

## ***Michigan Department of Licensing and Regulatory Affairs (LARA) Freedom of Information Act (FOIA) Procedures and Guidelines***

### **Procedure: Michigan Freedom of Information Act Requests**

**Effective Date:** August 15, 2018

**Supersedes:** V1 (10/01/2015), V2 (03/14/2018)

### **A. Appointment of FOIA Coordinator.**

In accordance with section 6 of the FOIA, MCL 15.236, the Department has appointed a FOIA Coordinator who can be reached at the LARA FOIA Office at the URL and address below.

### **B. Submission of FOIA Request.**

FOIA requests to the LARA must be in writing and can be sent to its central FOIA Office online or by email, US mail, or fax to:

Online Portal: [www.michigan.gov/larafoia](http://www.michigan.gov/larafoia)

Email: [LARAFOIAInfo@michigan.gov](mailto:LARAFOIAInfo@michigan.gov)

US Mail: State of Michigan  
Department of Licensing and Regulatory Affairs  
c/o FOIA Coordinator  
Ottawa Bldg., 4th Floor  
P.O. Box 30004  
Lansing, MI 48909

Fax: 517-335-4037

Requests should include a name, phone number, and mailing address.

### **C. Immediately Forward FOIA Request.**

Any employee of the Department who receives a written request for a public record must immediately forward that request to the LARA FOIA Office at [LARAFOIAInfo@michigan.gov](mailto:LARAFOIAInfo@michigan.gov). If a Department employee receives a written request for a public record that is delivered to a spam or junk-mail folder, the employee must record the date and time the written request is delivered to the spam or junk-mail folder and date and time the employee first becomes aware of the written request. The employee must forward those dates and times to the LARA FOIA Office with the written request.

### **D. Request Response Time.**

The Department may extend the initial 5 business day time for responding by an additional 10 business days by notifying the requesting person in writing with the new due date. MCL 15.235(2)(d). Due to the short statutory time period within which the Department must issue

a written notice in response to the FOIA request, it is imperative that there be no delay in complying with the Departmental procedures and guidelines.

### **E. Response to a FOIA Request.**

The LARA FOIA Office will respond to FOIA requests. The LARA FOIA Office will provide a link to the procedures and guidelines in each response. If a request is denied, in full or in part, the LARA FOIA Office will provide the requester an explanation of the basis of the denial under the FOIA, and give notice to the requester of his or her remedial rights. MCL 15.235(4).

### **F. Notification of FOIA Request.**

Upon receipt of a FOIA request, the LARA FOIA Office staff will notify the agency that might possess records responsive to the FOIA request with instructions.

### **G. Agency/Bureau Response to LARA FOIA Office.**

As soon as possible, but not later than two business days before the FOIA response is due, the Agency's response is due to the LARA FOIA Office via LARA FOIA System. The Agency Director is ultimately responsible for the accuracy of an Agency's responsive documents/information before it is provided to the LARA FOIA Office.

### **H. Assessment of Fees for a FOIA Request.**

The FOIA permits the Department to charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material, but only if the failure to charge a fee would result in unreasonably high costs to the Department because of the nature of the request in the particular instance, and the Department specifically identifies the nature of these unreasonably high costs. MCL 15.234(1) and (3). LARA's threshold to charge a fee is processing costs estimated to exceed \$25.00.

The following fee guidelines for calculating labor and material costs incurred in processing FOIA requests are established pursuant to MCL 15.234(3):

1. Labor costs for the search, location, and examination of public records will be calculated using the hourly wage of the Department's lowest paid employee capable of conducting the search, location, and examination, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Department's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
2. Labor costs for the review of public records and separation and deletion of exempt from nonexempt material will be calculated using the hourly wage of the Department's lowest paid employee capable of conducting the review and separation and deletion of exempt from nonexempt material, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in

increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Department's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.

3. Nonpaper physical media costs will be calculated using the actual and most reasonably economical cost of computer discs, computer tapes, and other digital and similar media provided by the Department.
4. Duplication and publication costs will be calculated using the actual total incremental cost of necessary duplication or publication of a public record, not including labor. The actual and incremental cost, calculated per sheet, shall be charged and will not exceed 10 cents per sheet of paper for letter or legal size paper. The Department shall use the most economical means available for making copies, including the use of double-sided printing, if cost-saving and available.
5. Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records to be produced on nonpaper physical media or through electronic means, will be calculated using the hourly wage of the Department's lowest paid employee capable of duplicating or publishing the public records, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Department's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
6. Actual costs of mailing using a reasonably economical and justifiable manner.
7. Fees will be uniform and not dependent upon the identity of the requesting person or organization.
8. Fees will be itemized using the [detailed itemization of fees](#).
9. No Department employee shall stipulate to work overtime or include overtime wages in the labor costs described in these procedures and guidelines.
10. If a requester submits an affidavit of indigency, the first \$20.00 of a fee will be waived. A requesting person must include a statement that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration. Other than \$20.00 for cases of indigency, no Department employee shall waive a fee or any part of a fee without authorization from the Department's FOIA Coordinator.
11. Labor costs for monitoring an inspection of original records will be calculated using the hourly wage of the Department's lowest paid employee capable of monitoring the inspection. Labor costs for monitoring an inspection will not be charged for the first hour. The hourly wage will be based on the Department's payroll records for the applicable fiscal year. Note: Section 3(3) of the FOIA, MCL 15.233(3), provides, in pertinent part, that "[a] public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction."

12. If a statute authorizes the sale or production of public records to the public for a specified fee or if a fee for production of public records is otherwise set by statute, the Department will charge the statutory fee in lieu of a fee calculated using the guidelines set forth above.

### **I. Deposit Requirements.**

If LARA FOIA Office estimates a fee to process a FOIA request greater than \$50.00, the LARA FOIA Office may require a good-faith deposit from the requestor before providing the public records to the requestor. The deposit or full payment shall not exceed 1/2 of the total estimated fee. Any written notice containing a notice of a deposit shall also contain a best efforts estimate by the Department regarding the time frame after a deposit is received that it will take them to provide the public records to the requestor. The time frame estimate is not binding upon the Department, but the LARA FOIA Office shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this State's public policy under section 1 of the FOIA, MCL 15.231, and the nature of the request in the particular instance.

### **J. Appeals of Fees and Disclosure Determinations.**

If the LARA FOIA Office charges a fee or denies all or part of a request, the requestor may submit to the Director of the Department 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 submitted online or sent to the email address, fax number or mailing address listed above and will be forwarded to the person designated by the Director to respond to written appeals.