

Records Available on the Public Body's Website

Public bodies have been frustrated by the need to provide a FOIA requester with copies (electronic or paper) of records which are available on its website. Now, pursuant to the Act, if requested records are maintained on the public body's website, it is lawful for a public body to respond to a FOIA request by stating that the requested records are available online and directing the requester to the website where the record can be accessed. If the requester is unable to access the records online after being directed to the website, he/she can resubmit the request and the public body will have to make the requested records available for inspection or copying.

"Voluminous Request" Defined

A "voluminous request" means a request that: (1) includes more than 5 individual requests for more than 5 different categories of records; or (2) includes a combination of individual requests for more than 5 different categories of records in a period of 20 business days; or (3) requires the compilation of more than 500 letter or legal-sized pages of public records, unless a single requested record exceeds 500 pages (i.e., one report, form, book, etc.). 5 ILCS 140(2)(h). The "voluminous request" designation cannot be extended to a request made by the news media and non-profit, scientific, or academic organizations, provided the principal purpose of the request is to access and disseminate information concerning news and events, for articles of opinion or features of interest to the public, or for the purpose of academic, scientific or public research or education.

A requester may seek review by the PAC of a public body's designation of a request as a "voluminous request".

Responding to a "Voluminous Request"

First Timeframe

Within the first 5 business days after receipt of a "voluminous request", the public body must issue an initial response notifying the requester that:

- 1) the public body is treating the request as a "voluminous request";
- 2) the reasons for "voluminous request" designation;
- 3) the requester has 10 business days from the date the initial response was sent to specify whether he/she would like to amend the request so that it is no longer a "voluminous request";
- 4) if the requester does not reply within 10 business days, or if the request continues to be a "voluminous request", the public body will respond and assess any fees as permitted by FOIA Section 6;
- 5) the public body has 5 business days after receipt of the requester's reply or, if no reply, 5 business days from the last day for the requester to amend his/her request, to respond;
- 6) the public body may request an additional 10 business days[1]
- 7) the requester has the right to ask the PAC to review the public body's "voluminous request" designation, and provide the address and phone number for the PAC; and

8) if the requester fails to accept or collect the responsive records, the public body may still charge the requester for its response pursuant to FOIA Section 6, and failure to pay will be considered a debt due and owing to the public body, which may be collected in accordance with applicable law.

Second Timeframe

If after issuing the public body's initial response there is no reply from the requester, or there is a reply but the request continues to be a "voluminous request", the public body must respond within 5 business days after receiving the requester's reply or expiration of the time for the requester's reply (whichever is earlier) by:

providing an estimate of the fees to be charged for the responsive records, which the public body may require to be paid in full before copying the records;
denying the request in whole or in part pursuant to one or more of the exemptions set forth in FOIA Sections 7 and/or 7.5;
notifying the requester that the request is unduly burdensome and extend an opportunity for the requester to narrow the request;
extending the timeframe for response by 10 business days; or
providing the requested records.

Fees for Responding to a "Voluminous Request"

Electronic Records

The law now provides a fee schedule for providing electronic records in response to a "voluminous request". The fees are dependent upon whether the electronic records are in PDF, and are as follows:

\$20 for not more than 2 megabytes of data (if not in PDF), or not more than 80 megabytes of data (if in PDF);
\$40 for 2 to 4 megabytes of data (if not in PDF), or 80 to 160 megabytes of data (if in PDF); or
\$100 for more than 4 megabytes (if not in PDF), or more than 160 megabytes of data (if in PDF).

If the responsive records are a combination of both PDF and non-PDF documents, the public body can separate the fees and charge under both schedules.

Personnel Hours for Search and Redaction

When responding to a "voluminous request", a public body may now charge the requester up to \$10 per hour spent by personnel in searching for and retrieving requested records, or examining the records for necessary redactions. Please note, however, that the first 8 hours of any search/retrieval efforts must be provided for free.

If a public body imposes any fee for responding to a "voluminous request", it must provide the requester with an accounting of all fees, costs and personnel hours.