



## WASHTENAW COUNTY PROCEDURE

TITLE: Freedom of Information Act (FOIA) Procedures & Guidelines	Governing Policy: Freedom of Information Act Policy & Act	Effective Date <b>7/1/15</b>
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A. Appointment of FOIA Coordinator: In accordance with Section 6 of the Freedom of Information Act (FOIA), MCL 15.236, the Chair of the County Board of Commissioners is the County's FOIA Coordinator and has Designated additional FOIA Coordinators for the County. The names of the FOIA Coordinator and Designated FOIA Coordinators are available on the FOIA Website ([http://www.ewashtenaw.org/government/departments/risk\\_management/freedom-of-information-act-foia](http://www.ewashtenaw.org/government/departments/risk_management/freedom-of-information-act-foia))

B. Submission of FOIA Request. FOIA requests to the County may be submitted by any of the following means:

EMAIL: [foia@ewashtenaw.org](mailto:foia@ewashtenaw.org)

MAIL: Washtenaw County  
ATTN: FOIA Coordinator  
PO Box 8645  
Ann Arbor, MI 48107-8645

FAX: 734-222-6758

Online: ([http://www.ewashtenaw.org/government/departments/risk\\_management/freedom-of-information-act-foia](http://www.ewashtenaw.org/government/departments/risk_management/freedom-of-information-act-foia))

Verbal: Verbal requests will be accepted for information that is available on the County's public website. The response to a verbal request will be informing the requestor of the pertinent website address.

Requests should specify the desired records and include a name, phone number, mailing address and email if available. Additional identifying information may be requested in order to complete a search for the requested records.

C. Immediately Forward FOIA Request. Any employee of Washtenaw County who receives a written request for a public record must immediately forward that request to the Freedom of Information Act (FOIA) Coordinator. If a County employee receives an electronic written request for a public record that is delivered to a spam or junk folder, the employee must record the date and time the written request was delivered to the spam or junk-mail folder and date and time the employee first became aware of the written request. The employee must forward those dates and times to the FOIA Coordinator with the written request.

- D. Request Response Time: The County may extend the time for responding by an additional ten business days by notifying the requesting person in writing of the reason for the extension and the new due date (MCL 15.235(2)(d) and (6)). Due to the short statutory time period within which the County must issue a written notice in response to the FOIA request, it is imperative that there be no delay in complying with the County's procedures and guidelines.
- E. Response to a FOIA Request: The County FOIA Coordinator or Designated FOIA Coordinator(s) will either coordinate or respond to all FOIA requests. Only the FOIA Coordinator or the Designated FOIA Coordinator(s) have the authority to deny records under a FOIA request. The County will provide copies of these procedures and guidelines and a summary of these procedures and guidelines with each written response or provide a link to an online version of these documents. If a request is denied, in full or in part the County will provide the requestor an explanation of the basis of the denial under the FOIA, and give notice to the requestor of his or her remedial rights (MCL 15.235(5)).
- F. Notification of FOIA Request: Upon receipt of a FOIA request, the FOIA Coordinator or Designated FOIA Coordinator will contact the County Department(s)/Division(s) that might possess records responsive to the FOIA request by email, phone, or fax. The contact will include a date the documents are due to the FOIA Coordinator or Designated FOIA Coordinator's Office.
- G. Department(s)/Division(s) Response to FOIA Coordinator/Designated FOIA Coordinator. As soon as possible, but not later than the date provided by the FOIA Coordinator or Designated FOIA Coordinator, the Department(s)/Division(s) response is due to the FOIA Coordinator/Designated FOIA Coordinator. If no documents exist that respond to the request, the Department(s)/Division(s) must notify the FOIA Coordinator/Designated FOIA Coordinator that no records exist.
- H. Assessment of Fees for FOIA Request. The FOIA permits the County 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 County because of the nature of the request in the particular instance, and the County identifies these unreasonably high costs (MCL 15.243(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):

1. Fees will be uniform and not dependent upon the identity of the requesting person.
2. Fees will be itemized using the attached form and will include:
  - a. Labor costs for search, location, and examination of public records which will be calculated using the hourly wage of the County'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 County'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.

- b. Labor costs for the review of public records and separation and deletion of exempt from nonexempt material which will be calculated using the hourly wage of the County'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 County'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 costs of fringe benefits.
  - c. Non-paper physical media costs will be calculated using the actual and most reasonably economical costs of computer discs, computer tapes, and other digital and similar media provided by the County.
  - d. Duplication and publication costs for paper copies will be calculated using the actual total incremental cost 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 ten cents per sheet of paper for letter or legal size paper. The county shall use the most economical means available for making copies, including the use of double-sided printing, if cost-saving and available.
  - e. 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 non-paper physical media or through electronic means, will be calculated using the hourly wage of the 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 one minute with all partial increments rounded down. The hourly wage will be based on the County'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.
  - f. Actual costs of mailing using a reasonably economical and justifiable manner.
3. No County employee shall stipulate to work overtime or include overtime wages in the labor costs described in these procedures and guidelines.
  4. If a requestor submits an affidavit of indigence, the first \$20.00 of a fee will be waived (up to two waivers a calendar year). 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 indigence, no County employee shall waive a fee or any part of a fee without authorization from the FOIA Coordinator.

5. Labor costs for monitoring an inspection of original records will be calculated using the hourly wage of the County's lowest paid employee capable of monitoring the inspection. The hourly wage will be based on the County'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."
  6. 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 County will charge the statutory fee in lieu of a fee calculated using the guidelines set forth above.
- I. Deposit Requirements. If the County estimates a fee greater than \$50.00 to process a FOIA request, the County will require a good-faith deposit from the requestor before processing the request. The deposit shall not exceed ½ of the total estimated fee. Any written notice containing a request for a deposit shall also contain a best efforts estimate by the County regarding the time frame after a deposit is received that it will take the County to provide the public records to the requestor. The time frame estimate is not binding upon the County, but the County 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.
  - J. Appeals of Fees and Disclosure Determination. If the county charges a fee or denies all or part of a request, the requestor may submit to the County Administrator 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.