

THE STATE OF DELAWARE OFFICE OF AUDITOR OF ACCOUNTS
FREEDOM OF INFORMATION ACT POLICY
ESTABLISHED PURSUANT TO 29 DEL. C. §10003(b)

Section 1 - Definitions

The following words and terms when used in this Policy have the following meaning unless the context clearly indicates otherwise:

“**FOIA**” shall mean the Delaware Freedom of Information Act, 29 Del.C., Ch. 100, as amended.

“**AOA**” shall mean the Office of Auditor of Accounts for the State of Delaware.

“**FOIA Coordinator**” shall mean the person designated by the agency head to receive and process FOIA requests.

“**FOIA Request**” or “**Request**” means a request to inspect or copy public records pursuant to 29 Del.C. §10003.

“**FOIA Request Form**” means the form promulgated by the Office of the Attorney General upon which requests for public records may be made.

“**Requesting Party**” shall mean the person filing the FOIA Request.

“**Public record**” shall mean the same as that term is defined in 29 Del.C. §10002(l) and shall not include records deemed non-public or confidential pursuant to that statute or common law.

“**Standard size**” shall mean 8.5” x 11”; 8.5” x 14”; and 11” x 17”.

Section 2 - General

2.1 This Policy establishes the policy, procedures, charges, and fees for responding to requests seeking to inspect public records of the AOA under FOIA.

2.2 The AOA shall provide reasonable access for reviewing public records during the AOA’s regular business hours.

2.3 Notwithstanding the scope or nature of the request, only existing public records in the possession of the AOA will be provided under FOIA.

2.4 The AOA has no obligation under FOIA to answer written questions, analyze data, create records not already in its possession or compile information in any way.

2.5 The AOA shall designate John Fluharty, Research Analyst, as FOIA Coordinator who shall serve as the point of contact for FOIA requests and coordinate the AOA’s response thereto. The FOIA

Coordinator shall be identified on the AOA's website. The FOIA Coordinator may designate other employees to perform specific duties and functions hereunder.

- 2.6 The FOIA Coordinator and/or his or her designee, working in cooperation with other employees and representatives, shall make every reasonable effort to assist the Requesting Party in identifying the records being sought, and to assist the AOA in locating and providing the requested records. The FOIA Coordinator and/or his or her designee will also work to foster cooperation between the AOA and the Requesting Party.
- 2.7 The FOIA Coordinator shall maintain a document tracking all FOIA requests. For each FOIA request, the document shall include, at a minimum, the Requesting Party's contact information, the date the AOA received the request, the AOA's response deadline, the date of the AOA's response (including the reasons for any extension), the names, contact information and dates of correspondence with individuals contacted in connection with requests, the dates of review by the AOA, the names of individuals who conducted such reviews, whether documents were made available, the amount of copying and/or administrative fees assessed, and the date of final disposition.

Section 3 - Requests

3.1 Persons seeking to inspect public records pursuant to FOIA shall submit requests using the [AOA FOIA Request Form](#). Completed forms may be submitted in one of the following manners:

3.1.1 send completed form addressed to the FOIA Coordinator at:

Office of Auditor of Accounts
Attention: John Fluharty
401 Federal Street
Townsend Building, Suite 1
Dover, Delaware 19901

3.1.2 email completed form to AOA_FOIA_Requests@state.de.us.

3.2 A FOIA request shall:

3.2.1 clearly state the name, address, and telephone number of the person making the request;

3.2.2 indicate that the request is being made pursuant to FOIA; and

3.2.3 describe the records sought in sufficient detail to enable the AOA to determine their identity and location with reasonable effort.

3.3 To assist the AOA in locating the requested records, the AOA may request that the Requesting Party provide additional information known to the Requesting Party, such as the types of records, dates, parties to correspondence, and subject matter of the requested records.

3.4 FOIA requests that do not comply with this Policy may be denied in whole or in part.

3.5 Records may not be produced to any person who has an outstanding balance to the AOA relating to a pending or prior FOIA request.

Section 4 – Responses

4.1 Upon receipt of a FOIA request, the AOA shall review the records in its possession to identify those that are public records.

4.2 The AOA shall respond to a FOIA request as soon as possible, but in any event within (15) business days after the receipt thereof, either by providing access to the requested records, denying access to the records or parts of them, or by advising that additional time is needed because the request is for voluminous records, requires legal advice, or a record is in storage or archived.

4.3 If access cannot be provided within fifteen (15) business days, the AOA shall cite one of the reasons hereunder why more time is needed and provide a good-faith estimate of how much additional time is required to fulfill the request.

4.4 If AOA denies a request in whole or in part, the AOA's response shall indicate the reasons for the denial. The AOA shall not be required to provide an index, or any other compilation, as to each record or part of a record denied.

4.5 Requests for e-mail records shall be fulfilled by the AOA from its own records, if doing so can be accomplished by the AOA with reasonable effort. If the AOA determines that it cannot fulfill all or any portion of such request, the AOA shall promptly request that its information and technology personnel or custodians provide the e-mail records to the AOA.

4.6 Before requesting the information and technology personnel or custodians to provide e-mail records, the AOA shall provide an itemized written cost estimate to the Requesting Party, listing all charges expected to be incurred in retrieving such records. Upon receipt of the estimate, the Requesting Party may decide whether to proceed with, cancel, or modify the request.

4.7 Public records may be inspected only during the AOA's regular business hours.

Section 5 - Administrative Fees, Photocopying Charges, and Other Costs

5.1 Administrative Fees. The AOA may assess the person making a FOIA request administrative fees incurred pursuant to the request.

5.1.1 Administrative fees will be levied for requests requiring more than one hour of staff time to process. Charges for administrative fees may include staff time associated with processing FOIA requests, including, without limitation: identifying records;

monitoring file reviews; and generating computer records (electronic or print-outs). Administrative fees will not include any cost associated with the AOA's legal review of whether any portion of the requested records is exempt from FOIA. The AOA will make every effort to ensure that administrative fees are minimized, and may only assess such charges as will be reasonable required to process FOIA requests. In addition, the AOA will minimize the use of non-administrative personnel in processing FOIA requests, to the extent possible.

5.1.2 Prior to fulfilling any request that would require a Requesting Party to incur administrative fees, the AOA will provide an itemized written cost estimate of such fees to the Requesting Party, listing all charges expected to be incurred in retrieving such records. Upon receipt of the estimate, the Requesting Party may decide whether to proceed with, cancel, or modify the request.

5.1.3 Administrative fees will be billed to the Requesting Party per quarter hour. These charges will be billed at the current hourly pay grade (pro-rated for quarter hour increments) of the lowest-paid employee capable of performing the service.

5.1.4 When multiple FOIA requests are submitted by or on behalf of the Requesting Party in an effort to avoid incurring administrative charges, the AOA may in its discretion aggregate staff time for all such requests when computing fees hereunder.

5.1.5 Administrative fees will be in addition to all photocopy charges and other costs.

5.2 Photocopy Charges. The AOA may assess the person making a FOIA request the following photocopy charges:

5.2.1 Standard Size or Smaller Paper Records. The first 20 pages of standard sized copies, black and white copies material will be provided free of charge. The charge for copying standard sized, black and white public records for copies over and above 20 will be \$0.10 per sheet (\$.20 for a double-sided sheet). There will be an additional charge of \$1.00 per sheet assessed for all color copies or printouts for standard sized copies

5.2.2 Oversized Copies/Printouts: The charge for copying oversized public records will be as follows: 18" x 22", \$2.00 per sheet; 24" x 36:, \$3.00 per sheet; documents larger than 24" x 36", \$1.00 per square foot. There will be an additional charge of \$1.50 per sheet assessed for all color copies or printouts for larger copies.

5.2.3 Microfilm and Microfiche Records. The first 20 pages of standard sized, black and white material copied from microfilm and/or microfiche shall be provided free of charge. The charge for microfilm and/or microfiche printouts over and above 20 shall be \$0.15 per sheet.

5.2.4 Electronic Records. Charges for copying records maintained in an electronic format will be calculated by the material costs involved in generating the copies (including but not limited to DVD, CD, or other electronic storage costs) and administrative costs.

5.3 Other Costs. The AOA may assess the person making a FOIA request any other costs incurred pursuant to the request, including charges assessed by an outside vendor to copy the requested records.

5.4 Payment for all fees, charges and costs is due at the time records are provided. The AOA may also require payment prior to sending copies of records.

Section 6 - Effective Date

6.1 This Policy shall become effective upon date of adoption and shall apply to any and all FOIA requests currently in process at the time of adoption.

THIS STATEMENT OF POLICY AND PROCEDURE UNDER THE DELAWARE FREEDOM OF INFORMATION ACT is hereby adopted this 4th day of August, 2016.



Honorable R. Thomas Wagner, Jr., CFE, CGFM, CICA
State of Delaware Auditor of Accounts