

FOIA Appeal: Imposition of FOIA Fees on Requester

Legal Opinion: GMP-0062

Index: 7.220

Subject: FOIA Appeal: Imposition of FOIA Fees on Requester

March 25, 1992

Mr. Robert C. Schmults  
The Heritage Foundation  
214 Massachusetts Avenue, N.E.  
Washington, D.C. 20002-4999

Dear Mr. Schmults:

This is in response to your Freedom of Information Act (FOIA) appeal dated March 6, 1992. You appeal the imposition of a FOIA fee of \$18.60 for your FOIA request by the Executive Secretariat in a letter to you dated March 5, 1992. You state that, at no time, did the Department inform you that there would be a fee for your request.

I have determined to reverse the decision of the Executive Secretariat to charge you a FOIA fee for your request.

The Department's regulations, at 24 C.F.R. 15.14, provide for FOIA fee charges for search time and duplication. The Department is not required to notify requesters of the imposition of a FOIA fee unless it is anticipated that the fee will exceed \$25.00. See 24 C.F.R. 15.18(c).

The Department's regulations also provide that a requester, other than a commercial requester, is entitled to two hours of free search time and 100 pages of free duplication. 24 C.F.R. 15.15. You state in your appeal that your request for the information is for a research project of the Heritage Foundation. Therefore, you are entitled, as a noncommercial requester, to the free levels of charges and we will not charge you for the one hour of search time and the one page of duplication for your request.

Very sincerely yours,

C.H. Albright, Jr.  
Principal Deputy General Counsel

cc: Yvette Magruder