

## **SENATE FISCAL AGENCY FREEDOM OF INFORMATION (FOIA) PROCEDURES AND GUIDELINES**

### General Policy

It is the policy of the Senate Fiscal Agency (SFA) to comply fully with the Freedom of Information Act, subject to the exemptions contained in FOIA, the confidentiality requirements imposed on the SFA under the Legislative Council Act, and any other applicable exemptions and confidentiality requirements.

Senate Fiscal Agency records that are located at the State Records Center are considered to be in the possession of the SFA.

It is the policy of the SFA not to respond to a FOIA request from an individual who is serving a sentence of imprisonment in a State or county correctional facility in Michigan or any other state, or in a Federal correctional facility.

### FOIA Coordinator

The General Counsel & Chief Editor is designated as the SFA's FOIA Coordinator.

### Submission of FOIA Requests

A FOIA request to the SFA can be sent by email, fax, or mail to:

Senate Fiscal Agency  
Attn. FOIA Coordinator  
201 N. Washington Square, Suite 800  
The Victor Center  
P.O. Box 30036  
Lansing, MI 48909

Fax: (517) 373-1986  
Email: [jmann@senate.michigan.gov](mailto:jmann@senate.michigan.gov)

A request from a person other than an individual who files an affidavit of indigency must include the requesting person's complete name, address, and contact information (including a valid telephone number or email address). If the request is made by a person other than an individual, the request must include the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with the United States Postal Service addressing standards.

### Forwarding a FOIA Request

When the SFA receives a FOIA request, the request must be directed immediately to the FOIA Coordinator. If an SFA employee receives a written request for a public record that is delivered to a spam or junk-mail folder, he or she must record the date and time the request was delivered to the folder and the date and time the employee first became aware of the request. The employee must forward this information to the FOIA Coordinator with the request.

## Compliance

Within five business days after receiving a FOIA request, the SFA will do one of the following:

- Grant the request.
- Notify the requesting person in writing that the request will be denied.
- Grant the request in part and deny it in part.
- Notify the requesting person that the SFA will respond to the request within 10 business days.

Because of the short time period within which the SFA has to issue a response to a FOIA request, it is important that SFA employees comply with these procedures without delay.

In granting a request, the SFA will allow the requesting person to inspect and copy the public record or will provide a copy of the public record to the requesting person. The SFA will provide adequate space for inspection and will allow the requesting person to make a photocopy of a public record during normal business hours and in the presence of an SFA employee. If the SFA grants a request for a public record that has been requested in a particular medium (including a computer disc), the SFA will provide the record as requested if the SFA created or possesses the record in that medium.

## Fees

The Freedom of Information Act allows the SFA to charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material if the failure to charge a fee would result in unreasonably high costs to the Agency because of the nature of the request in the particular instance and if the SFA specifically identifies the nature of these unreasonably high costs.

The following fee guidelines for the calculation of costs in processing a FOIA request are established in accordance with FOIA:

1. Fees must be uniform and do not depend on the identity of the requesting person.
2. Fees must be itemized using the SFA's Itemization of Fees form and must include the following, as applicable:
  - A. Labor costs for the search, location, and examination of public records must be calculated using the hourly wage of the SFA's lowest paid employee capable of conducting the task, regardless of whether that employee actually performs the labor. The labor costs must be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the SFA's payroll records for the applicable fiscal year. Labor costs also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, up to the actual costs of fringe benefits.
  - B. Labor costs for the review of public records and separation and deletion of exempt from nonexempt material must be calculated using the hourly wage of the SFA's lowest paid employee capable of conducting that labor, regardless of whether that employee is actually performs the labor. The labor costs must be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will

be based on the SFA's payroll records for the applicable fiscal year. Labor costs must also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, up to actual cost of fringe benefits.

- C. Nonpaper physical media costs must be calculated using the actual and most reasonably economical costs of that media provided by the SFA.
  - D. Duplication and publication costs must be calculated using the actual total incremental costs of necessary duplication or publication of a public record, not including labor. The actual and incremental costs, calculated per sheet, may not exceed 10 cents per sheet for letter or legal-sized paper. The SFA must use the most economical means available for making copies, including double-sided printing, if available.
  - E. Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records for production on nonpaper physical media or through electronic means, must be calculated using the hourly wage of the SFA's lowest paid employee capable of performing the work, regardless of whether the employee actually performs the labor. The labor costs must be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the SFA's payroll records for the applicable fiscal year. Labor costs also must include up to 50% of the hourly wage to partially cover the cost of fringe benefits, up to the actual cost of fringe benefits.
  - F. Actual costs of mailing using a reasonably economical and justifiable manner.
3. No SFA employee may stipulate to work overtime or include overtime wages in the costs described in these procedures and guidelines.
  4. If a requesting person submits an affidavit of indigency, the first \$20 of a fee must be waived. A requesting person must include a statement that the request is not being made in conjunction with outside parties in exchange for remuneration.
  5. If a statute authorizes the sale or production of public records to the public for a specified fee or otherwise prescribes a fee for the production of a public record, the SFA must charge the statutory fee instead of a fee calculated using these guidelines.
  6. The SFA may not charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material that will take less than one hour.
  7. If any of the requested public records are available on the SFA's website, the SFA will notify the requesting person of that fact and, to the degree practicable, provide the Uniform Resource Locator (URL) or website location for the record instead of providing a copy of the requested record. Records provided in this matter are exempt from the fee calculations listed above, unless the requesting party thereafter asks for the records to be provided in paper format or by any nonpaper physical media.

#### Deposit Requirements

If the SFA estimates a fee to process a FOIA request greater than \$50, the SFA will require a good-faith deposit from the requesting person before providing the public records to that person.

The deposit may not exceed 1/2 of the total estimated fee. Any written notice containing a notice of a deposit also must include a 'best efforts' estimate of the amount of time after a deposit is received that the SFA will need to provide the requested public record to the requesting person. The SFA is not bound by this estimate; however, the SFA must provide the estimate in good faith and must strive to be and to provide the public records in a manner based on the public policy embodied in FOIA and the nature of the request in the particular instance.

#### Appeal of Fees and Disclosure Determinations

If the SFA charges a fee or denies all or part of a request, the requesting person may submit to the SFA Governing Board a written appeal that specifically states the word "appeal" and identifies the basis for which the fee should be reduced or the disclosure determination should be reversed. Written appeals may be sent to the email address or mailing address listed above and will be forwarded to the Chair of the Governing Board or the person designated by the Chair of the Governing Board to respond to written appeals.