



DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LIEUTENANT GOVERNOR

STATE OF HAWAII
OFFICE OF THE LIEUTENANT GOVERNOR
OFFICE OF INFORMATION PRACTICES

CHERYL KAKAZU PARK
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oiip@hawaii.gov
www.oiip.hawaii.gov

**OIP'S REPORT OF THE MASTER UIPA RECORD REQUEST
YEAR-END LOG for FY 2014**
(For record requests received from July 1, 2013 through June 30, 2014)

The Hawaii Office of Information Practices (“OIP”) has prepared this report based on information reported at data.hawaii.gov on the [Master UIPA Record Request Year-End Log for FY 2014](#) (“Master Log”), revised March 19, 2015, by 174 entities¹ from all state Executive Branch departments, the Governor’s Office, the Lt. Governor’s Office, the Judiciary, the University of Hawaii, and the Oahu Metropolitan Planning Organization.²

Because the UIPA Record Request Log³ (“Log”) entry process is new for most agencies, there were reporting errors creating slight discrepancies in the results. OIP reviewed each agency’s Log to correct obvious errors and identify details not provided in the Master Log and made corrections to agencies’ entries on the Master Log. The revised Master Log totals are available at data.hawaii.gov and are summarized in the “Totals at a Glance” provided at the end of this report, along with a summary of fees and costs by department that OIP prepared from the agencies’ individual Logs.⁴

OIP notes that a single agency accounted for 4,279 (71%) of the total 5,992 requests reported by all agencies on the year-end Master Log. While that agency appears to have properly reported its data, its numbers were eliminated from the following report so as to not skew the overall results.⁵

¹ For this report, each entity is referred to as an “agency.”

² Data from the counties and the Office of Hawaiian Affairs is not available for this FY 2014 report because they did not begin using the Log until FY 2015.

³ For a sample form and training on the UIPA Record Request Log, go to OIP’s UIPA training page at <http://oiip.hawaii.gov/laws-rules-opinions/uipa/uipa-record-request-log/>.

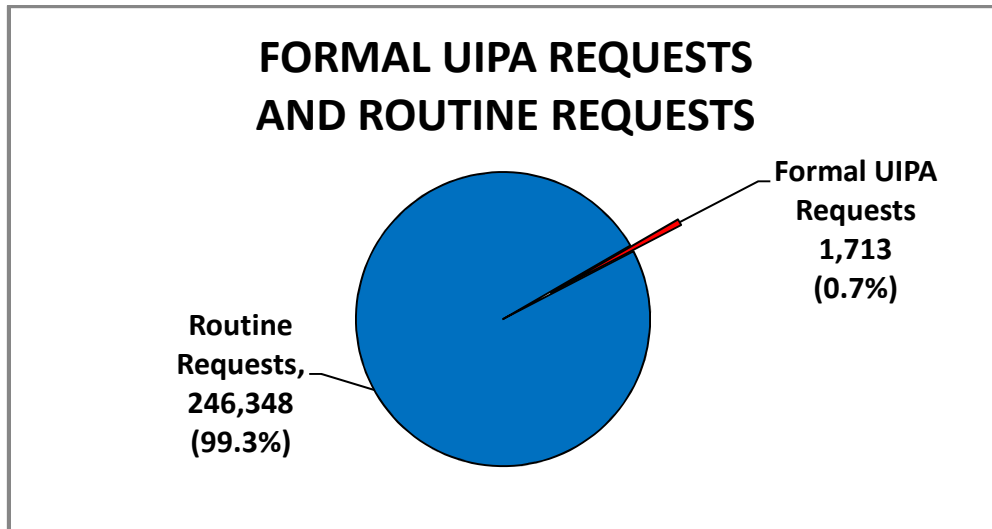
⁴ For the Master Log, go to <https://data.hawaii.gov/dataset/OIP-Master-UIPA-Record-Request-Year-End-Log-For-FY/jzmq-cssv>. The Master Log’s data is summarized in the attached “TOTALS AT A GLANCE FROM THE UIPA MASTER UIPA RECORD REQUEST YEAR-END LOG FOR FY 2014.”

⁵The excluded agency was the Solid & Hazardous Waste Branch of the Department of Health, which receives the majority of its record requests from real estate agents seeking information as to whether a property has stored hazardous waste materials.

How many requests were made in FY 2014?

Excluding the one agency, there were 1,713 formal written record requests requiring agency notices to be sent to the requester under the state’s Uniform Information Practices Act (“UIPA”), chapter 92F, HRS. Agencies estimated that they received 246,348 routine requests for information for which fee schedules have been established and no UIPA response is required, such as requests for University of Hawaii transcripts or Department of Health’s birth, marriage, and death records. Subpoenas for discovery of records in court cases, and responses to oral requests, or agency brochures provided to the public are also not tracked by the Log as formal written record requests. The following pie chart (**Chart 1**) shows that the 1,713 formal UIPA record requests constituted 0.7% and the estimated 246,348 routine requests comprised 99.3% of the 248,060 total requests reported by the agencies.

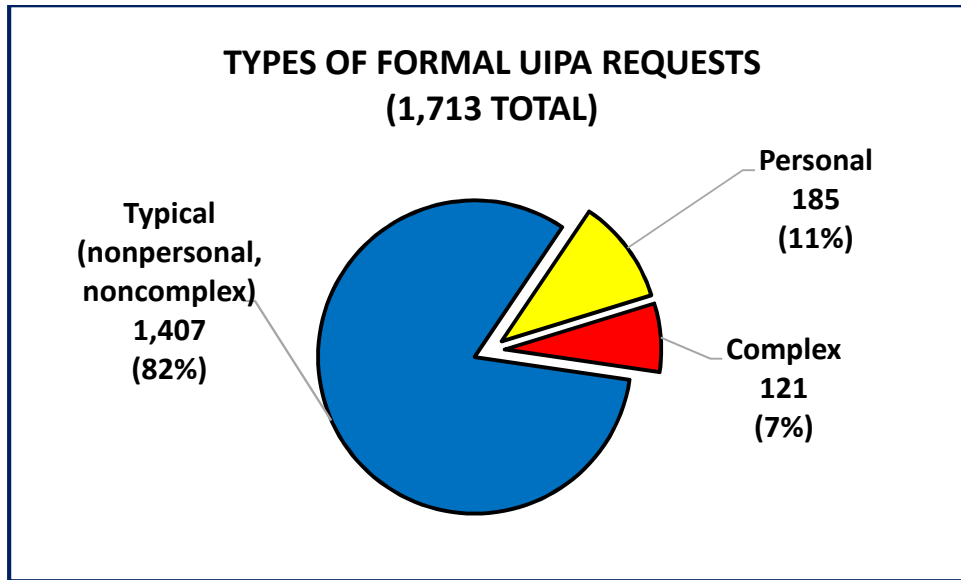
Chart 1



What kinds of requests were made?

The 1,713 formal requests can be broken down into 185 personal record requests and 121 complex requests, resulting in a balance of 1,407 nonpersonal and noncomplex requests, *i.e.* “typical” requests, as shown in **Chart 2** below.

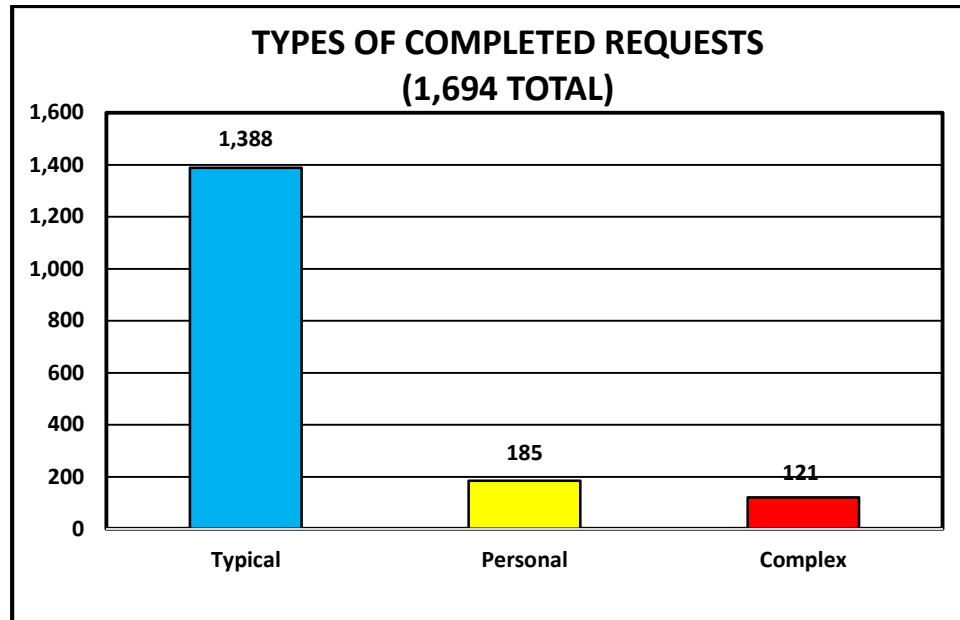
Chart 2



How many requests were completed?

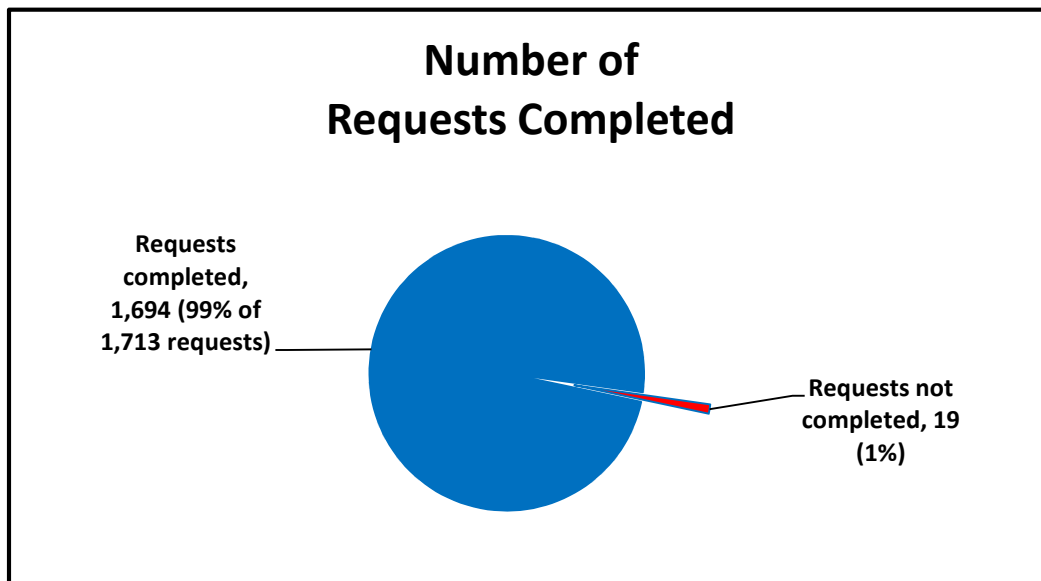
Of the 1,694 requests completed in FY 2014, 185 were personal record requests, 121 were complex requests, and 1,388 were “typical” nonpersonal and noncomplex record requests. Note that all personal record requests and complex record requests received in FY 2014 were completed, and only 19 of the typical requests remained pending at the end of FY 2014.

Chart 3A



Of the 1,713 formal requests received by the agencies, 1,694 (99%) were completed and 19 (1%) were not completed as of June 30, 2014, as shown in **Chart 3B** below.

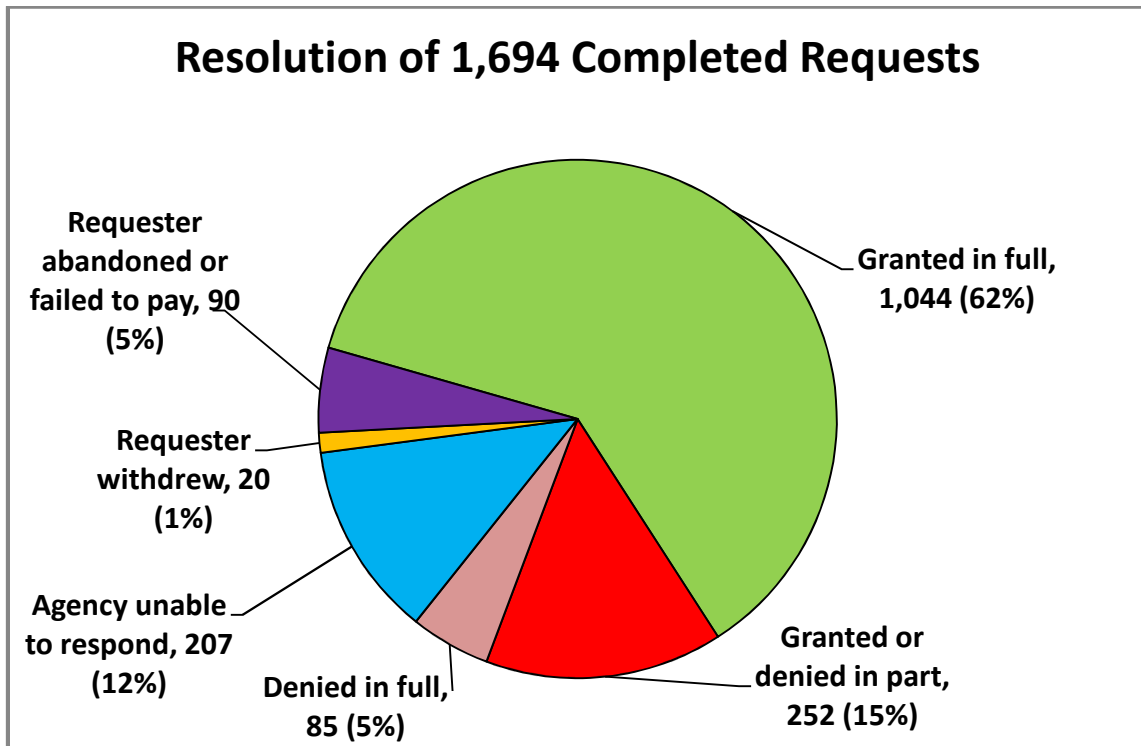
Chart 3B



How were requests resolved?

Of the 1,694 requests completed by the agencies, **Chart 4** below shows that 1,044 (62%) were granted in full; 252 (15%) were granted or denied in part; 85 (5%) were denied in full; in 207 (12%), the agency was unable to respond; 20 (1%) were withdrawn by the requester; and in 90 (5%), the requester abandoned or failed to pay for the request. Although these results total 1,698 and exceed the 1,694 completed requests by 4, the discrepancy may be due to reporting errors in checking off more than one outcome, underreporting the number of cases completed, or incorrectly reporting that the agencies were “unable to respond” to cases still pending at the end of FY 2014.

Chart 4



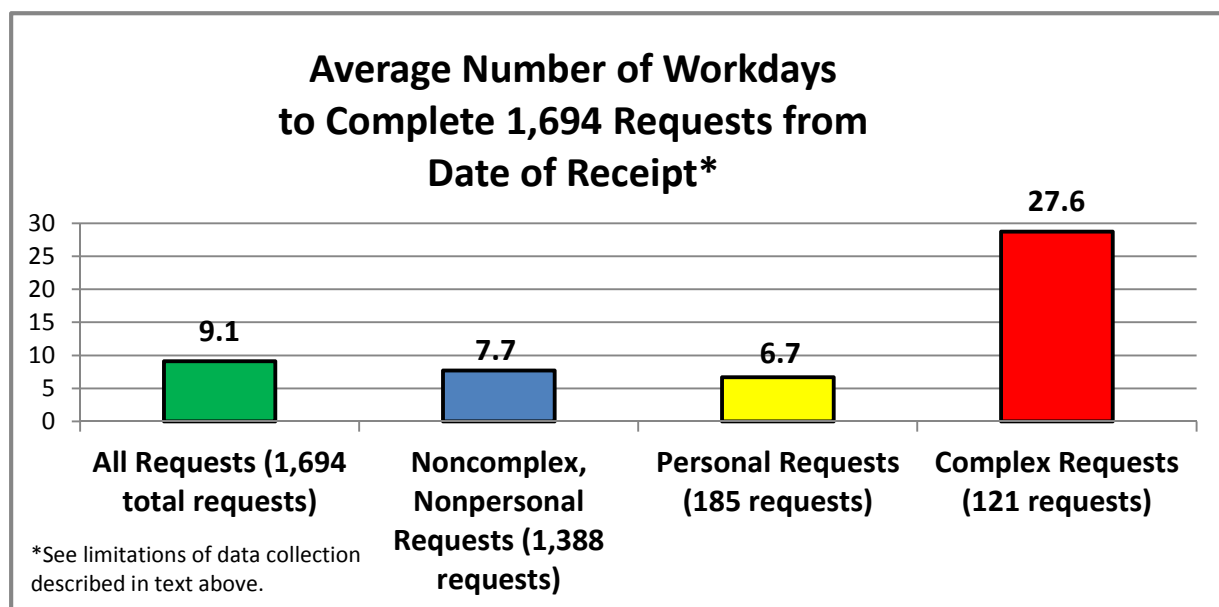
How long did it take to complete requests?

To calculate the number of working days taken to complete a request, the Log's Excel formula excluded weekends but not state or federal holidays. Also, to avoid showing zero days for a request completed on the same day it was received, the formula added an extra day by including the date of the request (which is normally excluded when doing a manual count). Thus, the Log's calculation may inflate the days of completion by one or more days, depending on whether there were holidays or the request took more than one day to complete. To account for the inexact calculations, agencies were instructed to manually enter an "x" in Column I of their Logs when they completed a request within ten business days.

With this understanding of the limitations of the underlying formula, the agencies reported providing initial responses within ten business days to 1,421 requests, or 83% of all requests. (Column I of the Master Log) In 120 of the requests, the agencies reported that they needed initial clarification of the request, which may explain why they were not able to send their notice or acknowledgement to requesters within ten workdays in 7% of total cases.

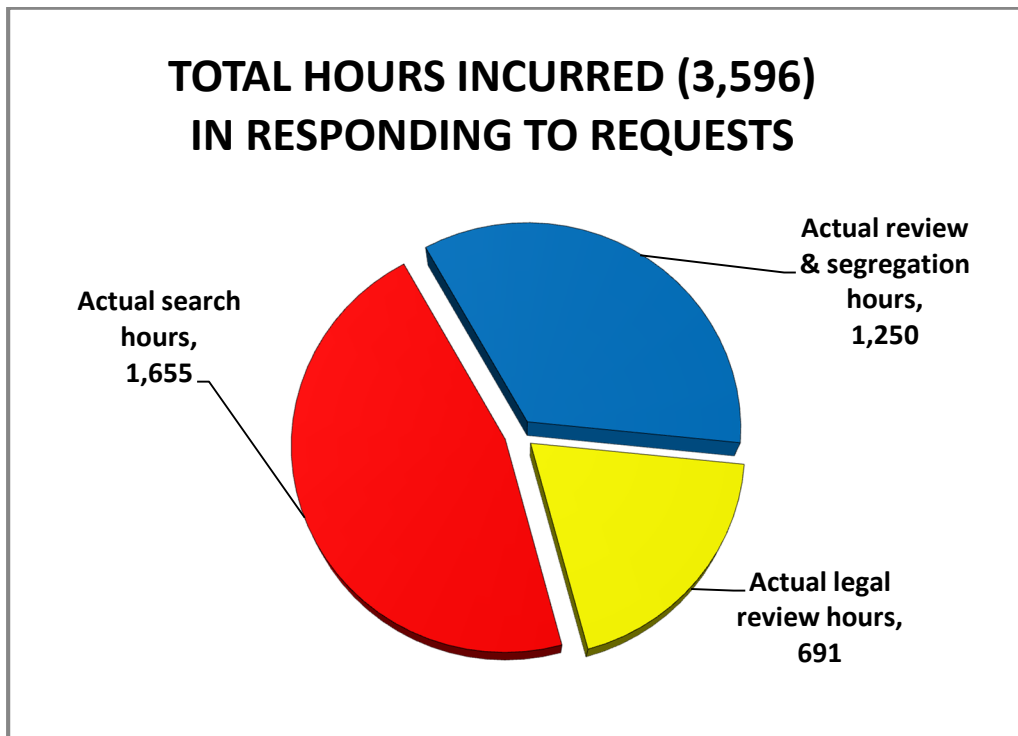
As shown in the following bar graph, **Chart 5**, it took an average of 9.1 workdays from date of receipt to complete all record requests, based on 15,340 workdays to complete 1,694 requests. (Columns N and AP of the Master Log) When broken down by type of request, Chart 5 shows that it took an average of 7.7 days to complete 1,388 typical noncomplex and nonpersonal record requests; 6.7 days to complete 185 personal record requests; and 27.6 days to complete 121 complex requests. (Columns AQ through AS of Master Log) Assuming that the Log's calculations inflated these numbers by one day as explained above, then agencies actually averaged less than 7 work days to complete the typical (1,388) and personal (185) record requests, which accounted for 93% of all completed requests. In contrast, the complex requests took nearly four times as many days to complete.

Chart 5



Agencies were also asked to keep track of the actual time that they spent on search, review (*e.g.*, for confidentiality or privacy concerns), and segregation (*e.g.*, redacting protected information) in 15-minute increments per hour. No less than .25 hour, or 15 minutes, was to be entered for search time for each request. Any legal research or other time spent to determine how the agency should respond or possible exemptions from disclosure could not be entered as search, review, or segregation (“SRS”), but could be separately logged by the agencies as “Legal Review” hours. As shown in the following pie **Chart 6**, the agencies reported incurring a total of 3,596 hours to respond to record requests, of which 1,655 hours were for search, 1,250 hours were for review and segregation, and 691 hours were for legal review. These figures also include the time spent by agencies working on the 19 pending cases that were not completed at the end of FY 2014.

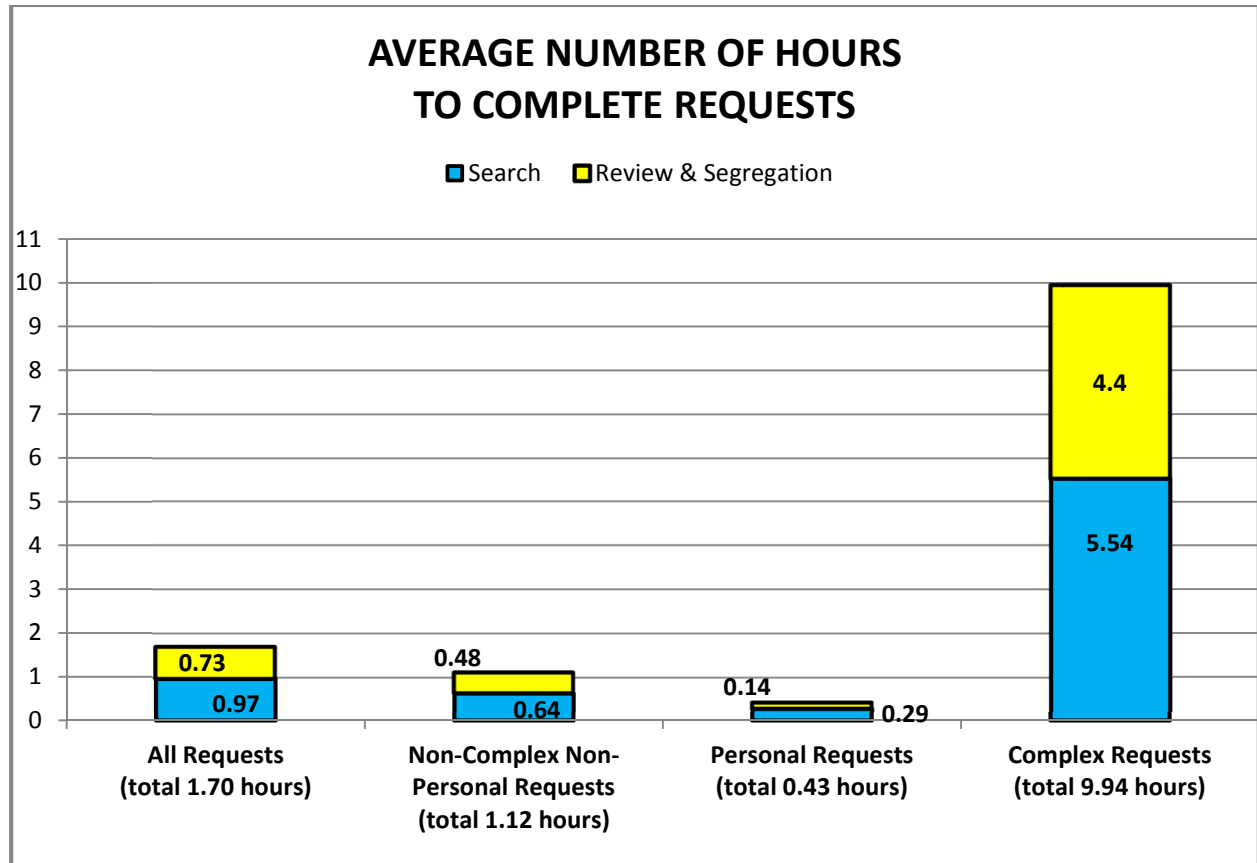
Chart 6



The totals in Columns AT through BA of the Master Log show the number of SRS hours that agencies worked on various types of record requests, including the 19 requests that were not completed at the end of FY 2014. Based on those SRS hours, and excluding legal review hours, it took an average of 1.70 total SRS hours of work for 1,713 record requests in FY 2014, as shown below in **Chart 7** and the explanatory table that follows. The 1,407 “typical” noncomplex/nonpersonal record requests took an average of 1.12 SRS hours, and 185 personal record requests took an average of .43 SRS hours of agency work. The 121 complex record requests took 9.94 SRS hours on average, which is almost nine times longer than the typical request.

	<u>Search</u>	<u>Review & Segregation</u>	<u>Total SRS hours</u>
All requests	.97	.73	1.70
Noncomplex/ Nonpersonal	.64	.48	1.12
Personal	.29	.14	.43
Complex	5.54	4.40	9.94

Chart 7



How much did it cost to complete record requests?

OIP's administrative rules, which were adopted in 1998, permit agencies to charge \$2.50 per 15 minutes, or fraction thereof, for search time (*i.e.*, \$10 per hour) and \$5.00 per 15 minutes, or fraction thereof, for review and segregation time (*i.e.*, \$20 per hour). Agencies are also allowed to recover their copying and delivery costs, which are governed by HRS § 92-21 and agency rules and are not set by OIP.

In order to get a better picture of the gross costs incurred by the government, the Log asked agencies to keep track of legal review time as well as additional response fees, such as special counsel's fees and court costs to defend lawsuit under the UIPA. These additional response fees, however, cannot be charged to the requester and they were excluded from the Log's automatic calculation of the amounts that the agencies could charge to the requester. Moreover, while agencies may incur copying or other costs for their own purposes in reviewing and segregating records, OIP's rules allow them to charge only for the copying and delivery of records actually provided to the requester. Finally, OIP's rules require that up to the first \$30 in SRS fees be waived for all requesters, and this waiver may be increased to \$60 instead (not \$30 plus \$60) for requests that are found by the agency to be in the public interest.

Thus, while the Log captured data about the gross fees and costs incurred by the agencies, it also calculated the net amounts, after waivers, that could be properly charged by the agencies. The agencies manually inputted into the Log the amounts that were actually paid by the requesters.

The visualizations and data on the following pages break down the fees and costs in various ways.

After subtracting fee waivers, the net chargeable amounts of fees and costs that agencies could properly charge requesters is compared to the gross fees and costs that agencies incurred and the total fees and costs that requesters actually paid, as shown in the **Chart 8A** and the descriptive table that follows. In summary, the agencies incurred gross fees and costs of \$83,428, but could only charge \$65,698 for fees and costs allowed under OIP’s rules, and they actually collected from requesters \$44,098.

Please note that the data in Chart 8A and the explanatory table on the next page include the gross and net fees and costs for all 1,713 requests, even if they were not completed or charged to requesters. Moreover, the gross incurred SRS fees of \$40,536 (from Column Z of the Master Log and as shown in in the left column of Chart 8A) do not include fees for legal review hours, SRS fees for personal records, or additional response fee estimates. If those nonchargeable amounts were included and \$42,892 (from Column AF of the Master Log) in gross copying and delivery costs were included, then the gross incurred fees and costs would total \$99,583 (as shown in Column AJ of the Master Log), and not \$83,428 shown in the far left column of Chart 8A below.

Chart 8A

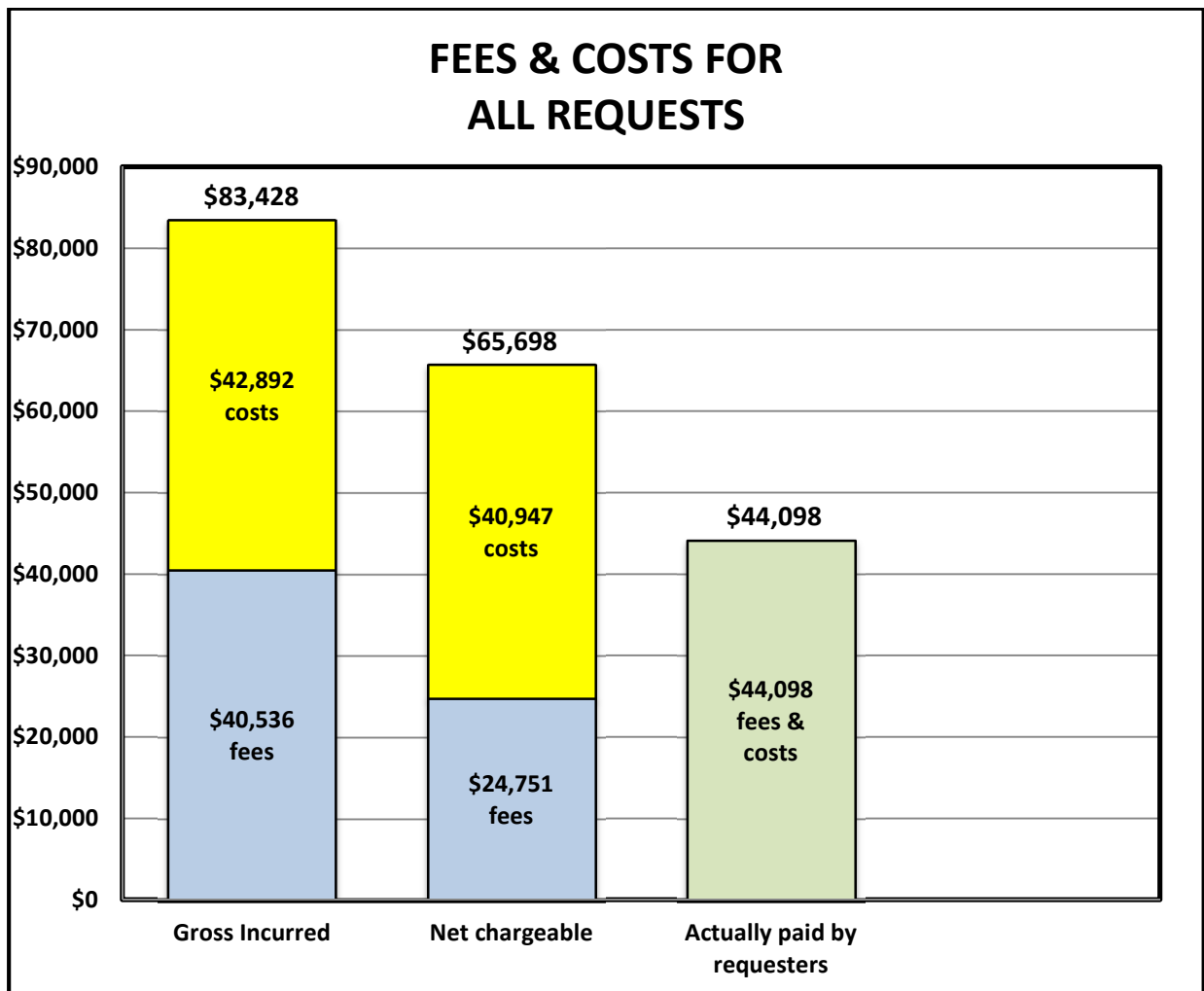


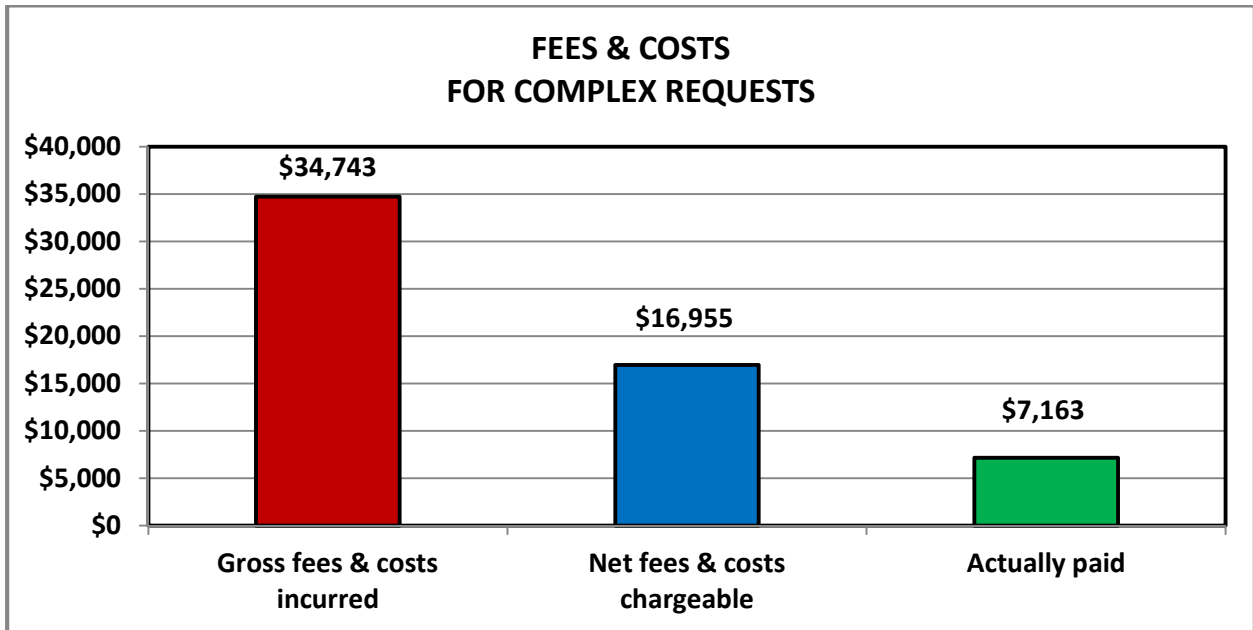
Chart 8A Fees & Costs for all 1,713 requests

	<u>Fees</u>	<u>Costs</u>	<u>Total Fees & Costs</u>
Gross incurred fees	\$40,536	\$42,892	\$83,428
Net chargeable fees	\$24,751	\$40,947	\$65,698
Actually paid by requesters			\$44,098

Based on the data entered by the agencies, the Master Log automatically calculated the gross fees and costs incurred (Master Log Column AM) for the 121 complex record requests as well as the net amount that was properly chargeable (Master Log Column AM). **Chart 8B** below visualizes the complex request totals reported on the Master Log as follows:

- \$34,743 gross fees and costs incurred in 121 completed complex cases
- \$16,955 net fees & costs chargeable in 121 completed complex cases
- \$7,163 actually paid in 121 completed complex cases

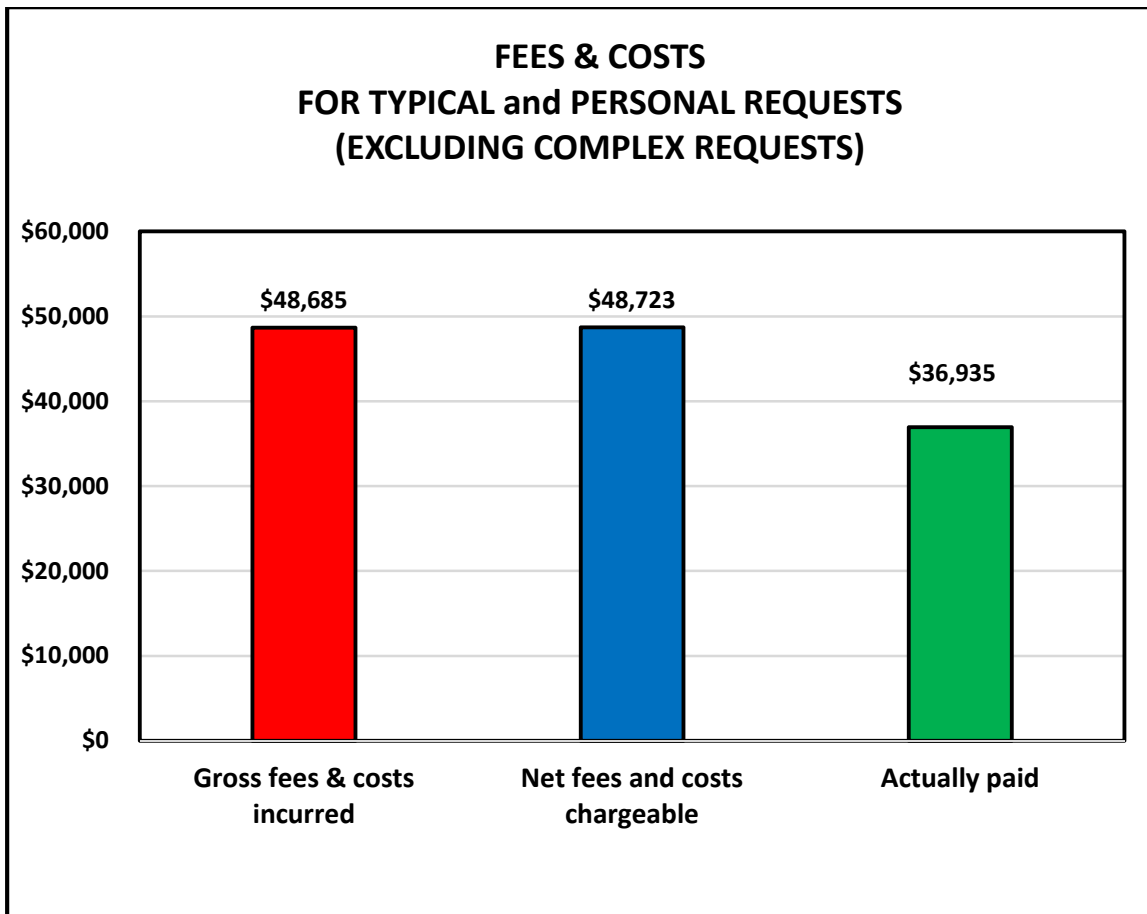
Chart 8B



By subtracting the totals for the 121 complex requests in Chart 8B from their counterparts for all 1,713 requests in Chart 8A, the bar graph in **Chart 8C** below shows that in 1,407 typical cases (1,388 completed and 19 pending) and 185 completed personal record cases the agencies incurred \$48,685 in gross and \$48,743 in net fees and costs (an unexplained discrepancy of \$38 more than what agencies reportedly incurred). Assuming that requesters in only completed cases actually paid fees and costs, Chart 8C also shows that agencies recovered \$36,936 from the 185 personal and 1,388 typical completed requests (1,573 total).

Based on a total of 1,573 completed typical and personal record requests and the amounts listed in Chart 8C, the average per request calculates to \$23.48 actually paid by requesters. This average is misleading, however, as 1,421 requesters paid nothing, as will be seen later in Charts 11 and 12.

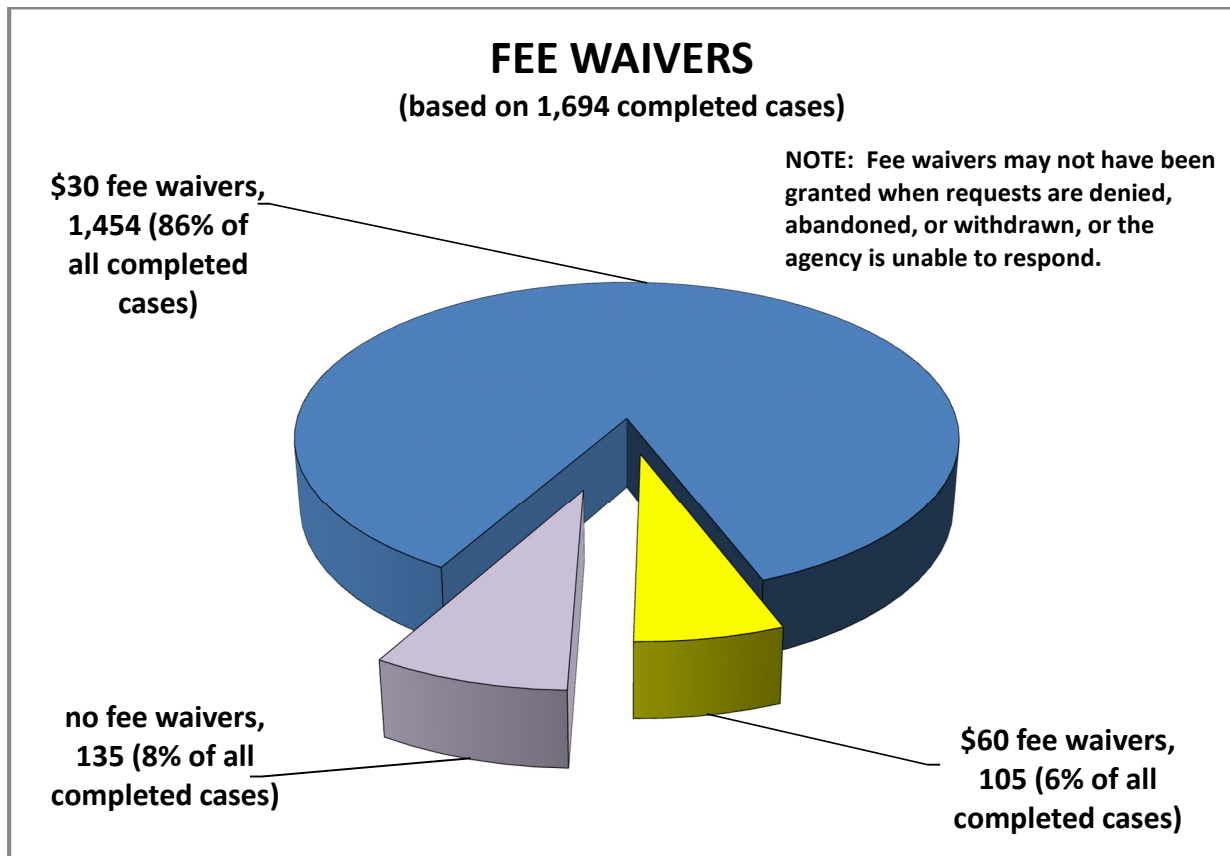
Chart 8C



The difference between the net amounts that agencies can charge versus the actual amounts paid by requesters may be explained in large part by the fee waivers that agencies must grant under OIP rules. Up to \$30 in SRS fees are waived in most cases; up to \$60 in SRS fees may be waived if the request meets the public interest requirements. Note that no refunds are given to requesters whose SRS fees are less than the waiver amounts. Moreover, fee waivers may not have been granted if requests are denied, abandoned, or withdrawn, or the agency is unable to respond, which may explain why there were no fee waivers in 135 cases.

Using 1,694 as the total number of completed cases, **Chart 9** below shows that the agencies reported granting \$30 fee waivers for 1,454 requests (86%) and \$60 fee waivers for 105 requests (6%).

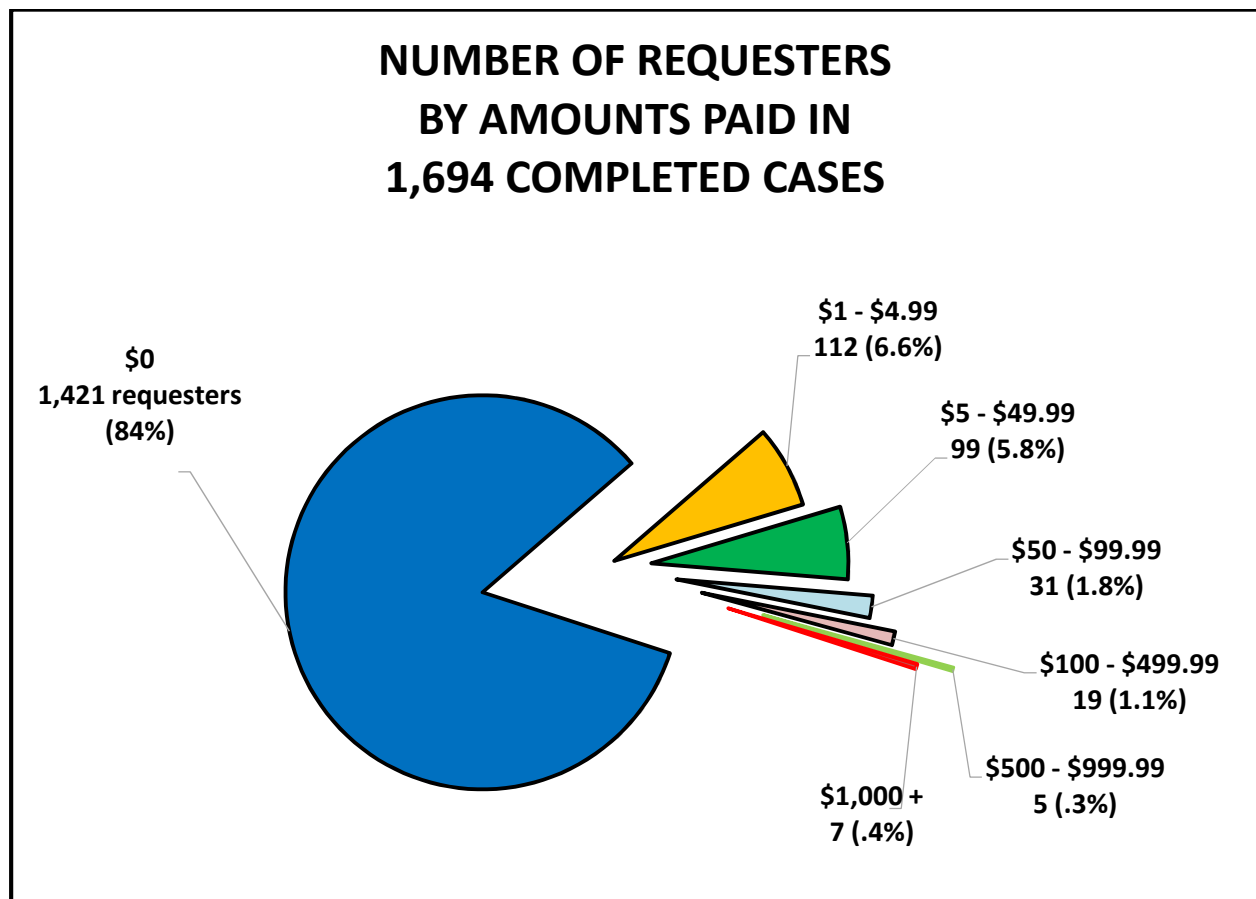
Chart 9



By reviewing each agency’s Log, OIP compiled the data found in **Table 10**, which is attached at the end of this report. Presumably, only requesters of completed requests paid any fees or costs, if at all. Thus, based on 1,694 completed requests, a total of \$44,098 was paid by requesters for fees and costs per Table 10.

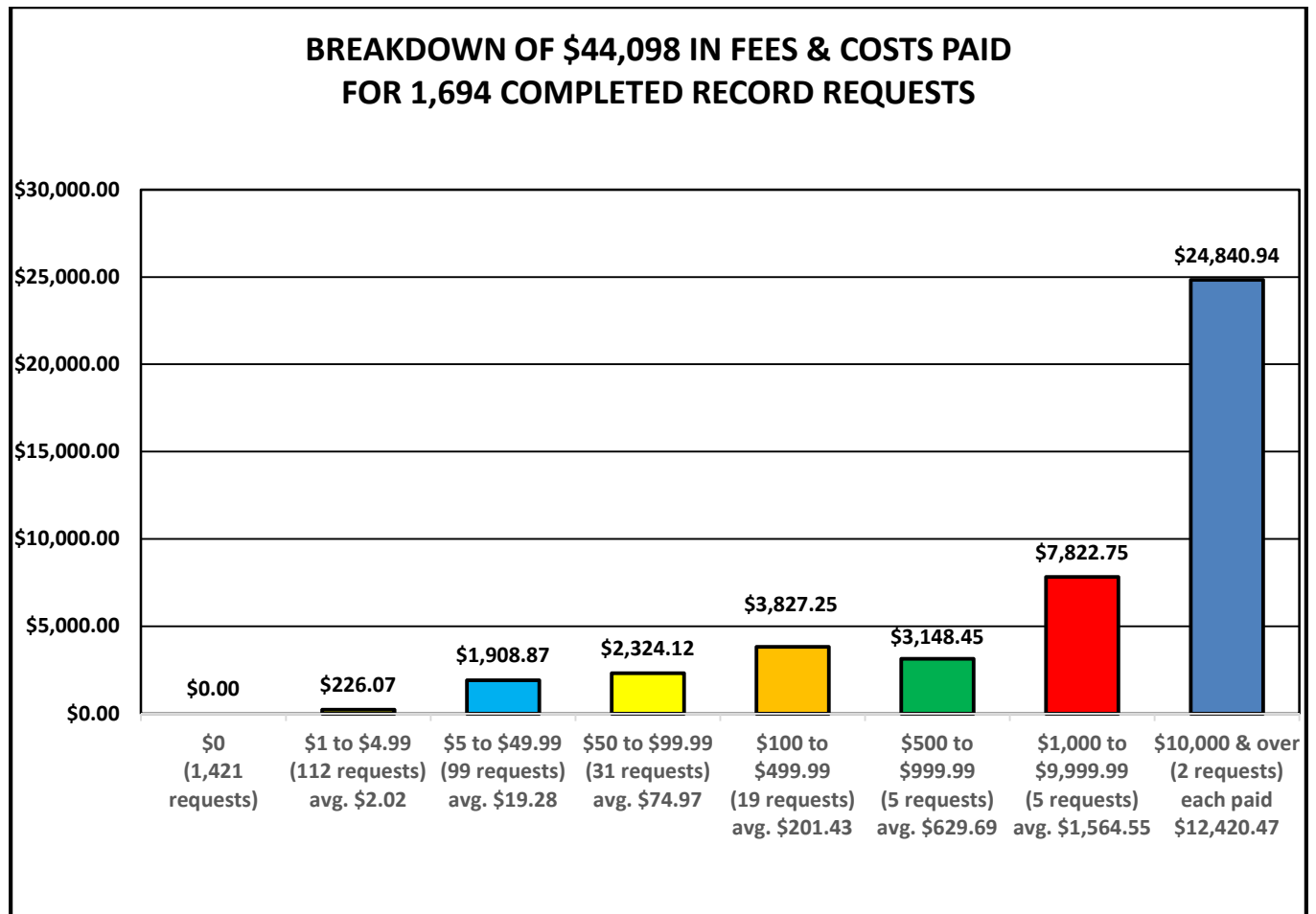
Based on the 1,694 completed requests, **Chart 11** below shows that 1,421 requesters (84%) paid nothing, 112 requesters (6.6%) paid \$1 to \$4.99 per request; 99 requesters (5.8%) paid \$5 to \$49.99; 31 requesters (1.8%) paid \$50 to 99.99; 19 requesters (1.1%) paid \$100 to \$499.99; 5 requesters (.3%) paid \$500 to \$999.99; and 7 requesters (.4%) paid \$1,000 or more in fees and costs. Of the 62 requesters who paid \$50 or more, OIP identified 43 requesters in the attached **Table 10 Supplement: Summary of Fees & Costs Paid by Requesters**, who appeared to represent attorneys or commercial or nonprofit organizations. The two highest payments were each for \$12,420.47, consisted entirely of costs, and were paid by two commercial entities; the total of \$24,840.94 in costs paid by these two commercial entities comprised 56% of the entire amount (\$44,098) paid by all requesters.

Chart 11



Again using Table 10's data, **Chart 12** below shows the breakdown of the \$44,098 in fees and costs paid in 1,694 completed cases. As Chart 12 shows, 1,421 requesters (84% of completed requests) paid nothing and 273 requesters (16% of completed requests) paid a total of \$44,098. Of the 273 requesters that paid, 112 requesters (41% of paying requesters) each paid less than \$5, for a total of \$226.07 or average of \$2.02 per request. Another 99 requesters (36% of paying requesters) each paid between \$5 to \$49.99, for a total of \$1,908.87 or average of \$19.28 per request. Thirty-one requesters (11%) each paid between \$50 to \$99.99, for a total of \$2,324.12 or average of \$74.97 per request. Nineteen requesters (7%) paid between \$100 to \$499.99, for a total of \$3,827.25, or average of \$201.43 per request. Five requesters (1.8%) paid between \$500 to \$999.99, for a total of \$3,148.45 or average of \$629.69 per request. Another five requesters (1.8%) each paid \$1,000 to \$9,999.99, for a total \$7,822.75, or average of \$1,564.55 per request. Finally, two commercial entities (.7% of all paying requesters) each paid over \$12,420.47 in costs, for a total of \$24,840.94; thus, two commercial entities paid 56% of the total amount recovered from all requesters.

Chart 12



SUMMARY

In closing, OIP would like to thank the agencies that participated in recording their Log data and uploading it to the Master UIPA Record Request Log on data.hawaii.gov. The data collected has been very helpful in understanding how the UIPA is working in Hawaii to provide public access to records maintained by the government. Overall, the data shows that the typical record request was granted in whole or in part and was completed within seven days, and the typical requester paid nothing for fees and costs.

Excluding the data provided by a single agency that would have skewed the entire report, the report shows that formal UIPA record requests constitute less than 1% of the 248,060 total record requests that state agencies received in FY 2014. (Chart 1) Of the 1,713 formal UIPA record requests that were received, 185 (11%) were personal record requests, 121 (7%) were complex requests, and 1,407 (82%) were the “typical” noncomplex/nonpersonal record requests. (Chart 2) Agencies completed 1,694 requests, or 99% of the 1,713 requests received in FY 2014. (Chart 3) Of the 1,694 completed requests, over 77% were granted in full or in part, 5% were denied in full, and the agency was unable to respond or the requester withdrew or abandoned the request in the remaining 19% of the cases. (Chart 4)

After adjusting for the limitations of the data collection, agencies took less than seven work days, on average, to complete 1,573 typical and personal record requests, which is 93% of all completed cases. (Charts 2 & 5) It took nearly four times as many days to complete 121 complex requests. (Chart 5).

In terms of hours worked per request, agencies took a total of 3,596 hours to respond to all requests, which includes nonchargeable time for legal review and the 19 “typical” requests that were not completed in FY 2014. (Chart 6) When broken down into chargeable search, review, and segregation hours for both completed and pending cases, agencies worked an average of 1.12 hours for a typical request, .43 hour for a personal record request, and 9.9 hours for a complex request. (Chart 7)

Agencies incurred \$83,428 in gross fees and costs (excluding legal review hours, personal record fees, and additional response fee estimates) to respond to all requests, of which \$44,098 (52.9%) was actually paid by all requesters. (Chart 8A) Although the 121 complex requests comprised only 7% of all requests, they took nearly nine times as many SRS hours to complete than the typical request and accounted for \$34,743 (41.6%) of the gross fees and costs incurred by agencies. (Charts 2, 7, 8B and 8C) The 121 complex record requesters paid \$7,163 (16%) of the \$44,098 total amount recovered from all requesters. (Charts 8A and 8B)

Fee waivers were granted in 92% of 1,694 completed cases, and the 135 cases in which no fee waivers were granted are presumably for cases that were denied, withdrawn, or abandoned or for which no fees may be charged. (Chart 9) The vast majority (1,454, or 86%) of completed requests were granted \$30 fee waivers, while 105 requests (6%) were allowed the \$60 public interest fee waivers.

In completed cases, 1,421 (84%) of the 1,694 requesters paid nothing, and only 273 (16%) requesters paid for fees or costs. (Table 10) Of the 273 requesters that paid, 112 (41%) paid less than \$5 and \$99.99 (36%) paid between \$5 to \$49.99 for their requests. (Charts 11 and 12) Only 62 requesters (22% of all paying requesters) paid \$50 or more per request, which

includes 43 requesters who appear to represent law firms or commercial or non-profit entities. (Table 10 Supplement: Summary of Fees & Costs Paid by Requesters) The highest paying requesters were two commercial entities that were charged for costs only and paid a total of \$24,840.94, which accounted for 56% of the total (\$44,098) fees and costs paid by all requesters. (Table 10 Supplement)