

FOIA FEES SUBCOMMITTEE STATUS

OCTOBER 17, 2014

- Meeting was held on October 15, 2014, from 1:30 PM to 3:00 PM, at the offices of EPIC in Washington, DC.
- Members in attendance were co-chairs Jim Hogan and Ginger McCall, Karen Finnegan, and Ramona Oliver and Maggie Mulvihill (the last two by telephone). Christa Lemelin, the Designated Federal Official (DFO), also attended.
- The four agenda areas were the potential fee issues as perceived, including any fee animosity; avenues to gather data to further define the issues; relevancy of how other countries handle fee issues in their open access laws; and the subcommittee's end product.
- It was the consensus of the subcommittee that there are fee-related issues among FOIA requesters and FOIA government officers that are causing some animosity. Some of the issues include lack of understanding by fee-related requirements by FOIA officers of the Act and relevant case law; lack of consistency in fee related decisions; and voluminous and/or vague requests.
- The importance of gaining some empirical evidence was discussed; however, due to rules on the Federal government collecting data from the public, it was recognized that this may be a difficulty. The DFO said that she would discuss this issue with relevant NARA authorities.
- Certain aspects of fee related issues in the open government laws of Canada, Australia, New Zealand, and the U.K. were discussed.
- The subcommittee is considering two potential end products; the first would be some type of guidance to agency FOIA officers defining some FOIA fee related terms that are commonly misunderstood, and the second would be a legislative proposal presented to OGIS for consideration.
- For the next meeting, some members of the subcommittee are exploring case law, agency regulations, and other sources for current definitions of a variety of categories and other FOIA fee related issues, and other members are during further research on what other countries are doing with fee related issues.
- The next meeting will again be at EPIC's offices, probably in early December, 2014.