

MICHIGAN DEPARTMENT OF AGRICULTURE & RURAL DEVELOPMENT

FREEDOM OF INFORMATION ACT

IMPLEMENTATION GUIDELINES

I. DEPARTMENT POLICY

The Freedom of Information Act (FOIA), MCL 15.231, *et seq.*, provides that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees. The Michigan Department of Agriculture & Rural Development agrees that public access to the official acts of government is a necessary and proper element of a free society. ***Therefore, it is the policy of the Michigan Department of Agriculture & Rural Development to conduct its affairs in compliance with the Freedom of Information Act and further, to provide as much public access as possible to the public records of this agency.***

The Freedom of Information Act creates the right of all persons to inspect, copy, or receive copies of public records. The Act identifies categories of records that are exempt from disclosure. The Act also requires those requests for disclosure be made in writing. It is the policy of the Michigan Department of Agriculture & Rural Development that any written request for records not exempt by a specific provision of the Act, or of another Act, will be provided within five (5) business days after receipt unless there are extenuating circumstances, in which case the requested record will be provided within fifteen (15) business days after receipt with a one-time ten (10) business day extension is taken. While oral requests for information are allowed by the Act, staff members should ask for oral requests to be reduced to writing to ensure accuracy and then respond to those requests consistent with this policy. If the request remains an oral request, staff members are encouraged to respond consistent with other departmental and divisional policies and procedures regarding service to the public, including providing direction to where to find records on MDARD's website.

The Freedom of Information Act ***does not*** require the creation of a record or a summary of a record(s) and the department ***will not*** do so in response to a FOIA request.

II. DEFINITIONS

- A. "Freedom of Information Coordinator" means *a designated member of the Michigan Department of Agriculture & Rural Development.*

- B. "Person" means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. "Person" does not include an individual serving a sentence of imprisonment in a correctional facility. **A person must provide their complete name, address, and contact information for their request to be considered valid. The address must be written in compliance with United States Postal Service addressing standards. Contact information has to include a valid telephone number or electronic mail address.**
- C. "Public Record" means a writing prepared, owned, used, in the possession of, or retained by this department in the performance of an official function. Computer software is not a public record, but information stored in a computer is considered a public record. A public record, if not exempt from disclosure under Section 13 of the Act, or of another Act, must be disclosed upon request of any person.
- D. Subpoena – A subpoena is an order of the court, which may require that records be produced. *A subpoena is not handled under FOIA.* Questions regarding the production of records under a subpoena should be addressed to the Director of the Office of Legal Affairs.
- E. "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording and includes letters, words, pictures, sounds or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content. ***This also includes e-mails that have been received, sent, archived or residing in "trash, along with voice mail messages, and Team chat messages.***
- F. "Written Request" means a writing received by the department that asks for information and includes any writing received by mail, fax, e-mail, internet, or any other electronic means.

III. Transparency Liaison

- A. Under Governor Gretchen Whitmer's Executive Directive No. 2019-11, each department shall designate an individual to serve as the Transparency Liaison. MDARD has elected Ashley Steffen as the Transparency Liaison.

Ashley Steffen
Michigan Department of Agriculture and Rural Development
P.O. Box 30017
Lansing, Michigan 48909
517-242-2282
steffena1@michigan.gov

Her duties include:

1. Assist members of the public seeking a public record from the department in navigating the requirements of the Freedom of Information Act or other law applicable to public records, including by providing educational material on the website of the department or agency.
2. Assist members of the public seeking to participate in a public meeting held by a board or commission within the department in a manner that complies with the Open Meeting Act, including by providing educational materials on the website.
3. Make recommendations to the department on compliance with the Governor's directive, reducing costs relating to public record requests, and encouraging greater transparency.
4. Advocate for transparency of public records quickly and in a cost-efficient manner.
5. Advocate for transparency and procedures that encourage public participation in public meetings.
6. Consult with the Department Freedom of Information Act Coordinator regarding compliance regarding the governor directive and the Freedom of Information Act.
7. Recommend changes to the department's procedures and guidelines and written public summary of the procedures and guidelines for the department under section 4 of the Freedom of Information Act, MCL 15.234.

IV. FOIA COORDINATOR

- A. *The FOIA Coordinator for the Michigan Department of Agriculture & Rural Development:*
1. Will accept, process, refer, grant or deny FOIA requests.
 2. Will maintain records as required by law and policy.
 3. Will appoint Associate FOIA Coordinators from each division and provide appropriate annual training to Coordinators and other departmental personnel.
 4. All FOIA questions will be referred to the FOIA Coordinator. If the Attorney General must be consulted, the FOIA Coordinator is authorized to do so.
 5. All questions and requests for assistance will be directed to the FOIA Coordinator.
- B. Each Division Director is designated as an Associate FOIA Coordinator and may designate staff to perform FOIA duties.

- C. The Assistant to the Director is designated as the Associate FOIA Coordinator for records of the executive office.
- D. The Assistant to the Chief Deputy Director is designated as the Associate FOIA Coordinator for records of the Commission.
 - 1. Associate FOIA Coordinators will grant all FOIA requests meeting the requirements of the Act.
 - 2. Associate FOIA Coordinators may issue a time extension letter when necessary.
 - 3. In limited circumstances, Associate FOIA Coordinators may deny a FOIA request only in the event that the requested record does not exist.
 - 4. The department FOIA Coordinator is the only person authorized to deny or partially deny a FOIA request for any reason other than that stated in 3. above, except that in processing a denial, the FOIA Coordinator may consult with the affected Division Director. The FOIA Coordinator shall notify the Chief Deputy Director of a denial that is potentially controversial.

V. RECEIPT OF REQUEST AND RESPONSE

Requests received shall be responded to by doing one of the following:

- 1. Granting the request.
 - 2. Issuing a written notice to the requestor denying the request.
 - 3. Granting and denying the request in part and issuing a written notice.
 - 4. Issuing a notice of a ten (10) business day extension. If this extension is taken, then by the end of the ten (10) business days, the request must be responded to with one of the first three choices above.
- A. Written requests for information will be date stamped on the **front** of the document upon their arrival at a departmental facility. Any departmental member or facility may receive a FOIA request. If a date stamp is not available, handwrite the received date on the **front** of the document.

It **must** be legible when copies are made. A fax or e-mail request is considered to be received the day *after* it arrives at a fax machine or in a MDARD e-mail inbox.

Also, if a written request is sent via e-mail and delivered to a spam or junk folder, the request is not received until one day after the public body first becomes aware of the written request. Notation should be made of both the time the written request is delivered to the spam or junk folder and the time the public body first became aware of that request.

1. FOIA requests will be immediately forwarded by hand, fax, or e-mail directly to the division or office that may possess the requested record. Since a response must be made within five (5) business days, all FOIA requests will be expedited directly to the involved division's Associate FOIA Coordinator. U. S. Mail and Interdepartmental mail will not be used because of the time delays involved in these methods of delivery.
 2. FOIA requests received at a field work site for information retained at that work site may be granted directly from the work site after conversation with the appropriate division's Associate FOIA Coordinator. Copies of the request should be sent to the division Associate FOIA Coordinator upon fulfillment to be maintained until the end of the calendar year. All FOIA responses should include one of the notices (letters) found at the end of this document. See VII. B.
 3. Any departmental member or office that receives a FOIA request and does not know the proper place to refer that request will *immediately* refer it to the FOIA Coordinator in the manner described above.
 4. It is not necessary that a request refer to the Freedom of Information Act in order to be a FOIA request. Any written request for a "writing" as defined above is considered, by law, to be a FOIA request and must be responded to within five (5) business days.
 5. Records may be provided without receipt of a written request. However, staff members should ask that the request be reduced to a writing (e-mail, fax, or regular mail.)
- B. Routine FOIA requests for information that are not denials or partial denials will be processed by the staff of the involved division and approved for release by the division Associate FOIA Coordinator.
1. The information will be sent to the requestor in a cost-effective manner. In the event the records are voluminous and unable to be sent via email, records will be sent in hard copy or electronically via CD, DVD or flash drive.
 2. Requestors may arrange to pick up the information at an MDARD office if that is their wish.

3. If a written or verbal request for information is for a record that is available on the MDARD website, the staff member shall inform the requestor about the pertinent website address. Written notices may contain a link to those documents instead of providing paper copies. However, MDARD will still provide a hard copy if the requestor wishes and may charge for that record and up to 100% of the fringe benefits for that portion of the response.
- C. The Associate FOIA Coordinator will mail a notice similar to that described in Attachment A with all FOIA responses that are granted. *Responses via fax or e-mail also require a notice. A copy shall be retained with the request in accordance with Section VIII of these guidelines.*
 - D. If an Associate FOIA Coordinator cannot locate the requested record, he/she will mail (e-mail or fax) a notice similar to that described in Attachment B to the requestor within five (5) business days of receipt of the request.
 - E. If an Associate FOIA Coordinator cannot respond within five (5) business days, and requires an additional ten (10) business day extension, the Associate FOIA Coordinator will mail a time extension notice to the requestor similar to that described in Attachment C.
 1. The FOIA Coordinator must be advised of this action.
 2. This notice must be mailed within five (5) business days of receipt of the original request.
 3. The notice must contain a date when the reply is expected and a reason(s) for the delay.
 - F. Requests for certified copies of records will be met when the Associate FOIA Coordinator signs and mails the certification form found in Attachment D. Certification forms will have the Department Seal affixed.
 - G. The Act provides a right to inspect records by the requestor and that the public body must furnish reasonable accommodation for the requestor. The public body must also make reasonable rules necessary to protect the public records from loss, unauthorized alteration, mutilation, or destruction and to prevent excessive and unreasonable interference in discharging its functions. It is MDARD's policy that:
 1. Anyone requesting inspection will be accompanied at all times;
 2. No person shall be given access to records through a computer terminal, rather the records will be printed and given to the requestor for review. Information requiring redaction will be redacted and a photocopy made prior to the requestor's review.

3. Costs may not be charged for surveillance, unless the requestor is reviewing **original** records or if the records must be reviewed for exempt information prior to the review.
4. Review will occur during normal business hours.
5. The review will occur at a time and for a duration that has the least disruption to normal business activities.
6. The review will occur at the normal location of the records or at another location to be determined by MDARD.
7. The requestor may bring his/her own photocopying equipment, if desired.

H. If an Associate FOIA coordinator receives a request from a Media source, they should forward a copy of the request to MDARD Public Information Officer immediately along with any additional communication between the Media source and the Associate FOIA coordinator. Once the request is ready to be fulfilled, the associate FOIA coordinator should notify MDARD Public information officer with a copy of the response letter and corresponding records before the request is released.

VI. EXEMPTIONS

- A. While the intent of FOIA is to provide public access to public records in the possession of public bodies, there are certain *discretionary* exemptions stated in Section 13. In most cases, these exemptions do not mandate that information be withheld but rather *allow* information to be withheld if a public body so desires and requirements of the specific exemptions are met.
- B. It is important to note that investigative records compiled for law enforcement purposes, including **MDARD investigations, must be released** unless disclosure would:
 1. Interfere with a law enforcement proceeding.
 2. Deprive a person of a right to a fair trial or impartial administrative adjudication.
 3. Constitute an unwarranted invasion of personal privacy.
 4. Disclose the identity of a confidential source.
 5. Disclose law enforcement investigative techniques or procedures.
 6. Endanger the life or physical safety of law enforcement personnel.

During the course of an ongoing investigation by MDARD it is permissible to withhold information under the authority of Section 13 (1)(b)(i) and/or (ii) if the circumstances warrant. The burden of substantiating the circumstances availing the public body to the exemption would fall on the department if challenged in court. *It will not be enough to simply state the exemption; we will be required to articulate the circumstances substantiating the exemption.* At the conclusion of the investigation, it can no longer be argued that the release of information will interfere with law enforcement proceedings or deprive a person of the right to a fair trial or impartial administrative adjudication.

Absent specific circumstances clearly supporting the application of Section 13(1)(a) it is the policy of MDARD that the names and city of complainants will be released, if requested in writing, at the conclusion of an ongoing investigation and criminal or administrative proceedings or during the investigation if Section 13(1)(b)(i)(ii) and/or (iii) do not apply. Other exemptions may also apply, depending on the request and the nature of the records.

VII. DENIAL OR PARTIAL DENIAL OF REQUEST

- A. If a request for information falls within one of the exemptions specified in the Act, or in another Act, and a denial is contemplated, the FOIA Coordinator may consult the affected Division Director. (If the FOIA Coordinator and affected Division Director do not agree on the denial, the Chief Deputy Directory will be consulted.) Within five (5) business days of receipt of the original request, the Associate FOIA Coordinator shall prepare a denial notice similar to that contained in Attachment E for signature by the FOIA Coordinator. The FOIA Coordinator will mail the denial notice. Copies of the denial notice will be forwarded to the appropriate Division for retention. The Act requires this notice to contain:
- a. The legal basis under this Act or another Act for the denial (*section of law*),
or
 - b. A certification that the record does not exist if that is the reason for denial,
or
 - c. A description of that portion of a record that is separated or deleted from the main body of the record pursuant to one of the Act's exemptions, if such a separation is made,
and
 - d. An explanation of the requestor's remedial right to either:
 - 1) Submit a written appeal to the Director that specifically states the word "appeal" and identifies a reason for reversal of the disclosure denial,

- or
 - 2) Seek judicial review of the denial,
and
 - e. Notice of the right to receive attorney fees and damages if, after judicial review, the court orders disclosure of all or a portion of the record,
and
 - f. A hyperlink to the Department's FOIA written summary, procedures, and guidelines.

- B. Information contained in a requested record that is enumerated as an exception in the Act, or in another Act, will be redacted from the record before mailing it to the requestor. ***Just because some information is exempt from FOIA does not mean that the entire record is exempt.***

(For example, a request for personnel records is valid but the record contains a social security number, which is exempt. Redact the social security number and release the redacted record.)
 - 1. The accepted method of redactions is to make a copy of the document, black out the information to be redacted with a felt tip pen, then make a second copy of the blacked-out document for release to the requestor.
 - 2. Other methods may be used so long as the redacted information cannot be recreated.
 - 3. The information to be released will be given to the FOIA Coordinator who will send it with a notice similar to that contained at Attachment F. *Note that the items identified as exempt must be listed or explained in the notice.*
 - 4. The FOIA Coordinator will send the partial denial notice. Copies of the partial denial notice will be forwarded to the appropriate division for retention.

- C. When the requests consist of multiple parts, the response notice needs to track which items or parts of items requested are being denied, and why. For example: Parts 1, 2, 5, and 7 of your request are granted....Part 3 is a denial no records due to records retention; Part 4 is a partial denial due to the personal privacy exemption and a redaction; Part 6 is a denial under another exemption.

VIII. APPEALS

- A. Any person who is denied full access to the record sought or wishes to appeal a fee may appeal to the Director in writing.

1. The denial/partial denial and fee notices advises all denied requestors of this right.
 2. The appellant must include the word "appeal" in their request.
 3. Any department member or facility receiving such a letter must immediately hand deliver, fax, or e-mail it to the FOIA Coordinator.
- B. The Director will review the initial decision with the Division Director and FOIA Coordinator and render a decision within ten (10) business days to either:
1. Grant the request for release of records or fee reduction.
 2. Partially grant the request for release of records or fee reduction.
 3. Deny the request for release of records or fee reduction.
 4. Under unusual circumstances, issue a ten (10) business day extension in order to reply to the request in one of the above ways.
- C. In addition, denied requestors may seek judicial review within one hundred and eighty (180) days of the denial of records. It is not necessary to appeal to the Director before seeking judicial review.

IX. RECORD RETENTION

- A. All Associate FOIA Coordinators will retain FOIA requests in their division files for the current calendar year.
1. For requests that are granted or denied, the request, the reply notice, any extension notice, and any billing worksheet must be retained. Either a copy of the documents provided or an inventory listing the records shall be retained.
 2. For requests that are partially granted (information redacted), it will be necessary to retain the redacted page(s) released in addition to that specified in I. above.
 3. Division Directors are free to require the retention of additional records at their discretion.
- B. At the conclusion of each calendar year (December 31), all Associate FOIA Coordinators will forward all FOIA file material for that year to the FOIA Coordinator.
1. The FOIA Coordinator will retain these records for one additional year before destruction, according to Act. Some information may

be retained for a longer period of time for a variety of reasons, including, but not limited to, a litigation hold.

2. The FOIA Coordinator will issue an annual summary of requests received during the prior year for executive review.

X. FEES AND BILLING

A. FOIA permits charging a fee for the actual incremental cost of duplicating or publishing a record, including labor directly attributable to those tasks. FOIA prohibits charging a fee for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information, unless the costs incurred for those activities would be excessive and beyond the normal or usual amount for those services (unreasonably high costs) and the public body specifically identifies the nature of these unreasonably high costs. ***The department has determined that anything in excess of one (1) hour is considered an unreasonably high cost.*** In addition, given the cost of processing, we will bill only fees in excess of \$50 (labor plus copies and mailing).

1. Potential fees are calculated by the sum of the cost of:
 - a. labor for the search, location, and examination of public records;
 - b. labor for the review of public records and separation and deletion of exempt from nonexempt material;
 - c. nonpaper physical media (e.g. CD, DVD, flash drive);
 - d. duplication and publication of public records at a cost of \$.10 per page for 8-1/2 x 11 and 8-1/2 x 14 sized paper;
 - e. Labor for the duplication or publication of public records;
 - f. Actual cost of mailing public records in a reasonably economical and justifiable manner.
2. Additional considerations:
 - a. The department can bill for the time spent monitoring requestors inspect an ***original*** record if they request to review the record in person. Costs for time to monitor will be based on the hourly rate of the lowest paid person *in the department* capable of performing the required task plus 50% of fringe benefits.
 - b. Any request for record inspection and any request to make

their own copies should be brought to the attention of the FOIA Coordinator.

- c. Costs for time to duplicate records will be based on the hourly rate plus 50% of the benefits of the lowest paid person *in the department* capable of performing the required task. Note: You may also charge for copying, redacting, and re-copying documents for inspection.
- g. Labor costs should be billed in 15-minute increments with all partial time increments rounded down.
- d. The \$50.00 billing floor is established to avoid additional costs incurred in billing for the typical request that takes one hour to locate and copy and consists of 50 pages or less.
- e. Costs change yearly with changes in salaries (See *Attachment I for current year costs*).
- f. Under FOIA, if someone claims to be indigent, the public body must wave the first \$20.00 of costs beyond what has already been waived in these Guidelines. Contact the FOIA office for a copy of the necessary affidavit to be signed by the requestor.
- h. There will be no charge for labor directly associated with redaction if it is known that the same records had previously been redacted and the redacted version is still available.
- i. Staff should be prepared to document labor cost in the response notice (e.g. *“staff would need to set aside routine work to review 55 bankers’ boxes and 5 lateral file drawers of documents...”*) Please contact the FOIA office for more guidance.

B. If the estimated fee exceeds \$50.00, the following should occur:

1. The Associate FOIA coordinator will prepare a response notice similar to that contained in Attachment G for signature by the department FOIA Coordinator. Be sure to include an index number relevant to the program area fulfilling the request. ***Please note that this letter can be adapted to accommodate a partial denial similar to Attachments B and F. See the Department FOIA Coordinator for assistance.***
2. The Associate FOIA coordinator will prepare a FOIA Billing Worksheet, Form AG-053. (See *Attachment I*) prior to compiling the documents for fulfilling the request. This will be sent to the requestor with the notice.

3. When a deposit check (or the final check comes in) the Accounting Service Center will use the index number provided on the check stub and deposit the check and provide a copy of the transaction detail to the department FOIA coordinator who will inform the division coordinator to complete the necessary work to fill the request.
4. Once the deposit has been received, the division FOIA coordinator will complete the necessary work to fill the request. The division FOIA coordinator will then prepare a second notice similar to that contained in Attachment H for signature by the department FOIA coordinator.
5. The final payment request notice is sent to the requestor. Once the final payment has been received and deposited, the requested records can be forwarded to the requestor.
6. In the event that a response notice has been sent to a requestor with a deposit request and no response is received from the requestor within forty-five (45) days, the FOIA request is considered complete.

XI. UPDATE AND REVISION

The responsibility to update and revise these guidelines rests with the Department FOIA Coordinator.

Attachment A

FOIA APPROVAL COVER LETTER

DEPARTMENT LETTERHEAD

Date

Name
Address
City, State Zip

Dear :

Your request for records dated (date) under the Freedom of Information Act was received in our office on (date). You requested _____
_____. (*Attach a copy of the request if lengthy.*)

Your request is granted and enclosed are the existing, non-exempt records responsive to your request.

Even though the Freedom of Information Act permits us to charge you for our costs in copying and mailing this information, we are sending it free of charge due to the limited number of pages.

Sincerely

Name
Associate FOIA Coordinator

Attachment B

FOIA "NO RECORD" LETTER

DEPARTMENT LETTERHEAD

Date

Name
Address
City, State Zip

Dear :

Your request for records dated (date) under the Freedom of Information Act was received in our office on (date). You requested _____.”

(Attach a copy of the request if lengthy.)

After a diligent search, I have not been able to locate the records you seek with the information given. Pursuant to provisions of the Freedom of Information Act, and based on my knowledge, information, and belief, I certify that the record sought does not exist as described or by any other name reasonably known to me and your request is therefore denied.

If you have any additional information regarding the description, location, content or date of the record you seek, please submit another request so that I can again search on your behalf.

Under Section 10 of the Freedom of Information Act, MCL 15.240, the Department is obligated to inform you that you may do the following: 1) Appeal this decision in writing to the Director of the Michigan Department of Agriculture & Rural Development at the address below. The writing must specifically state the word “appeal” and must identify the reason or reasons you believe the (denial / partial denial) should be reversed. The Director or his designee must respond to your appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to your appeal may be extended by an additional 10 business days. 2) File an action in the appropriate court within 180 days after the date of the final determination to (deny / partially deny) the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, and disbursements, and possible damages.

Sincerely,

Name
Associate FOIA Coordinator

Attachment C

FOIA EXTENSION LETTER

DEPARTMENT LETTERHEAD

Date

Name
Address
City, State Zip

Dear :

Your request for records dated (dated) under the Freedom of Information Act was received in our office on (date). You requested “_____”. *“(Attach a copy of the request if lengthy.)”*

I am not able to respond to your request within the five-business day time limit set forth in the act because _____(reason)_____.

I am therefore extending the response time frame and will respond to your request on or before (date).

Sincerely,

Name
Associate FOIA Coordinator

Attachment D

FOIA CERTIFICATION LETTER

STATE OF MICHIGAN

DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT

P. O. Box 30017

Lansing, Michigan, 48909

RE: FREEDOM OF INFORMATION ACT

REQUEST OF: _____
(DATE)

CERTIFICATION

The attached records, generally described as

_____,

are, based on my knowledge, information, and belief, true and correct copies of original records on file in the office of the Michigan Department of Agriculture & Rural Development.

(CERTIFYING OFFICIAL)

seal

(DATE)

Attachment E

FOIA DENIAL LETTER

DEPARTMENT LETTERHEAD

Date

Name
Address
City, State Zip

Dear _____ :

Your request for records dated (date) under the Freedom of Information Act was received in our office on (date). You requested “_____.” *(Attach a copy of the request if lengthy.)*

The record(s) you seek is/are exempt from disclosure under (section) which exempts _____ *(identify exempt material)*. Therefore, your request is denied.

Under Section 10 of the Freedom of Information Act, MCL 15.240, the Department is obligated to inform you that you may do the following: 1) Appeal this decision in writing to the Director of the Michigan Department of Agriculture & Rural Development at the address below. The writing must specifically state the word “appeal” and must identify the reason or reasons you believe the (denial / partial denial) should be reversed. The Director or his designee must respond to your appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to your appeal may be extended by an additional 10 business days. 2) File an action in the appropriate court within 180 days after the date of the final determination to (deny / partially deny) the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, and disbursements, and possible damages.

Sincerely,

Name
Associate FOIA Coordinator

Attachment F

FOIA PARTIAL DENIAL LETTER

DEPARTMENT LETTERHEAD

Date

Name
Address
City, State Zip

Dear :

Your request for records dated (date) under the Freedom of Information Act was received in our office on (date). You requested “_____.” *(Attach a copy of the request if lengthy.)*

Your request is granted in part and the following record(s) is/are enclosed:
_____.

Even though the Freedom of Information Act permits us to charge you for our costs in copying and mailing this information, we are sending it free of charge due to the limited number of pages.

However, part of the information you requested is denied as it is exempt from disclosure under _____(section)_____, which exempts (identify exempt material). Therefore, that/those record(s) has/have been removed or redacted from the enclosed records.

Under Section 10 of the Freedom of Information Act, MCL 15.240, the Department is obligated to inform you that you may do the following: 1) Appeal this decision in writing to the Director of the Michigan Department of Agriculture & Rural Development at the address below. The writing must specifically state the word “appeal” and must identify the reason or reasons you believe the (denial / partial denial) should be reversed. The Director or his designee must respond to your appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to your appeal may be extended by an additional 10 business days. 2) File an action in the appropriate court within 180 days after the date of the final determination to (deny / partially deny) the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, and disbursements, and possible damages.

Sincerely,

Name
Associate FOIA Coordinator

Attachment G

FOIA APPROVAL AND ESTIMATE NOTICE

DEPARTMENT LETTERHEAD

Date

Name
Address
City, State Zip

Dear _____:

Your request for records dated (date) under the Freedom of Information Act was received in our office on _____. You requested _____. (*Attach a copy of the request if lengthy.*)

Your request is granted as to existing, non-exempt records responsive to your request for records described in your attached letter.

Additionally, pursuant to the Freedom of Information Act, 1976 PA 442, 15.234, fees; waiver, deposit; computation of costs; application of Sec 4(2) "A public body may require at the time a request is made a good faith deposit from the person requesting the public record or series of public records, if the fee authorized under this section exceeds \$50.00. The deposit shall not exceed ½ of the total fee." Failure to charge a fee would result in unreasonably high costs to the department because of the nature of the request, the staff time taken away from doing their regular duties, and department resources involved in identifying the nonexempt public records.

We estimate the total amount of fulfilling the approved portion of this request to be \$_____. Please see the attached Response Billing Worksheet, Form AG O53, for a breakdown of the estimated cost to fulfill this request.

We will require a good faith deposit of \$_____. (*half of the estimated amount*) When we receive your deposit, we will begin working to complete your request. Once the records have been compiled, you will receive a statement for the balance owed and the statutory basis for the exemption of any records, in full or in part, and of your remedial rights, if applicable. Your check should be made out to State of Michigan and sent to the Michigan Department of Agriculture & Rural Development, PO Box 30776, Lansing, MI 48909. **Please reference FOIA-_____ on the check.** (*Insert appropriate index number*)

Sincerely,

Name
Associate FOIA Coordinator

Attachment H

FOIA FINAL AMOUNT OWED NOTICE

DEPARTMENT LETTERHEAD

Date

Name
Address
City, State Zip

Dear _____:

Your request for records dated (date) under the Freedom of Information Act (FOIA) was received in our office on _____. You requested _____.
_____. (*Attach a copy of the request if lengthy.*)

On _____ you were sent a notice granting your request as to existing, non-exempt records responsive to your request as described in your attached letter. Additionally, pursuant to FOIA, you were provided with an estimate of the cost of searching for, reviewing and copying records and notified of the required deposit.

On _____, we received your deposit of \$_____ and began to compile our response. We have determined actual costs of completing the search for, copying and mailing of the requested records. Please see the attached Response Billing Worksheet, Form AG O53, for a breakdown of the actual costs to fulfill this request.

The total cost of completing this request was \$_____; less the \$_____ deposit already received, your final balance is \$_____. Once your final payment has been received, the records will be sent to you. Your check should be made out to State of Michigan and sent to the Michigan Department of Agriculture & Rural Development, PO Box 30776, Lansing, MI 48909. **Please reference FOIA-_____ on the check.** (*Insert appropriate index number*)

Sincerely,

Name
Associate FOIA Coordinator

Attachment I

MISSING CONTACT INFORMATION

DEPARTMENT LETTERHEAD

Date

Name
Address
City, State Zip

Dear _____:

Your request for records dated (date) under the Freedom of Information Act (FOIA) was received in our office on _____. You requested _____.
_____. (*Attach a copy of the request if lengthy.*)

The Michigan Department of Agriculture and Rural Development is unable to process your request as presented. Section 3(1) of the FOIA, MCL 15.233(1), requires as follows:

A request from a person, other than an individual who qualifies as indigent under section 4(2)(a), must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address.

If you wish to proceed with the request, please provide the Department with the statutorily required information at this time.

For your information, the Department's Freedom of Information Act written summary, procedures, and guidelines can be found at www.michigan.gov/mdard-foia.

Sincerely,

Name
Associate FOIA Coordinator