



## DEPARTMENT POLICY AND PROCEDURE

### 01-006 Disclosure of Public Records: Responding to Freedom of Information Act Requests

Original Effective Date: November 7, 1997  
Last Revision Date: December 17, 2021  
Distribution: All EGLE Employees

#### ISSUE

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Michigan's [Freedom of Information Act, 1976 PA 442, as amended](#) (FOIA), regulates and prescribes how and when state government must respond to requests for the disclosure of public records. The FOIA sets requirements for public bodies to initially respond to all requests within five business days, with provisions as necessary for a 10-day extension notice. The Michigan Department of Environment, Great Lakes, and Energy (EGLE), as a public body, is subject to this statute. The following policy and procedures govern FOIA requests.

#### AUTHORITY

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Michigan Freedom of Information Act, 1976 PA 442, as amended

#### DEFINITIONS

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**Correspondence** – Any written communication, regardless of transmission, such as a letter, fax, or e-mail.

**Denial appeal** – An appeal of a denial or partial denial letter or e-mail issued by the EGLE FOIA coordinator.

**Division central FOIA liaison** – Division staff responsible for overall coordination and tracking of division FOIA request responses; distribution of division FOIA requests to FOIA liaisons; and ensuring the division appropriately and consistently responds to FOIA requests within prescribed timeframes.

**EGLE FOIA team** – Staff in the Information Management Division that receive, assign, and centrally track all FOIA requests for EGLE. The FOIA coordinator is a member of this team.

**Fee appeal** – An appeal of the total estimated cost or good faith estimate.

**FOIA coordinator** – The individual designated by the public body in accordance with Section 6 of Michigan's FOIA (MCL 15.236) to accept and process requests for public records. The FOIA coordinator is a member of the EGLE FOIA team.

**FOIA liaison** – The person responsible for assigning FOIA requests to division staff; working with these staff to identify, locate and appropriately review responsive records; and releasing records.

**FOIA request** – A written document requesting information, regardless of transmission. The written document must describe a public record sufficiently to enable the public body to find the public record. The request does not have to reference the FOIA to be considered a FOIA request.

**FOIA requester** – The person who submits a written request for information to EGLE.

**Public record** – Any writing prepared, owned, used, in the possession of, or retained by EGLE in the performance of its official functions. Records may be in any form, including typewritten, handwritten, e-mail, photocopies, tape recording, video recording, maps, pictures, symbols, and any other means of recording or retaining meaningful content. Under the FOIA, a public record does not include computer software.

**Transparency liaison** – The individual designated by EGLE in accordance with [Executive Directive 2019-11](#) who assists the public with any issues in accessing department records through the FOIA. The transparency liaison acts as an advocate for the disclosure of public records and for transparency and procedures that encourage public participation in public meetings. The transparency liaison also assists individuals seeking to participate in public meetings.

**Waiver of fee** – The FOIA coordinator will issue a fee waiver for the first \$20 of the fee for each request to an individual who submits an affidavit stating that the individual receives public assistance, or if not receiving public assistance, stating facts showing the inability to pay. Although a majority of the FOIA requests received by EGLE pertain to records that may be considered as primarily benefitting the public, EGLE does not waive, reduce, or exempt the fee solely based on benefit to the public. EGLE must utilize our monies and resources, entrusted to us by the taxpayers, in the most efficient manner possible to carry out our mission.

## **POLICY**

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EGLE encourages transparency, public participation in, and knowledge of, its decision-making processes. This includes providing the public with access to EGLE records as required under the FOIA.

To ensure accurate and timely responses to FOIA requests, all EGLE FOIA requests must be sent to the FOIA coordinator for processing.

**PROCEDURE**

| Step | Who            | Does What  |
|------|----------------|--|
| 1.   | FOIA Requester | <p>Submits a FOIA request through the online portal, EGLE FOIA Request Center, at <a href="http://www.michigan.gov/EGLEFOIA">www.michigan.gov/EGLEFOIA</a>.</p> <p>A FOIA requester may cancel a FOIA request at any time by utilizing the EGLE FOIA Request Center at <a href="http://www.michigan.gov/EGLEFOIA">www.michigan.gov/EGLEFOIA</a>.</p> <p>Additional information is located on the EGLE FOIA website, <a href="http://www.michigan.gov/EGLEFOIA">www.michigan.gov/EGLEFOIA</a>.</p>  |
| 2.   | EGLE Employee  | <p>Receives an electronic FOIA request: Immediately forwards it to the FOIA coordinator using the following address: <a href="mailto:EGLE-FOIA@Michigan.gov">EGLE-FOIA@Michigan.gov</a>.</p> <p>Receives a paper copy of a FOIA request: Date stamps the paper copy and immediately forwards it to the FOIA coordinator in the most-efficient means available, i.e., scan and attach to e-mail addressed to: <a href="mailto:EGLE-FOIA@Michigan.gov">EGLE-FOIA@Michigan.gov</a>.</p>   |
| 3.   | EGLE FOIA Team | <p>Ensures all FOIA requests received by EGLE are tracked in the EGLE FOIA Request Center.</p> <ul style="list-style-type: none"> <li>a. If the FOIA request was received through the EGLE FOIA Request Center, proceeds to Step 5.</li> <li>b. If the FOIA request was received outside of the EGLE FOIA Request Center, proceeds to Step 4.</li> </ul>   |
| 4.   | EGLE FOIA Team | <p>Reviews the FOIA request to determine if a duplicate request was submitted to the EGLE FOIA Request Center.</p> <ul style="list-style-type: none"> <li>a. If yes, proceeds to Step 5.</li> <li>b. If no, sends the FOIA requester information about the EGLE FOIA Request Center. <ul style="list-style-type: none"> <li>1. If the FOIA request is received by the EGLE FOIA Request Center within 24 hours of the notice, proceeds to Step 5.</li> <li>2. If the FOIA request is not received by the EGLE FOIA Request Center within 24 hours of the notice, enters the FOIA request into the online portal and proceeds to Step 5.</li> </ul> </li> </ul> |

| Step | Who                           | Does What   |
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| 5.   | EGLE FOIA Team                | The EGLE FOIA Request Center confirms receipt of the FOIA request by issuing a notification to the FOIA requester. The notification shall contain the FOIA tracking number and description of records requested.  |
| 6.   | EGLE FOIA Team                | <p>Reviews the FOIA request to determine if the request can be filled.</p> <ul style="list-style-type: none"> <li>a. If yes, proceeds to Step 7.</li> <li>b. If no, issues the appropriate denial e-mail/letter.</li> </ul>   |
| 7.   | EGLE FOIA Team                | <p>Reviews the FOIA request to determine which division(s)/office(s) may have responsive records.</p> <ul style="list-style-type: none"> <li>a. Selects/forwards to appropriate division(s)/office(s).</li> <li>b. <b>If a fee waiver is approved:</b> <ul style="list-style-type: none"> <li>1. Issues approval letter.</li> <li>2. Adds a minus \$20.00 fee and a note to the EGLE FOIA Request Center.</li> </ul> </li> <li>c. <b>If fee waiver is denied,</b> issues denial letter.</li> </ul>  |
| 8.   | Division Central FOIA Liaison | Immediately forwards the FOIA request to the appropriate FOIA liaison(s).   |
| 9.   | FOIA Liaison                  | <p>Reviews the FOIA request, within one business day of the assignment date, with appropriate division program staff to determine if the FOIA request is specific enough to locate the desired record(s) and determines where the record(s) is/are located; see <a href="#">MCL 15.233(1)</a>.</p> <ul style="list-style-type: none"> <li>a. Forwards the FOIA request to the appropriate division program staff for processing and proceeds to Step 10 or 11.</li> <li>b. If records are available, proceed to Step 14 or 15.</li> </ul> |

| Step | Who                           | Does What  |
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| 10.  | FOIA Liaison                  | <p>If the FOIA request is so broad that it encompasses a large volume of information, or if the FOIA request is not specific enough:</p> <ul style="list-style-type: none"> <li>a. Within five business days of the original creation date, estimates the total cost to fulfill the FOIA request and proceeds to Step 18.</li> <li>b. May notify the EGLE FOIA team that assistance is needed from the Department of Attorney General and/or Department of Technology, Management and Budget with record gathering and/or review. Any associated cost(s) will be passed along to the FOIA requester.</li> </ul>  |
| 11.  | FOIA Liaison                  | If no records exist, updates the EGLE FOIA Request Center.   |
| 12.  | Division Central FOIA Liaison | If no records exist, updates the EGLE FOIA Request Center.   |
| 13.  | EGLE FOIA Team                | Sends appropriate notice to the FOIA requester and closes the request in the EGLE FOIA Request Center.   |
| 14.  | EGLE Employee                 | <p>Reviews the FOIA request within one business day of the assignment to determine whether requested record(s) is/are exempt from disclosure; see <a href="#">EGLE Policy 01-032, FOIA Redaction Policy</a>, for more information on exemptions.</p> <ul style="list-style-type: none"> <li>a. If the record is part of ongoing litigation and the FOIA requester is named in the lawsuit, notifies the district/division central FOIA liaison, as appropriate.</li> <li>b. If the FOIA requester is not named in the lawsuit or if the record(s) is/are not part of ongoing litigation, proceeds to Step 14c.</li> <li>c. If all or part of the requested record(s) appear(s) to be exempt from disclosure, notifies the district/division central FOIA liaison, as appropriate; see <a href="#">MCL 15.243</a> or <a href="#">EGLE Policy 01-032</a> for descriptions of exempt records.</li> <li>d. If the requested record(s) is/are not exempt from disclosure, notifies the district/division central FOIA liaison, as appropriate.</li> </ul> |
| 15.  | FOIA Liaison                  | If all or part of the requested record(s) appear(s) to be exempt from disclosure, uploads record(s) and updates the EGLE FOIA Request Center.  |
| 16.  | Division Central FOIA Liaison | If all or part of the requested record(s) appear(s) to be exempt from disclosure, reviews exemptions, applies labels, and updates the EGLE FOIA Request Center.  |

| Step | Who            | Does What   |
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| 17.  | EGLE FOIA Team | Reviews exemptions and sends partial/full exemption denial to FOIA requester, as appropriate.   |
| 18.  | FOIA Liaison   | If records exist and the total estimated cost is less than EGLE's minimum charge of \$20.00, uploads records and updates the EGLE FOIA Request Center or proceeds to Step 19.<br><br>If records exist and the total estimated cost is more than \$20.00 but less than \$100.00, uploads records and proceeds to Step 20.<br><br>If records exist and the total estimated cost is more than \$100.00, proceeds to Step 20. |

| Step | Who          | Does What  |
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| 19.  | FOIA Liaison | <p>Coordinates on-site appointments if the FOIA requester elects to review the record(s) in person and updates the EGLE FOIA Request Center after the visit is complete.</p> <p>When an invoice has been issued, contact with the FOIA requester about an appointment may only take place after full payment is received. If there are <b>no EGLE fees</b> associated with the request, contact with the FOIA requester is to be done within five business days of the original creation date; the actual appointment does not have to be within those five business days.</p> <ul style="list-style-type: none"> <li>a. The FOIA requester may be charged for the following costs:                             <ul style="list-style-type: none"> <li>1. Costs associated with copying/scanning of the records performed by division program staff.</li> <li>2. Division program staff time for the search, retrieval, examination, review, and separation of exempt and nonexempt information.</li> <li>3. If the presence of an EGLE employee is necessary to monitor a FOIA requester's inspection of records, the FOIA requester is charged for that time utilizing the administrative rate.                                     <ul style="list-style-type: none"> <li>i. An EGLE employee should be present during a record inspection if (a) the integrity of the file may be in question, or (b) it is required by division/office district/field procedures.</li> <li>ii. On-site appointments should be arranged with the appropriate division program staff to ensure that the requested records and EGLE employee are available.</li> </ul> </li> </ul> </li> <li>b. FOIA requesters may utilize his or her personal equipment to videotape, copy, and/or scan files to eliminate or minimize costs associated with the copying/scanning of records.</li> </ul> |

| Step | Who          | Does What   |
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| 20.  | FOIA Liaison | <p data-bbox="618 338 1430 401">Estimates the fee(s) to be charged for providing the requested record(s).</p> <ul style="list-style-type: none"><li data-bbox="659 436 1398 537">a. Estimates the number of hours required to search for, retrieve, examine, review, and separate exempt and non-exempt information, the requested material.</li><li data-bbox="659 573 1414 669">b. Calculates the cost of other fees (e.g., postage, off-site copies, etc.). Any copying/scanning charges for off-site copies are to reflect the actual costs.<ul style="list-style-type: none"><li data-bbox="708 705 1430 873">1. Off-site copies/scanning are documents that require duplication by a private copy center. Any records larger than 8½" x 11", such as maps, photographs, or color copies, may require off-site copying/scanning.</li></ul></li><li data-bbox="659 909 1373 968">c. Enters fee(s) and updates the EGLE FOIA Request Center.</li></ul> |

| Step | Who            | Does What   |
|------|----------------|---|
| 21.  | EGLE FOIA Team | <p>Sends a cost estimate/invoice, with abandon language, to the FOIA requester via the EGLE FOIA Request Center.</p> <ul style="list-style-type: none"> <li>a. If the cost is more than \$20.00 but less than \$50.00, prepares an invoice. <ul style="list-style-type: none"> <li>1. Invoice must include the “fee appeal” information.</li> <li>2. Invoice is based on the actual cost to provide the records.</li> <li>3. Do not release documents until notification of receipt of full payment by the Cashier’s Office or the EGLE FOIA Request Center.</li> </ul> </li> <li>b. If the cost is \$50.00 or more, sends invoice requesting a good faith deposit of one-half of the total estimated fee prior to processing the request. <ul style="list-style-type: none"> <li>1. Invoice must include the “fee appeal” information.</li> <li>2. Invoice must contain “a best efforts estimate” about the time frame to provide the records. This is non-binding but must be based on the nature of the request.</li> <li>3. Do not release documents until notification of receipt of the final payment by the Cashier’s Office or the EGLE FOIA Request Center.</li> <li>4. If a FOIA request is canceled <u>after</u> receipt of the good faith deposit, the actual costs incurred up to the date of cancellation will be subtracted from the good faith deposit. The remaining balance of the good faith deposit will be refunded and the EGLE FOIA Request Center updated, as appropriate.</li> </ul> </li> </ul> |

| Step | Who                    | Does What   |
|------|------------------------|---|
| 22.  | FOIA Requester         | <p>Upon receiving the total cost invoice or the good faith deposit invoice, may submit payment (proceed to Step 24) or appeal the estimate or total cost. The appeal must be in writing and sent to:</p> <p style="padding-left: 40px;">Senior Deputy Director<br/> Executive Office<br/> Michigan Department of Environment, Great Lakes,<br/> and Energy<br/> P.O. Box 30473<br/> Lansing, Michigan 48909-7973</p> <p>The writing must specifically state “fee appeal” and identify how the fee exceeds the amount permitted under the FOIA.</p> <p>The Senior Deputy Director must respond to the fee appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to the fee appeal may be extended by 10 business days.</p> <p>If a civil action is commenced against EGLE, the FOIA request will be paused until the fee appeal has been resolved.</p> |
| 23.  | Senior Deputy Director | <p>Within 10 business days after receiving a fee appeal, shall:</p> <ol style="list-style-type: none"> <li>a. Waive the fee;</li> <li>b. Reduce the fee and indicate the specific basis that supports the remaining fee;</li> <li>c. Uphold the fee and indicate the specific basis that supports the fee; or</li> <li>d. Issue a notice extending for not more than 10 business days the period to respond, including why the extension is necessary.</li> </ol>   |

| Step | Who                           | Does What  |
|------|-------------------------------|--|
| 24.  | FOIA Liaison                  | <p>Upon notification of receipt of the good faith deposit payment:</p> <ul style="list-style-type: none"> <li>a. Immediately notifies EGLE employee(s) to identify, locate, and appropriately review responsive records and to mark redactions on the documents where applicable, but do not apply the redactions.</li> <li>b. Copies/scans/uploads requested records to the EGLE FOIA Request Center while applying appropriate labels after the EGLE employee(s) completes their review. It is expected that most responses will be completed in less than 10 business days. <ul style="list-style-type: none"> <li>1. If copying/scanning requested records will take more than 5 business days, the FOIA liaison must notify the EGLE FOIA team of the expected time frame to complete this work.</li> <li>2. If exemptions exist, revisit Steps 14 and 15.</li> <li>3. Adds a note to the EGLE FOIA Request Center if the final cost is different than originally estimated.</li> <li>4. Updates the EGLE FOIA Request Center, as appropriate.</li> </ul> </li> </ul> |
| 25.  | Division Central FOIA Liaison | Conducts any necessary reviews of the records, ensures labels are correct, and updates the EGLE FOIA Request Center.   |
| 26.  | EGLE FOIA Team                | <p>If there are no fees associated with the request or if the invoice is paid in full, releases records to the FOIA requester and updates the EGLE FOIA Request Center.</p> <p>If a good faith deposit was applied to the request, sends a balance due notification to FOIA requester. Upon receipt of final payment, releases records within 5 business days and updates the EGLE FOIA Request Center.</p>  |

| Step | Who            | Does What   |
|------|----------------|---|
| 27.  | FOIA Requester | <p>May appeal the records do not exist denial or the partial denial by either of the following:</p> <p>a. Appeal the decision in writing to:</p> <p style="padding-left: 40px;">Senior Deputy Director<br/> Executive Office<br/> Michigan Department of Environment, Great Lakes, and Energy<br/> P.O. Box 30473<br/> Lansing, Michigan 48909-7973</p> <p>The writing must specifically state the word “appeal” and identify the basis for which the disclosure determination should be reversed.</p> <p>The Senior Deputy Director must respond to the appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to the appeal may be extended by 10 business days.</p> <p>b. Commence a civil action in the Court of Claims within 180 days after the date of the final determination to deny the request. If the FOIA requester prevails, the court can award reasonable attorney fees, costs, disbursements, and possible damages.</p> |
| 28.  | EGLE FOIA Team | Reviews and updates hourly wage and per-page rates on an annual basis, as necessary. The hourly wage rate will be based on the lowest paid full-time public body employee capable of retrieving the information.  |
| 29.  | EGLE FOIA Team | Retains all FOIA requests for no less than one year.  |

| Step | Who                  | Does What   |
|------|----------------------|---|
| 30.  | Transparency Liaison | <p>Assists the public in accessing department records through the FOIA, acting as an advocate for the disclosure of public records.</p> <p>After discussing the FOIA request with EGLE staff or contacting the EGLE board/commission liaison, if the requester still has questions/seeks assistance with a FOIA request, participating in an EGLE public meeting, or another open government issue, the requester may contact EGLE's transparency liaison by mail or phone at:</p> <p>EGLE Transparency Liaison<br/>Executive Office<br/>Michigan Department of Environment, Great Lakes, and Energy<br/>P.O. Box 30473<br/>Lansing, Michigan 48909-7973<br/>517-284-5002</p> |

**LINKS TO ADDITIONAL INFORMATION**

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[Freedom of Information Act, 1976 PA 442, as amended \(FOIA\)](#)

[EGLE Policy 01-032 – FOIA Redaction Policy](#)

[EGLE FOIA Website](#)

[EGLE Office Locations](#)

[EGLE FOIA Liaisons](#)

**APPROVING AUTHORITY**

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Liesl Eichler Clark, Director

## HISTORY

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| Policy No. | Action   | Date       | Title   |
|------------|----------|------------|---|
| 01-006     | Created  | 11/07/1997 | Disclosure of Public Records: Freedom of Information Act Requests               |
| 01-006     | Revised  | 06/04/2009 | Same as above   |
| 01-006     | Revised  | 06/12/2014 | Same as above   |
| 01-006     | Revised  | 07/23/2014 | Same as above   |
| 01-006     | Revised  | 06/07/2016 | Disclosure of Public Records: Responding to Freedom of Information Act Requests |
| 01-006     | Revised  | 06/29/2018 | Same as above   |
| 01-006     | Reviewed | 09/11/2019 | Same as above   |
| 01-006     | Revised  | 12/17/2021 | Same as above   |

## CONTACT/UPDATE RESPONSIBILITY

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Any questions or concerns regarding this policy and procedure should be directed to the EGLE FOIA Team at [EGLE-FOIA@Michigan.gov](mailto:EGLE-FOIA@Michigan.gov).

*An EGLE policy and procedure cannot establish regulatory requirements for parties outside of EGLE. This document provides direction to EGLE staff regarding the implementation of rules and laws administered by EGLE. It is merely explanatory, does not affect the rights of or procedures and practices available to the public, and does not have the force and effect of law. EGLE staff shall follow the directions contained in this document.*