

MICHIGAN STATE UNIVERSITY

DATE: August 31, 2020

TO: Jarrett Skorup
Director of Marketing and Communications
Mackinac Center for Public Policy
skorup@mackinac.org

FROM: Rebecca Nelson, Director and Freedom of Information Act (FOIA) Officer
Michigan State University FOIA Office

Rebecca Nelson

SUBJECT: FOIA Fee and Deposit Notice Follow-up -- Record Volume Update

On June 26, 2020, you emailed a FOIA request to this Office for "Any emails to or from the president of Michigan State University that mention 'Hsu' from Feb. 1, 2020 to June 26, 2020." On July 20th, in response to our July 7th \$230.00 fee estimate, this Office received a \$115.00 fee deposit for the processing of your request.

The searching for and gathering of records responsive to your request has concluded, and the volume of those records is significantly greater than estimated. Record review to separate information exempt from public disclosure under the Michigan Freedom of Information Act (MIFOIA), from that which is not exempt, has begun. The foregoing processing has reached the initial six hour estimate, and hundreds of pages of emails have yet to be reviewed. Given that fees incurred have reached the initial \$230.00 estimate, we write to ask if you wish to proceed with the processing of your request, or halt the processing and receive only the records reviewed thus far. If you wish to halt the processing of your request, please advise us in writing, and we will finalize the records reviewed to date, and send them to you along with an invoice billing you for the balance of fees owed.



FREEDOM OF INFORMATION ACT OFFICE

**Michigan State
University**

408 West Circle Drive
Room 1 Olds Hall
East Lansing, MI 48824
517-353-3929
Fax: 517-353-1794
foia@msu.edu
<http://foia.msu.edu>

If, instead, you wish to pursue the processing of all of the remaining records you seek, the following estimate is provided. Completing the processing of your request will involve significant labor; we estimate upwards of eleven (11) hours will be required, incurring fees likely to exceed \$350.00; this is in addition to the initial \$230.00 fee estimate, and the fees incurred to date. In completing the processing of your request, fees will not be waived since failure to charge same would result in unreasonably high costs to the University. An itemization of this estimate accompanies this letter. This serves as an approximation only, and does not guarantee or limit the final, total fees which may be incurred and assessed. Therefore, pursuant to Section 4(2) of the MIFOIA, we require that you remit an additional deposit prior to our completing the processing of your request. Should you remit the required deposit, we anticipate responding on or before eight weeks (8) from the date the deposit is received.

If you wish to pursue the processing of all records responsive to your request, and pay the fees incurred, please send a check made payable to "Michigan State University" in the amount of \$175.00 to the Freedom of Information Act Office, 408 West Circle Drive, Room 1 Olds Hall. The University will not complete the processing of the remaining records you seek until a deposit is received by our Office. Moreover, Section 4(14) of the MIFOIA requires that the deposit be received no later than Monday, October 19, 2020, or your request pertaining to the remaining records will be considered abandoned, and processing of it no longer required. Should you have any questions regarding fees, please contact us. Pursuant to Section 4(4) of the MIFOIA, the University's procedures and guidelines for processing MIFOIA requests can be found at <http://foia.msu.edu>.

Attachment
MSUF035320

MSU FOIA FEE ESTIMATE ITEMIZATION FORM -- August 31, 2020 -- Skorup FOIA Request MSUF035320 -- follow-up; additional fee estimate

| Category of Costs/Description | Hourly Wage | Benefits % Multiplier Used | Hourly Wage with Benefits | Estimated Time (Hours) | Amount |
|--|-------------|----------------------------|---------------------------|------------------------|----------|
| 4 (1) (a) Searching for, locating and examining responsive records [Shall not charge more than the hourly wage of lowest-paid employee capable of searching for, locating and examining the public records in the particular instance regardless of whether that person is available or who actually performs the labor; labor costs shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.] | | | | | |
| 4 (1) (b) Review directly associated with the separating and deleting of exempt from nonexempt information [For services performed by an employee of the public body, the public body shall not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14, regardless of whether that person is available or who actually performs the labor. If a public body does not employ a person capable of separating and deleting exempt information from nonexempt information as determined by the public body's FOIA coordinator, it may treat necessary contracted labor costs used for the separating and deleting of exempt information from nonexempt information in the same manner as employee labor costs if it clearly notes the name of the contracted person or firm on this itemization. Total labor costs calculated under this subdivision for contracted labor costs shall not exceed an amount equal to 6 times the state minimum hourly wage rate. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.] | \$21.29 | 40% | \$29.81 | 11.75 | \$350.27 |
| 4 (1) (c) Nonpaper physical media costs [The actual and most reasonably economical cost of the computer discs, computer tapes, or other digital or similar media. The requestor may stipulate that public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided in lieu of paper copies. This subdivision does not apply if public body lacks the technological capability necessary to provide records on the particular nonpaper physical media stipulated in the particular instance.] | | | | | |
| 4 (1) (d) Cost of paper copies [Actual total incremental cost of necessary duplication or publication, not including labor. The cost of paper copies shall be calculated as a total cost per sheet of paper, itemized to show both cost per sheet and number of sheets provided. The fee shall not exceed 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. A public body shall utilize the most economical means available, including double-sided printing, if cost saving and available.] | | | | | |
| 4 (1) (e) Duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on nonpaper physical media or through the internet or other electronic means as stipulated by the requestor [Shall not charge more than the hourly wage of lowest-paid employee capable of necessary duplication or publication in the particular instance, regardless of whether that person is available or who actually performs the labor.; labor costs under this subdivision shall be estimated and charged in time increments of the public body's choosing, with all partial time increments rounded down.] | | | | | |
| 4 (1) (f) Cost of mailing [Actual cost of mailing, for sending the public records in a reasonably economical and justifiable manner; shall not charge more for expedited shipping or insurance unless stipulated by requestor, but may charge for the least expensive form of postal delivery confirmation when mailing public records.] | | | | | |

ESTIMATE TOTAL **\$350.27**

REQUIRED **\$175.00**

When calculating labor costs under (1) (a), (b) or (e), fee components shall be itemized in a manner that expresses both the hourly wage and the number of hours charged. The public body may also add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used. Subject to the 50% limitation, the public body shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted in this detailed itemization.