule below.</p> <p>The hourly rate charged for additional staff time will be based on the level of skill or expertise required to complete the work performed. Meaning, if work done to fulfill a request requires clerical-level skills, agencies may only charge the clerical hourly rate time spent on that portion of the work (as a <b>maximum</b>), even if a managerial-level or professional-level employee actually fulfills the request on behalf of the agency.</p> <p>Agencies will not charge for staff time spent witnessing records inspection when the estimated cost of making public records available for inspection is:</p> <ul style="list-style-type: none"> <li>• less than the cost of providing the requestor with a copy of the public record; or</li> <li>• insignificant (requested public records are readily accessible and do not require review, redaction or segregation).</li> </ul> <p>Fees will be charged for staff time required to redact exempt information from requested public records prior to release.</p>
<p><b>Staff time</b></p> <p>Fees for staff time required to fulfill a Public Records Request shall not exceed:</p> <ul style="list-style-type: none"> <li>➤ <b>\$25/hour for Clerical</b> (administrative, office specialists, other support staff)</li> <li>➤ <b>\$40/hour for Managerial</b> (Program managers, PIOs)</li> <li>➤ <b>\$75/hour for Professional</b> (IT, HR, High-level Analyst)</li> <li>➤ <b>DOJ, special attorney and other applicable legal fees:</b> at the actual hourly rate charged for Public Records Request-related services. Fees are subject to statutory limitations described in <a href="#">ORS 192.440(4)(b)</a>.</li> </ul> <p><b>Production of Responsive Records</b></p> <p>Fees generated by providing paper or electronic copies to requesters:</p> <ul style="list-style-type: none"> <li>➤ <b>Copies:</b> Based on current state printing and distribution price list.</li> <li>➤ <b>Media:</b> Based on statewide price-agreement with OfficeMax.</li> <li>➤ <b>Postage:</b> Based on current postal rates.</li> </ul> <p><b>Additional Cost Considerations</b></p> <p>Miscellaneous fees related to production and release of responsive records:</p> <ul style="list-style-type: none"> <li>➤ Expedited Archive retrieval</li> <li>➤ Costs of software companies/contracts (as needed to manage the volume of request)</li> <li>➤ Other 3<sup>rd</sup> party costs (in extreme circumstances)</li> </ul> <p><b>*This fee-structure does not apply to agency-specific records with established pre-set price per record (e.g. vital records, licenses, police reports; DMV motor-carrier fees, etc.) or fees assessed for notarized/certified copies of public records.</b></p>

**Exhibit C: Public Interest Fee-Waiver or -Reduction Request****Public Interest Threshold Evaluation Form****HOW TO USE THIS FORM:**

Agencies are statutorily required to consider and grant reasonable requests to waive and/or reduce fees associated with fulfilling a public records request when doing so is in the public interest because providing access primarily benefits the general public.

The Public Interest Threshold Evaluation provides agencies with standardized criteria to use when evaluating a request for a fee-reduction/waiver submitted by a public records requestor under ORS 192.440(5). Agencies shall consider each factor to determine whether the public interest in disclosure of the requested records warrants granting a fee-reduction/waiver.

All requests for a Public Interest Fee-Waiver or -Reduction will be evaluated on a case-by-case basis using information provided by the requestor as well as information independently available to the agency.

**ADDITIONAL GUIDANCE:**

- To adequately balance the State's obligation to be transparent and accessible with the obligation to prudently safeguard public funds and resources, fee-waivers and -reductions should be granted when the statutory standard has been met – when disclosure will primarily benefit the general public.
- A request to waive or reduce fees related to a public records request, that requires substantial agency resources to complete, may be denied if the interest of the general public would be better served by preserving agency resources.
- The public interest is not a fixed concept and the balance of public interest may change over time. It may shift as information becomes older or in the light of issues of the day. The circumstances at the time of the request will be considered.
- A genuine public interest in the subject matter of a request is required as the basis for granting a waiver. The public interest is not necessarily the same as what interests the public. The fact that a topic has been discussed in the media does not automatically mean that there is a public interest in disclosing the information that has been requested about it.
- This standardized fee-structure does not supersede, modify or replace the existing legal responsibilities of any state agency. Agencies must continue to meet obligations required by applicable laws, policies, procedures and standards including without limitation: State and Federal public records laws, privacy laws and regulations and fees for certain public records as defined in statute.

**Note:**

**Requests for fee-reduction or waiver will be evaluated on a case-by-case basis based on:**

- **The information provided by the requester; and**
- **The totality of circumstances at the time of the request.**

**Previous requests and evaluations will not be considered as part of the evaluation.**



**Exhibit C: Public Interest Fee-Waiver or -Reduction Request**

**Public Interest Threshold Evaluation Form**

<p><b>Reduced Fee-Schedule</b></p> <p>Agencies shall waive a minimum of 30 minutes of staff time for all public records requests after which fees may be assessed for additional staff time, applicable services and supplies required to fulfill a Public Records Request in accordance with the applicable fee-schedule below.</p> <p>The hourly rate charged for additional staff time will be based on the level of skill or expertise required to complete the work performed. Meaning, if work done to fulfill a request requires clerical-level skills, agencies may only charge the clerical hourly rate time spent on that portion of the work (<u>as a maximum</u>), even if a managerial-level or professional-level employee actually fulfills the request on behalf of the agency.</p> <p>Agencies will not charge for staff time spent witnessing records inspection when the estimated cost of making public records available for inspection is:</p> <ul style="list-style-type: none"> <li>• less than the cost of providing the requestor with a copy of the public record; or</li> <li>• insignificant (requested public records are readily accessible and do not require review, redaction or segregation).</li> </ul> <p>Fees will be charged for staff time required to redact exempt information from requested public records prior to release.</p>
<p><b>Staff time</b></p> <p>Fees for staff time required to fulfill a PRR shall not exceed:</p> <ul style="list-style-type: none"> <li>➤ <b>\$20/hour for Clerical</b> (administrative, office specialists, other support staff)</li> <li>➤ <b>\$32/hour for Managerial</b> (Program managers, PIOs)</li> <li>➤ <b>\$60/hour for Professional</b> (IT, HR, High-level Analyst)</li> <li>➤ <b>\$75/hour for DOJ, special attorney and other applicable legal fees.</b></li> </ul> <p><b>Production of Responsive Records</b></p> <p>Fees generated by providing paper or electronic copies to requesters:</p> <ul style="list-style-type: none"> <li>➤ <b>Copies:</b> Based on current state printing and distribution price list.</li> <li>➤ <b>Media:</b> Based on statewide price-agreement with OfficeMax.</li> <li>➤ <b>Postage:</b> Based on current postal rates.</li> </ul> <p><b>Additional Cost Considerations</b></p> <p>No additional cost considerations will be included in the invoiced amount passed on to the requester under this reduced fee structure.</p>
<p><b>*This fee-structure does not apply to agency-specific records with established pre-set price per record (e.g. vital records, licenses, police reports; DMV motor-carrier fees, etc.) or fees assessed for notarized/certified copies of public records.</b></p>

**Exhibit D: Statewide Reduced Fee-Schedule**

<p><b>Reduced Fee-Schedule</b></p> <p>Agencies shall waive a minimum of 30 minutes of staff time for all Public Records Requests after which fees may be assessed for additional staff time, applicable services and supplies required to fulfill a Public Records Request in accordance with the applicable fee-schedule below.</p> <p>The hourly rate charged for additional staff time will be based on the level of skill or expertise required to complete the work performed. Meaning, if work done to fulfill a request requires clerical-level skills, agencies may only charge the clerical hourly rate time spent on that portion of the work (as a maximum), even if a managerial-level or professional-level employee actually fulfills the request on behalf of the agency.</p> <p>Agencies will not charge for staff time spent witnessing records inspection when the estimated cost of making public records available for inspection is:</p> <ul style="list-style-type: none"> <li>• less than the cost of providing the requestor with a copy of the public record; or</li> <li>• insignificant (requested public records are readily accessible and do not require review, redaction or segregation).</li> </ul> <p>Fees will be charged for staff time required to redact exempt information from requested public records prior to release.</p>
<p><b>Staff time</b></p> <p>Fees for staff time required to fulfill a Public Records Request shall not exceed:</p> <ul style="list-style-type: none"> <li>➤ <b>\$20/hour for Clerical</b> (administrative, office specialists, other support staff)</li> <li>➤ <b>\$32/hour for Managerial</b> (Program managers, PIOs)</li> <li>➤ <b>\$60/hour for Professional</b> (IT, HR, High-level Analyst)</li> <li>➤ <b>\$75/hour for DOJ, special attorney and other applicable legal fees.</b></li> </ul> <p><b>Production of Responsive Records</b></p> <p>Fees generated by providing paper or electronic copies to requesters:</p> <ul style="list-style-type: none"> <li>➤ <b>Copies:</b> Based on current state printing and distribution price list.</li> <li>➤ <b>Media:</b> Based on statewide price-agreement with OfficeMax.</li> <li>➤ <b>Postage:</b> Based on current postal rates.</li> </ul> <p><b>Additional Cost Considerations</b></p> <p>No additional cost considerations will be included in the invoiced amount passed on to the requester under this reduced fee structure.</p>
<p><b>*This fee-structure does not apply to agency-specific records with established pre-set price per record (e.g. vital records, licenses, police reports; DMV motor-carrier fees, etc.) or fees assessed for notarized/certified copies of public records.</b></p>