

1301:9-2-12

**Reimbursement to credit unions for assembling or providing financial records.**

(A) Except as ~~proved~~provided in this rule or in section 9.02 of the Revised Code, any party, including a governmental authority, that requires or requests a credit union to assemble or provide a customer's financial records shall pay the credit union for all actual and necessary costs directly incurred in searching for, reproducing, or transporting these records, if the financial institution is not a party to the investigation, action, or proceeding, is not a subject of supervisory review in the investigation, action, or proceeding, or is a party to the investigation, action, or proceeding solely by reason of its holding of assets of another party defendant, with no cause of action alleged against the financial institution, according to in accordance with the following schedule set forth in 12 C.F.R. 219.3, as in effect on September 30, 2009.

~~(1) Search and processing costs. Reimbursement of reasonable search and processing costs shall be the total amount of personnel direct time incurred in locating and retrieving, reproducing, packaging, and preparing financial records for shipment. The rate for search and processing costs is eleven dollars per hour per person, computed on the basis of two dollars and seventy-five cents per quarter hour or fraction thereof, and is limited to the total amount of personnel time spent in locating and retrieving documents or information or reproducing or packaging and preparing documents for shipment where required or requested by a party. Specific salaries of such persons shall not be included in search costs. In addition, search and processing costs do not include salaries, fees, or similar costs for analysis of material or for managerial or legal advice, expertise, research, or time spent for any of these activities. If itemized separately, search and processing costs may include the actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies; however, personnel time for computer search may be paid for only at the rate specified in this paragraph.~~

~~(2) Reproduction costs. Reimbursement for reasonable reproduction costs shall be for costs incurred in making copies of documents required or requested. The rate for reproduction costs for making copies of required or requested documents shall not exceed two dollars for each page, including copies produced by reader/printer reproduction processes. Photographs, films, and other materials are reimbursed at actual cost.~~

~~(3) Transportation costs. Reimbursement for transportation costs shall be for necessary costs, directly incurred, to transport personnel to locate and retrieve the information required or requested; and necessary costs, directly incurred~~

~~solely by the need to convey the required or requested material to the place of examination.~~

- (B) A credit union is not entitled to reimbursement under this rule for costs incurred in assembling or providing the following records or information:
- (1) Security interest, bankruptcy claims, and debt collection. Any financial records provided as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing to the credit union.
  - (2) Nonidentifiable information. Financial records that are not identified with or identifiable as being derived from the financial records of a particular customer.
  - (3) Records or information requested by the superintendent.
- (C) Payment shall be limited to material required or requested. Payment shall be made only for costs that are directly incurred, actual, and necessary. No payment shall be made until the credit union satisfactorily complies with the request or requirement, except that in the case where the request or requirement is withdrawn or revoked, the credit union shall be reimbursed for the actual and necessary costs directly incurred in assembling financial records required or requested to be produced prior to the time the party notifies the credit union that the request or requirement is withdrawn or revoked. No payment shall be made unless the credit union submits an itemized bill or invoice showing specific details concerning search and processing, reproduction, and transportation costs.
- (D) For the purposes of this rule, the term "costs directly incurred" means costs incurred solely and necessarily as a consequence of searching for, reproducing, or transporting books, papers, records, or other data, in order to comply with a request or requirement to produce a customer's financial records. The term does not include any allocation of fixed costs (overhead, equipment, depreciation, etc.). If a credit union has financial records that are stored at an independent storage facility that charges a fee to search for, reproduce, or transport particular records requested, these costs are considered to be directly incurred by the credit union.
- (E) Where terms used in the rule are defined in section 9.02 of the Revised Code, they shall have the meaning set forth in that section.
- ~~(F) A credit union shall receive prior written approval from the superintendent to charge a rate or cost above the maximum amount as stated herein.~~

Effective:

Five Year Review (FYR) Dates: 9/8/2023

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Certification

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Date

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