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M A N U A L

IN ACCORDANCE WITH

THE PROMOTION OF ACCESS TO INFORMATION ACT (NO. 2 OF 2000)

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INDEX

Company Name	Gazette No.	Date	Page No.
Public Service Commission Manual	37647	16-05-2014	3



PUBLIC SERVICE COMMISSION

SECTION 14 MANUAL

**In terms of Section 14 of the Promotion of Access to
Information Act, 2000 (Act No. 2 of 2000)**

TABLE OF CONTENTS	PAGE
1. CONSTITUTIONAL MANDATE OF THE PUBLIC SERVICE COMMISSION	1
1.1 Function and powers of the PSC	1
1.2 Key Performance Areas	2
2. STRUCTURE OF THE PSC	2
2.1 Background.....	2
2.2 Members of the PSC	3
2.3 Organisational Structure	3
3. CONTACT DETAILS OF THE INFORMATION OFFICER AND DEPUTIES	4
4. GUIDE OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION ON HOW TO USE THE ACT	6
5. ACCESS TO RECORDS	6
5.1 Description of the subjects/categories on which the PSC holds records	6
5.2 Voluntary disclosure and records automatically available.....	7
5.3 Request procedure	8
6. SERVICES AVAILABLE TO THE PUBLIC AND HOW TO ACCESS THEM	9
6.1 Services	9
6.2 How to gain access to services	9
7. ARRANGEMENT ALLOWING FOR PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY AND PERFORMANCE OF DUTIES	10
7.1 Informing policy and legislation	10
8. REMEDIES AVAILABLE IN RESPECT OF ACTS OR FAILURES TO ACT	11
8.1 Procedures for reporting	11
8.2 Other supportive remedies	12
8.3 Duty to report.....	12
9. UPDATING OF THE MANUAL	12
10. AVAILABILITY OF THE MANUAL	12
Annexure A: REQUEST FORM.....	13
Annexure B: SCHEDULE OF FEES.....	16

1. CONSTITUTIONAL MANDATE OF THE PUBLIC SERVICE COMMISSION

The Public Service Commission (PSC) is an independent institution established in terms of Chapter 10 of the Constitution. It derives its mandate from sections 195 and 196 of the Constitution, 1996, which sets out the values and principles governing public administration which should be promoted by the PSC, as well as the powers and functions of the PSC. The PSC is required by the Constitution to exercise its powers and to perform its functions without fear favour or prejudice. The Constitution links the PSC's independence firmly with its impartiality and no organ of state may interfere with the functioning of the PSC.

The PSC is vested with custodial oversight responsibilities for the Public Service and monitors, evaluates and investigates public administration practices. It also has the power to give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles in Section 195 of the Constitution. The PSC is accountable to the National Assembly and must annually report to the National Assembly on its activities and performance, and to provincial legislatures on its activities in a province.

1.1 Function and powers of the PSC

In terms of Section 196 (4) of the Constitution, 1996, the functions and powers of the PSC are:

- a. to promote the values and principles set out in Section 195, throughout the Public Service;
- b. to investigate, monitor and evaluate the organisation and administration, and the personnel practices of the Public Service;
- c. to propose measures to ensure effective and efficient performance within the Public Service;
- d. to give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in section 195;
- e. to report in respect of its activities and the performance of its functions, including any findings it may make and directions and advice it may give, and to provide an evaluation of the extent to which the values and principles set out in section 195 are complied with;
- f. either of its own accord, or on receipt of any complaint-
 - i. to investigate and evaluate the application of personnel and public administration practices and to report to the relevant executive authority and legislature;
 - ii. to investigate grievances of employees in the Public Service concerning official acts or omissions and to recommend appropriate remedies;
 - iii. to monitor and investigate adherence to applicable procedures in the Public

- Service; and
- iv. to advise national and provincial organs of state regarding personnel practices in the Public Service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the Public Service; and
- g. to exercise or perform the additional powers or functions prescribed by an Act of Parliament.

1.2 Key Performance Areas

The work of the PSC is structured around the following six key performance areas:

- Labour relations improvement
- Leadership and human resource reviews
- Governance monitoring
- Service delivery and compliance evaluation
- Public administration investigations
- Professional ethics.

2. STRUCTURE OF THE PSC

2.1 Background

The PSC is established in terms of Section 196 of the Constitution of the Republic of South Africa, 1996. The Constitution stipulates that there is a single PSC for the Republic of South Africa, consisting of 14 members, five of which are appointed by the President on the recommendation of the National Assembly. One member is appointed from each of the nine provinces, after nomination by the Premier of the province on the recommendation of a committee of the Provincial Legislature. The members are referred to as Commissioners. Five of the Commissioners are based at the PSC's head office in Pretoria while the remaining nine are based in their respective provinces. A Commissioner is appointed for a term of five years, which is renewable for one additional term. The PSC is headed by a Chairperson, who also serves as the Executive Authority. The Chairperson is appointed by the President from the nominated Commissioners.

The PSC is accountable to the National Assembly and must annually report to the National Assembly on its activities and performance, and to provincial legislatures on its activities in a province.

The PSC is supported by the Office of the Public Service Commission (OPSC), with its Head

Office in Pretoria and provincial offices in each province. The OPSC is headed by a Director-General, who also serves as the Accounting Officer. The staff members of the OPSC are appointed in terms of the Public Service Act of 1994.

2.2 Members of the PSC

The President designates one Commissioner as Chairperson and another as Deputy Chairperson of the PSC. The following are members of the PSC:

- Mr BM Mthembu (Chairperson)
- Ms PM Tengen (Deputy Chairperson and Commissioner, KwaZulu-Natal)
- Ms SS Nkosi (Commissioner, Head Office)
- Ms PC Nzimande (Commissioner, Head Office)
- Ms LV Sizani (Commissioner, Head Office)
- Adv RK Sizani (Commissioner, Head Office)
- Mr S Mafanya (Commissioner, Eastern Cape)
- Mr P Helepi (Commissioner, Free State)
- Mr MH Seloane (Commissioner, Gauteng)
- Mr MZ Mawasha (Commissioner, Limpopo)
- Mr DS Mkhwanazi (Commissioner, Mpumalanga)
- Ms MA Marais-Martin (Commissioner, Northern Cape)
- Ms MD Sejosingoe (Commissioner, North West)
- Dr GG Woods (Commissioner, Western Cape).

2.3 Organisational Structure

The organisational structure of the PSC is designed according to its key performance areas and its activities are organised in the following programmes:

Programme 1: Administration

The programme provides overall management of the PSC and centralised support services.

The programme is divided into the following three sub-programmes:

- Public Service Commission
- Management
- Corporate Services.

Programme 2: Leadership and Management Practices

The programme promotes sound Public Service leadership, human resource management, labour relations and labour practices.

The programme is divided into the following two sub-programmes:

- Labour Relations Improvement
- Leadership and Human Resource Reviews.

Programme 3: Monitoring and Evaluation

The programme is responsible for establishing a high standard of service delivery, monitoring and good governance in the Public Service.

The programme is divided into the following two sub-programmes:

- Governance Monitoring
- Service Delivery and Compliance Evaluations.

Programme 4: Integrity and Anti-Corruption

The programme is responsible for undertaking public administration investigations, promoting a high standard of professional ethical conduct amongst public servants and contributing to the prevention and combating of corruption.

The programme is divided into the following two sub-programmes:

- Public Administration Investigations
- Professional Ethics.

3. CONTACT DETAILS OF THE INFORMATION OFFICER AND DEPUTIES

In terms of the Promotion of Access to Information Act, the Director-General of the OPSC, Prof Richard M Levin is the Information Officer. His contact details are as follows:

Tel: (012) 352 1025

Fax: (012) 325 8322

E-mail: richardl@opsc.gov.za

Public Service Commission

The Deputy Information Officers are:

Ms Bontle Lerumo

Deputy Director-General: Corporate Services

Tel: (012) 352 1194

Fax: (086) 647 9689

E-mail: bontlel@opsc.gov.za

Dr Dovhani Mamphiswa

Deputy Director-General: Integrity and Anti-Corruption

Tel: (012) 352 1205

Fax: (086) 647 9773

E-mail: dovhanim@opsc.gov.za

Ms Mmathari Mashao

Chief Director: Labour Relations Improvement

Tel: (012) 352 1012

Fax: (086) 647 6066

E-mail: mmatharim@opsc.gov.za

Mr Humphrey Ramafoko

Director: Communication and Information Services

Tel: (012) 352 1196

Fax: (012) 325 8344

E-mail: humphreyr@opsc.gov.za

Deputy Directors-General: Leadership and Management Practices, and Monitoring and Evaluation - *vacant at the time of submission of the manual.*

Postal Address:

Private Bag X121

Pretoria

0001

Physical Address (Head Office):

Commission House

Corner Hamilton and Ziervogel Streets

Arcadia

0083

Public Service Commission

Tel: (012) 352 1000

Fax: (012) 325 8344

Website: www.psc.gov.za

4. GUIDE OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION ON HOW TO USE THE ACT

The guide on how to use the Promotion of Access to Information Act, 2000 is available from the South African Human Rights Commission. Enquiries can be directed to:

South African Human Rights Commission
Promotion of Access to Information (PAIA) Unit
The Research and Documentation Department
Private Bag x2700
Houghton
2041

Tel: (011) 877 3600

Fax: (011) 403 0682

E-mail: PAIA@sahrc.org.za

Website: www.sahrc.org.za

5. ACCESS TO RECORDS

5.1 Description of the subjects/categories on which the PSC holds records

The following are the selected subjects/categories on which the PSC holds records:

- Annual Reports
- Annual Reports to Citizens
- Asset registers
- Audits and investigations into public administration practices
- Budgets
- Contracts with suppliers
- External newsletters and magazines
- Factsheets
- Financial disclosures of members of the Senior Management Service
- Financial statements
- Grievance reports

- Guidelines and protocol documents
- Information relating to training of staff
- Internal newsletters
- Judge White records
- Medium Term Expenditure Framework
- Memoranda of Understanding
- Minutes of meetings
- National Anti-Corruption Hotline case reports
- Papers presented
- Personnel files
- Policies
- Posters
- Presentations
- PSC published reports
- Records of workshops and conferences
- Service Charter
- Service Delivery Improvement Plans
- Strategic Plans
- Tender documents received from the suppliers, after the tender has been awarded
- Workplans.

5.2 Voluntary disclosure and records automatically available

Section 15 Automatically Available Records Notice of the PSC is updated on an annual basis and is available on the PSC website (www.psc.gov.za). The PSC's Section 15 Notice gives access to among others, all PSC reports that have been published and tabled in Parliament, as well as all the other records on the PSC website, without a person having to make a request in terms of the said Act.

It should be noted that certain province and department-specific reports that were compiled by the PSC are available from the respective provinces and departments and not the PSC. In addition, the Annual Report of the PSC, newsletters/magazines, posters, and pamphlets, are automatically available from the Directorate: Communication and Information Services (D: CIS) by contacting Mr Ben de Villiers at Tel: (012) 352 1059 or E-mail: bend@opsc.gov.za. A detailed list of easily accessible documents is contained in the Section 15 Notice referred to above.

5.3 Request procedure

5.3.1 Granting or refusal of request:

A requester must be given access to a record of a public body if the requester complies with the following:

- The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and
- Access to that record is not refused on any ground of refusal mentioned in the Act.

5.3.2 How does one request access to records

- A requester must use the form (**Annexure A**) that was published in the Government Gazette, Government Notice R187 of 15 February 2002.
- The requester must indicate if he/she wants a copy of the record or if he/she wants to visit the PSC offices to view the record. Alternatively, if the record is not a paper document, it can then be viewed in the requested format, where possible.
- If a person asks for access in a particular format (e.g. a paper copy, electronic copy, and so forth) the requester should obtain access in that format, unless doing so would interfere unreasonably with the running of the public body concerned (PSC), or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required format but in another format, then the fee must be calculated according to the way that the requester first asked for it.
- If, in addition to a written reply to their request for the record, the requester wants to be informed about the decision in any other way, e.g. telephone, this must be indicated.
- If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made must be indicated.

5.3.3 Fees payable

- A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester must pay the request fee of R35 (payable to public bodies).
- The Information Officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed request fee (if any) and deposit (if any) before further processing the request.

- The requester may lodge an internal appeal, where appropriate, or an application to the court against the bid or payment of the request fee.
- After the Information Officer has made a decision on the request, the requester must be notified of such a decision in the way in which the requester would like to be notified in.
- If the request is granted a further access fee must be paid for the reproduction and for search and preparation for any time required in excess of stipulated hours to search and prepare the record for disclosure.
- Access to a record will be withheld until the requester has paid all the applicable fees.

A schedule of fees is attached as **Annexure B**.

5.3.4 Disadvantaged requesters

- If a requester is unable to read or write, or has a disability, the request for the record can be made orally. The Information Officer or Deputy Information Officer must complete the form on behalf of such a requester and provide them with a copy of the completed form.
- An individual who cannot read or write can request access to information using the telephone numbers provided in the manual.
- If a requester is unemployed and requests access to information which requires payment, the fees will be waived.

6. SERVICES AVAILABLE TO THE PUBLIC AND HOW TO ACCESS THEM

6.1 Services

The PSC does not offer services directly to the public. As such, our clients are the National Assembly, Provincial Legislatures, government departments and public institutions/organisations. However, certain information about the Public Service, for instance, the National Anti-Corruption Hotline (0800 701 701) for the Public Service can be obtained from the D: CIS by contacting Mr Ben de Villiers at Tel: (012) 352 1059 or E-mail: bend@opsc.gov.za. The public has access to the Hotline which is managed by the PSC.

6.2 How to gain access to services

Clients of the PSC can gain access to its services by making a request to:

Public Service Commission

The Director-General: Office of the Public Service Commission

Prof Richard M Levin

Tel: (012) 352 1025

Fax: (012) 325 8322

E-mail: richardl@opsc.gov.za

Website: www.psc.gov.za

Postal Address:

Private Bag X121

PRETORIA

0001

Physical Address:

Commission House

Corner Hamilton and Ziervogel Streets

ARCADIA

0083

7. ARRANGEMENT ALLOWING FOR PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY AND PERFORMANCE OF DUTIES

7.1 Informing policy and legislation

The mandate of the PSC is to monitor and evaluate Public Service programmes with the purpose of providing advice and, where necessary, conduct investigations to explore ways to improve service delivery in the Public Service. Although the PSC is not directly involved in policy-making, through its programmes around community consultation and performance assessment it provides a platform for communities to have a direct say in how they want policies to be structured. Examples of such programmes include amongst others, the Citizen Satisfaction Surveys which assess the effectiveness of service delivery from the perspective of citizens who are the users of the particular service. The research conducted by the PSC is also used to inform policy and legislation making processes.

The PSC also drafts rules or guidelines that are aimed at improving governance and/or service delivery within the Public Service. At times existing rules and guidelines/policies are reviewed to fit in with the operational/structural changes within the Public Service.

8. REMEDIES AVAILABLE IN RESPECT OF ACTS OR FAILURES TO ACT

The following procedures exist for citizens to report or remedy alleged irregular, improper or unlawful official acts or omissions by the PSC or any of its employees.

8.1 Procedures for reporting

- 8.1.1 Remedies in respect of acts or failures to act in terms of the Promotion of Access to Information Act: The internal appeal authority for purposes of this Act is the Chairperson of the PSC (sections 74 – 77 of the Promotion of Access to Information Act). After exhausting the internal appeal remedy, an application may be lodged with a court (sections 78 – 82 of the Promotion of Access to Information Act).
- 8.1.2 A Public Service employee may lodge a grievance or complaint for investigation by the PSC concerning an official act or omission (Section 35 of the Public Service Act, 1994). Rules on how to lodge such a complaint/grievance were published in Government Gazette 23635 of 19 July 2002 and are accessible on the PSC website (www.psc.gov.za).
- 8.1.3 A person may use labour remedies regarding official acts or omissions of a labour nature, namely disputes of rights (the Public Service Act, 1994, and Labour Relations Act, 1995).
- 8.1.4 A person may lodge a complaint with a labour inspector concerning any alleged contravention of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997 - Section 78 (1)(a)), or the Employment Equity Act, 1998 (Act No. 55 of 1998 - Section 34 (e)).
- 8.1.5 A person may lodge a complaint with the Public Protector concerning a suspected unlawful or improper official act or omission (as outlined in the Constitution and the Public Protector Act, 1994 (Act No. 23 of 1994)).
- 8.1.6 A person may lodge a complaint with the South African Human Rights Commission concerning an official act or omission that is suspected to constitute a violation of or threat to any fundamental right (as per the Human Rights Commission Act, 1994 (Act No. 54 of 1994)).
- 8.1.7 In order to be protected from reprisals because of a disclosure regarding unlawful

Public Service Commission

or irregular conduct by an employer or a fellow employee, the person in question may follow the disclosure procedures in the Protected Disclosures Act, 2000 (Act No. 26 of 2000).

8.1.8 The use of other legal remedies such as the institution of proceedings for the judicial review of an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

8.2 Other supportive remedies

- A person may request reasons for an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (Section 5).
- A person may request access to records of a government department or other public body in terms of the Promotion of Access to Information Act, 2000 (Section 11).

8.3 Duty to report

- A Public Service employee, in the course of his or her official duties, is obliged in terms of the Code of Conduct for the Public Service to report to the appropriate authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes an offence or which is prejudicial to the public interest. An employee, who fails to comply with this, is guilty of misconduct as outlined in Regulation B.3 and C.4.10 of Chapter 2 of the Public Service Regulations, 2001.
- The responsibility of every employer and employee to disclose criminal and any other irregular conduct in the workplace also underpins the Protected Disclosures Act, 2000 (Preamble).

9. UPDATING OF THE MANUAL

The PSC will, if necessary, update and publish its manual referred to in subsection (1) of Section 14, at intervals of not more than a year.

10. AVAILABILITY OF THE MANUAL

This manual is available in at least three of the official languages in the following manner:

- Submitted to the South African Human Rights Commission
- Obtainable at all PSC offices
- Posted onto the PSC website, www.psc.gov.za
- Published in the Government Gazette.

ANNEXURES:**Annexure A: REQUEST FORM**

REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY
 (Section 18(1) of the Promotion of Access to Information Act, 2000)

(Act No. 2 of 2000)

[Regulation 6]

FOR DEPARTMENTAL USE

Reference number:

Request received by

name and surname of information officer/deputy information officer on

(date) at

(place)

Request fee (if any): R.....

Deposit (if any): R

Access fee: R.....

.....
 Signature of Information Officer/Deputy Information Officer

A. Particulars of public body

The Information Officer/Deputy Information Officer:

B. Particulars of person requesting access to the record

- (a) *The particulars of the person who requests access to the record must be given below.*
- (b) *The address and/or fax number in the Republic to which the information is to be sent, must be given.*
- (c) *Proof of the capacity in which the request is made, if applicable, must be attached.*

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

E-mail address:

Public Service Commission

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

D. Particulars of record

- (a) *Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*
- (b) *If the provided space is inadequate, please continue on a separate folio and attach it to this form.*

The requester must sign all the additional folios.

- 1 Description of record or relevant part of the record:
- 2 Reference number, if available:
- 3 Any further particulars of record:

E. Fees

- (a) *A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.*
- (b) *You will be notified of the amount required to be paid as the request fee.*
- (c) *The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.*
- (d) *If you qualify for exemption of the payment of any fee, please state the reason for exemption.*

Reason for exemption from payment of fees:

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability:

Form in which record is required:

Mark the appropriate box with an X.

NOTES:

- (a) Compliance with your request for access in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

Public Service Commission

1. If the record is in written or printed form:			
	copy of record*		inspection of record
2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc):			
	view the images		transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound:			
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)
4. If record is held on computer or in an electronic or machine-readable form:			
	printed copy of record'		copy in computer readable form* (stiffy or compact disc)
*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.			YES NO
Note that <i>if</i> the record is not available in the language you prefer, access may be <i>granted</i> in the language in <i>which</i> the record is available.			
In which language would you prefer the record?			

G. Notice of decision regarding request for access

You will be notified whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

Signed at thisday of.....20

SIGNATURE OF REQUESTER/PERSON ON
WHOSE BEHALF REQUEST IS MADE

Annexure B: SCHEDULE OF FEES

1. The fee for a copy of the manual as contemplated in regulation 5(c) is R0, 60 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 7(1) are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	0, 60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0, 40
(c) For a copy in a computer-readable form on -	
(i) Stiffy disc	5, 00
(ii) Compact disc	40, 00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	22, 00
(ii) For a copy of visual images	60, 00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	12, 00
(ii) For a copy of an audio record	17, 00
3. The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) is R35, 00.
4. The access fees payable by a requester referred to in regulation 7(3) are as follows:

	R
(1) (a) For every photocopy of an A4-size page or part thereof	0,60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form	0,40
(c) For a copy in a computer-readable form on -	
(i) Stiffy disc	5, 00
(ii) Compact disc	40, 00
(d)(i) For a transcription of visual images, For an A4-size page or part thereof	22, 00
(ii) For a copy of visual images	60, 00
(e)(i) For a transcription of an audio record, For an A4-size page or part thereof	12, 00
(ii) For a copy of an audio record	17, 00
(f) To search for and prepare the record for disclosure R15, 00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	

Public Service Commission

- (2) For purposes of section 22(2) of the Act, the following applies:
 - (a) Six hours as the hours to be exceeded before a deposit is payable; and
 - (b) one third of the access fee is payable as a deposit by the requester.
- (3) The actual postage is payable when a copy of a record must be posted to a requester.