

Oct. 24, 2025

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Village of Bosque Farms
1455 West Bosque Loop
Bosque Farms, NM 87068

Dear Village of Bosque Farms:

As you were made aware on Sept. 9, 2025, during an email exchange with the Executive Director of the New Mexico Foundation of Open Government, the fees charged by Bosque Farms for public records violate the Inspection of Public Records Act (IPRA). At that time, we were hopeful the village would change the language on its website to indicate that fees would only be charged as allowed under the law. However, this has not happened.

The current wording on Bosque Farms website reads: "If a person requesting an inspection would like a copy of a public record, a reasonable fee may be charged. The fee for documents is 1.00 dollar per page. The fee for archived documents is \$2.00 dollars per page. ... The fee for police reports is \$5.00."

The website does not clarify whether these fees apply to paper or digital copies. However, even if the charges are only for paper copies, it still conflicts with what is permitted under IPRA, which states, "A custodian shall not charge fees in excess of one dollar (\$1.00) per printed page." [NMSA 1978 14-2-9(C)] The law does not make exceptions for "archived documents" or police reports as your website does. Additionally, in the "Inspection of Public Records Act: A Compliance Guide on Government Transparency for New Mexicans and Public Officials," the New Mexico Attorney General Office states, "Electronic records produced and provided in electronic format cannot be charged a page by-page fee since the law clearly states that fees are for copies 'per printed page.' "

The Bosque Farms website also states, "The fee for audio/CD copies is \$20.00 per copy." This, too, is a violation of the law. IPRA states a custodian may charge for "the actual cost of the computer disk or storage device." [NMSA 1978 14-2-9 (C)3] The actual cost of a CD in 2025 is \$0.20. By charging \$20.00 for a CD, the public is being overcharged by 99.9%.

The Bosque Farms website also mentions that, "The fee for faxes is 2.00 dollars per page." According to IPRA, records custodians, "may charge the actual costs associated with transmitting copies of public records by mail, electronic mail or facsimile." [14-2-9(C)4] Determining the actual cost of sending a fax would require calculating electricity usage, toner consumption, and various other factors. Bosque Farms would need to constantly update this data to ensure it is keeping up with current electric and internet rates. This data then would need to be input into multiple, related equations before the "actual cost" can be determined. Unless the Bosque Farms Records Department is doing this, it cannot charge "actual costs" for sending a digital record. This is why, in the "Inspection of Public Records Act: A Compliance

Guide on Government Transparency for New Mexicans and Public Officials,” the New Mexico Attorney General Office states, “With modern technology it is futile to attempt to quantify ‘actual costs’ associated with transmitting electronic records.” It goes on to say the best practice when it comes to electronic records is “not [charging a fee] at all.”

Lastly, on Aug. 5, 2025, I emailed an IPRA request with the required form attached to the Bosque Farms Records Custodian. After there was no response, on Aug. 25, I faxed the form to the Records Department and received an email reply on Aug. 26. This was similar to what happened when a staff member made an IPRA request in July. Given this, as well as speaking to several members of the public who have attempted to make IPRA requests, it is clear Bosque Farms only accepts IPRA request via fax. This is illegal. IPRA states, “any person wishing to inspect public records may submit an oral or written request to the custodian.” Requests made in any format are all equally valid and immediately trigger a records custodian's duty to respond. This is true whether the request is verbal or in writing, no matter if it's sent via letter, email or sticky note. On top of this, since the vast majority of people do not own a fax machine, they will have to pay to send a faxed request. Additionally, many members of the public have never sent a fax and have no idea how to do so.

Also, by requiring that requests be made by fax, Bosque Farms is violating the purpose of the Inspection of Public Records Act. According to IPRA, “It is declared to be the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government.” [NMSA 1978 14-2-5] By only accepting records requests via equipment that has not been in common use for over 25 years, Bosque Farms is violating the intent of the law. After receiving a fax, Bosque Farms responds to the requestor via email, showing their preference is for digital communication, but only when it suits them. This leads to the inescapable conclusion that the intent of fax-only request policy is to inconvenience the requestor, which is not in keeping with providing “the greatest possible information” required by IPRA.

As we have given Bosque Farms ample time to change these issues, we have now forwarded this matter to the New Mexico Department of Justice. It may be in your best interest to promptly revise your policy by ceasing the imposition of unlawful fees and eliminating the restriction that limits requests to fax submissions only.

Thank you for your attention to these important matters.

Sincerely,

A handwritten signature in blue ink, appearing to be 'C. Barber', with a long, sweeping horizontal line extending to the right.

Christine Barber
Executive director
New Mexico Foundation for Open Government
EIN: 85-0379183

Cc: Amanda Lavin, Legal Director, amandalavin.nmfog.org