



ADMINISTRATIVE PROCEDURES MANUAL

TITLE:
FREEDOM OF INFORMATION
ACT (FOIA)

EFFECTIVE DATE:
January 1, 1998

PROCEDURE #:
11

PURPOSE:

To provide a standard procedure for response to requests for public records submitted under the Freedom of Information Act (Act 422 of 1976, as amended; MCL 15.231, *et seq.*).

APPLICATION:

Department wide.

GENERAL STATEMENT:

The Freedom of Information Act (FOIA) provides that the public is entitled to information regarding the affairs of government and the official acts of those who represent them as public officials and public employees. It allows state government to be open, transparent, and accountable to the public. It is the policy of the Michigan Department of Agriculture and Rural Development (MDARD) to conduct its affairs in compliance with the FOIA.

FOIA creates the right to inspect, copy, or receive copies of public records in a timely manner. Public records include a wide range of materials prepared, owned, used, in the possession of, or retained by MDARD in the performance of an official function. FOIA identifies categories of public records that are exempt from disclosure. MDARD must respond to requests within five business days, except when a ten-business day extension may be authorized. The Act does not require creation of a record or creation of a summary of a record and MDARD will not do so.

Even though oral requests are excluded by the Act, members of MDARD will endeavor to respond to oral requests for information or assistance consistent with other policies, procedures, and division practices regarding service to the public. MDARD is noted for its strong commitment to public service. Nothing in this policy is intended to reduce that commitment. For specific detail on processing FOIA requests, contact your division FOIA coordinator.

RESPONSIBILITY:

TRANSPARENCY LIAISON

The MDARD Director will appoint one person to serve as the department Transparency Liaison. He has selected Ashley Steffen, who can be contacted at:

Transparency Liaison
Michigan Department of Agriculture and Rural Development
P.O. Box 30017
Lansing, MI 48909
517-242-2282

The Transparency Liaison shall:

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.

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 to reduce costs relating to public records requests and to encourage greater transparency.
4. Advocate for the disclosure 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 and the Freedom of Information Act.
7. Recommend changes to the department's procedures and guidelines and written public summaries.

FOIA COORDINATOR:

The MDARD Director will appoint one person to serve as the department FOIA coordinator as required in Section 6 of the Act. The FOIA Coordinator shall:

1. Accept, process, refer, grant, or deny FOIA requests. The FOIA Coordinator is the only person authorized to deny or partially deny a FOIA request.
2. Maintain records required by law and policy. The FOIA Coordinator will produce an annual FOIA report and will maintain all records in compliance with the requirements of the Act.
3. Provide FOIA training to appropriate departmental staff.
4. Annually update, maintain, and publish guidelines for responding to FOIA requests. MDARD's "Freedom of Information Act Implementation Guidelines" (Guidelines) are the definitive procedures for use within the department.
5. Annually publish a FOIA Fee structure (Form AG-053) to provide guidance on cost of producing a response to a request. Fee structures are updated in the beginning of each fiscal year.
6. Prepare background documentation for the Director on all FOIA appeals.
7. Serve as the subject matter expert for FOIA questions and coordinate with the Attorney General FOIA unit for purposes of legal guidance.

DIVISION DIRECTORS:

Division directors are responsible for appointing a Divisional FOIA Coordinator and back-up/alternate. Through specifically delegated and trained staff, Division Directors shall:

1. Ensure their staff responds appropriately to FOIA requests.
2. Consult with the FOIA Coordinator and Divisional FOIA Coordinator as necessary.
3. Maintain a file of FOIA requests received during the current calendar year, and at the end of the calendar year, forward the entire file to the FOIA coordinator.

ALL DEPARTMENTAL STAFF:

Departmental staff shall utilize MDARD's Guidelines for responding to FOIA requests. Copies of this document have been provided to specifically designated division staff trained to respond to FOIA requests. Staff who have not received FOIA training should not respond to FOIA requests.

1. Any departmental staff who receive a written request for a public record (as defined in the Act) must immediately bring that request to the attention of the Division Director (or delegated division staff) responsible for that FOIA request.

2. Responses to FOIA requests must occur within five business days, all departmental staff must use the most expeditious means of communication available. If it is not known where the requested record is held, the request must be immediately forwarded to the FOIA coordinator.
3. MDARD will charge a fee based on the current fee structure (on attached form AG-053) to cover the cost of processing a FOIA request if those costs exceed \$50.00. Costs are calculated using the lowest paid employee in the department that can perform the task required to fulfill the request.
 - a. Requests that cost less than \$50.00 will be processed without charge.
 - b. Costs in excess of \$50.00 are to be recorded on Form AG-053 and appropriate notice sent to the requestor according to MDARD's Guidelines. When the cost estimates are completed, provide to the FOIA Coordinator for further processing per the Guidelines.
 - c. Only the FOIA Coordinator shall process FOIA billings.

CHIEF OPERATING OFFICER &
DEPUTY DIRECTOR:

Provide executive direction to the FOIA program as appropriate.

DIRECTOR:

Receive all appeals of FOIA denials and will respond to those appeals, in writing, within the appropriate timeframe per the Act and Guidelines.

REVISION HISTORY:

Revision #1:

Date May 1, 1987
Revised 2-07, originally titled, "Copying or Microcomputer List or Label Requests and FOI Requests"

Revision # 2:

Date: January 1, 1998
Numbering changed to Administrative Procedure 02.
Entire procedure revised to incorporate new MDARD.

FOIA Guidelines and establish a procedure for updating the FOIA fee structure on an annual basis.

Forms AM-043 and AM-044 discontinued by this revision. New form AG-053 is created.

Revision #3:

Date: May 25, 2000
Procedure updated.

Revision #4:

Date: February 2, 2004
Procedure updated. New billing floor established. Division names changed to reflect restructure.

Revision #5

Date: June 21, 2010
Procedure updated to reflect closure of regional offices and division name change.

Revision #6:

Date: March 1, 2012
Procedure updated to reflect department name change and realignment of some duties related to the Deputy Director and fees and billing.

Revision #7:

Date: March 31, 2017
Procedure updated to reflect changes in processing FOIA billings and removed

Revision #8: reference to regional staff responding to a FOIA request.
Date: December 1, 2018
Procedure updated.

Revision # 9 Date: April 17, 2019
Procedure updated.

Revision # 10 Date: December 17, 2019
Procedure updated to add information relative to MDARD Transparency Officer.

Revision # 11 Date: April 5, 2021
Procedure updated to reflect change in MDARD Transparency Officer.

Revision # 12 Date: April 12, 2023
Procedure updated with minor wording changes

SUNSET DATE:
January 1, 2024

RESPONSIBLE DIVISION
FOIA Coordinator