

Michigan Gaming Control Board (MGCB) Freedom of Information Act Procedures and Guidelines

Effective Date: July 1, 2015

Persons Authorized to Release Information

- A. The Executive Director, Deputy Director of Administration and Indian Gaming, Deputy Director of Legal Affairs & Gaming Regulation, and FOIA Coordinator are the only persons authorized to release MGCB information or documentation to an outside party, unless it is allowed in accordance to B or C, below.
- B. The Executive Director may authorize other MGCB personnel or agents to release business information or agency records, as s/he deems necessary.
- C. The Indian Gaming Section Manager is empowered to release Tribal Casino payments to state governments as approved by the FOIA Coordinator in advance of the release.

Receiving Requests for Information

- A. Any request for MGCB information or documentation should be sent to the FOIA Coordinator by email, mail, or fax:

Email: MGCBweb@michigan.gov

Michigan Gaming Control Board
3062 West Grand Boulevard, Suite L-700
Detroit, MI 48202-6062
Fax: 313-456-3405

- B. Requests should include a name, phone number and mailing address.
- C. Staff who receive written FOIA requests must immediately forward any request for MGCB information or documentation to the FOIA Coordinator.
- D. Records staff will maintain, for no less than one year, a copy of each written request including agency response and any exempted information. [FOIA Section 3(2)]

Processing Requests for Information

- A. The FOIA Coordinator will ensure adherence to applicable laws and statutes and shall determine what information and documentation is exempt from public disclosure.
- B. Upon receipt of a request, the FOIA Coordinator will send an email to executive staff who may possess pertinent records.
- C. MGCB personnel and agents shall make a timely effort to locate and provide all relevant information and/or documents to the FOIA Coordinator in response to a FOIA request.
- D. Unless otherwise agreed to in writing, MGCB will respond to a request for information and/or public records within five business days:
 - Beginning the first business day following receipt of a request.
 - For requests that sufficiently describe the public record.
 - Upon receipt of a good faith deposit, when requested.

- E. When operationally necessary, MGCB may issue a notice extending for not more than 10 additional business days the period during which to respond to a request.
- F. MGCB may require, at the time a request is made, a good faith deposit from the requestor of the public record or series of public records. The deposit shall not exceed ½ of the total fee. [FOIA Section 4(2)]
- G. MGCB will charge a requestor a processing fee for all time involved in completing a request for information if the combined labor (work performed by all MGCB personnel and agents) exceeds two (2) hours.
- H. MGCB may refuse to process a FOIA request if the requestor fails to pay a good faith deposit properly requested by the MGCB pursuant to [FOIA Section 4(2)]. (A.G. Opinion #6977)
- I. MGCB may require that its fees be paid in full before actual delivery of requested materials or information. [A.G. Opinion #6977]
- J. Records staff will include the “Response Number” in each written response along with a request that this number be included in any future correspondence or fee payment.

Fee Calculations

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)

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

- A. Fees will be uniform and not dependent upon the identity of the requesting person.
- B. 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.
- C. 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.

- D. 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.
- E. 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.
- F. 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.
- G. Actual costs of mailing using a reasonably economical and justifiable manner.
- H. No Department employee shall stipulate to work overtime or include overtime wages in the labor costs described in these procedures and guidelines.
- I. 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 FOIA Coordinator.
- J. 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."
- K. 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.
- L. The Department will not charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material that will take less than two hour. If the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material will take more than two hour, a fee will be charged in accordance with this procedure pursuant to section 4 of the FOIA, MCL 15.234. The hourly wage will be based on the Department's payroll records for the applicable fiscal year.

Deposit Requirements

- A. If the Department estimates a fee to process a FOIA request greater than \$50.00, the Department will require a good-faith deposit from the requestor before providing the public records to the requestor. The deposit 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 the Department to provide the public records to the requestor. The time frame estimate is not binding upon the Department, but the Department 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.

Click [here](#) for detailed itemization form.

Filing an Appeal

If a fee is assessed or all or part of a request is denied, you may submit to the Executive Director 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 Executive Director or the person designated by the Executive Director to respond to written appeals.

Requests to Inspect Public Records

- A. Requests to view or inspect public records will take place at a MGCB office during normal business hours and in a manner that does not unreasonably disrupt the operations of MGCB.
- B. The FOIA Coordinator, when responding to requests for viewing or inspecting public records, will review, copy, redact exempt from non-exempt information and provide a copy of redacted record(s) for viewing or inspection.
 - Records staff must be able to describe the redacted information if requested by the record viewer.
 - MGCB will notify the requestor of any labor and duplication fees associated with preparing records for inspection before the inspection.
- C. When responding to requests to view or inspect public records, MGCB shall take necessary measures to protect its records from loss, unauthorized alteration, mutilation or destruction. [FOIA Section 3(3)]. Measures may include:
 - Providing copies rather than originals for public inspection; or
 - Assigning Records Staff to monitor documents during inspection.
- D. MGCB staff shall follow State of Michigan Treasury Policy 5/60: ET-03102, by not allowing State of Michigan computer equipment to be used by unauthorized person(s).