

## **COUNTY OF OAKLAND** **FOIA PROCEDURES AND GUIDELINES**

Oakland County is committed to complying with requests for public records in accordance with the Michigan Freedom of Information Act, MCL 15.231 *et seq* (FOIA). Current laws, rates, and factors are subject to change. If there are any discrepancies between this document and the actual law, the provisions of the law govern.

### **1. Availability of Procedures and Guidelines, and Its Summary**

**Online.** These procedures and guidelines, and its summary, can be found on Oakland County's website, [www.oakgov.com](http://www.oakgov.com).

**Upon Request.** Visitors at Oakland County's offices may request a free paper copy.

**With FOIA Response.** When responding to a FOIA request, Oakland County will either provide a free copy or include the website link to these documents in its FOIA response.

### **2. Records Under FOIA**

**Subject to Disclosure.** Records that are prepared, owned, used, in the possession of, or retained by Oakland County in the performance of an official function are subject to disclosure under FOIA. Computer software is not subject to disclosure.

**Judiciary and County Clerk Not Subject to FOIA.** In accordance with MCL 15.232(h)(iv), the following entities are not public bodies subject to FOIA:

- Oakland County Circuit Court.
- 52-1, 52-2, 52-3 and 52-4 District Courts.
- Judges.
- The Oakland County Clerk's Office when acting in the capacity of clerk to the Circuit Court.

**Not Required to Create New Record.** Oakland County is not required to create a new record, including any compilation, summary, or report of information that does not already exist.

**Exemptions.** Oakland County may exempt a record (or part of a record) from disclosure if it falls under one of the exemptions listed in MCL 15.243. <http://legislature.mi.gov/doc.aspx?mcl-15-243>

### **3. FOIA Requests**

**Who May Request.** Only an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity may make a FOIA request. An individual serving a sentence of imprisonment in a state, county, or federal correctional facility may not make a FOIA request.

**FOIA Coordinator.** The Office of Corporation Counsel has been designated as the FOIA Coordinator for all Executive Departments and the Board of Commissioners. Each County Department run by an elected official may appoint their own FOIA Coordinator at any time or consent to the Corporation Counsel as their FOIA Coordinator. FOIA requests made to the Corporation Counsel may be mailed to the Office of Corporation Counsel, FOIA Coordinator, 1200 N. Telegraph Road, Building 14 E, Pontiac, MI 48341-0419, faxed to (248) 858-1003, or submitted online by accessing the FOIA request center at:

#### FOIA Request Center

FOIA Coordinator information for the County's elected officials will be posted within the County and on the County website as well as the individual Departments' website.

**How to Request.** FOIA requests must be made in writing and describe the record(s) with enough particularity for Oakland County to locate the record(s). In addition, please provide a phone number and email address so that, if necessary, Oakland County can contact the requester to clarify a request. FOIA requests can be sent by mail, email, or fax to any Oakland County department that may possess the record(s) sought, to the attention of FOIA Coordinator.

**Receipt of Request by Oakland County Employee.** If an Oakland County employee receives a verbal request for information that, to the best of the employee's knowledge is available on Oakland County's website, the employee must inform the requestor of this and provide the website address. If an Oakland County employee receives a written FOIA request, he or she must promptly forward it to the FOIA Coordinator.

**Requests Delivered to Spam/Junk-Mail.** An emailed FOIA request delivered to a spam/junk-mail folder is not received by Oakland County until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator will keep a record of the time that the request was delivered and the time that the FOIA Coordinator first became aware of the request.

**Retention.** The FOIA Coordinator will keep a copy of all written FOIA requests on file for at least one year.

**Generally.** Oakland County will respond to a FOIA request within five business days after it receives the request by doing one of the following:

- Granting the request.
- Issuing a written notice to the requesting person denying the request.
- Granting the request in part and denying the request in part.
- Issuing a notice extending for not more than ten business days the amount of time Oakland County may take to grant or deny the request. Oakland County will not issue more than one extension per request. Oakland County will also indicate in the notice the estimated amount of time for granting or denying the request.

**Redactions.** If a record contains material that is not exempt from disclosure as well as material that is exempt from disclosure, Oakland County will separate the exempt and nonexempt material and provide the requestor with the non-exempt material.

**Denials.** If Oakland County denies all or part of a FOIA request, it will issue a signed, written notice that provides:

- The reason under FOIA, or other statute, for the denial.
- If no record exists, a statement that the record does not exist under the name given by the requester or by another name reasonably known to Oakland County.
- If Oakland County provides only part of a record, a general description of the material redacted, unless doing so would reveal the contents of the exempt information and thus defeat the purpose of the exemption.
- An explanation of a requestor's further rights as indicated in MCL 15.235(d) and (e).

**Providing Record Electronically.** Oakland County will provide a record electronically if asked by the FOIA requestor and the County Department possesses the technological capacity to do so.

## **5. FOIA Fees**

**Invoice.** Oakland County may charge a fee for fulfilling a FOIA request. Oakland County may also require a 50% good-faith deposit if an estimated fee exceeds \$50.00. When charging a fee or requiring a deposit, Oakland County will provide the requestor with a detailed itemization of the allowable charges for each of the six fee components, if applicable, within Oakland County's standard FOIA response letter or in another form that complies with FOIA.

**Allowed Fees.** Unless permitted otherwise by law, Oakland County may only charge for:

- The labor costs for searching, locating, examining, and redacting public records. Oakland County will not charge more than the hourly wage of its lowest-paid employee capable of performing these tasks, and may apply up to a 50% fringe benefit multiplier. Oakland County will calculate these labor costs using time increments of 15 minutes or more, with all partial time increments rounded down. Oakland County will not charge for redacting if it previously redacted the record and the redacted version is still in Oakland County's possession. Oakland County will not charge for searching, locating, examining, and redacting unless these labor costs exceed \$50.00. Oakland County will provide a requestor with an estimate of these labor costs in compliance with FOIA.
- The labor costs for copying or printing records, and for transferring records to an electronic format. Oakland County will not charge more than the hourly wage of its lowest-paid employee capable of performing these tasks and may apply up to a 50% fringe benefit multiplier. Oakland County will calculate these labor costs using time increments of 15 minute or more, with all partial time increments rounded down.
- The actual and most reasonably economical cost of computer discs, computer tapes, or other digital media storage devices for records provided electronically.
- Paper copies of records, which will not exceed 10 cents per page for standard sized paper. Oakland County will use the most economical means available for making paper copies, including using double-sided printing.
- Mailing costs, which may include the least expensive form of postal delivery confirmation. Oakland County will not charge for expedited shipping or insurance unless the requestor asks for expedited shipping or insurance.

**Record Already on Website.** If Oakland County knows that a requested record is available on its website, it will send a written response that notifies the requestor of this fact and provides the specific webpage address for the record. Oakland County will not charge any fees for this, but will indicate in its response what the fee would be if the requester wants a copy either printed or in an electronic format. Oakland County will provide a copy of the record upon request and for the fee, which may include a 100% fringe benefit multiplier for any labor costs.

**Fee Reduction for Late Response.** If Oakland County provides a late response, it will reduce labor costs by 5% for each day late, with a maximum 50% reduction. Oakland County will indicate the reduction to the requestor.

**Effect of Non-Payment.** If (1) an individual does not fully pay for records that Oakland County made available on time, subject to payment, (2) 48 days have passed since Oakland County notified the individual in writing that the records were available, (3) Oakland County provided an estimate for the request, and (4) the final fee did not exceed 105% of the estimated fee, then for the next 365 days after the first request was made, Oakland County may require a 100% estimated fee deposit before it commences to fulfill another request from that individual. Oakland County will no longer require a 100% estimated fee deposit if it is subsequently paid in full for the first request.

**Fee Waivers.** Oakland County may provide records without charge, or at a reduced charge, if it determines that doing so is in the public interest. Oakland County will also waive the first \$20.00 of a fee if:

- An individual who is entitled to information under this act submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. Oakland County will note the \$20 discount in the FOIA Response. If a requestor is ineligible for the discount, Oakland County will explain to the requestor the reason for ineligibility in its written response. A requestor is ineligible if: (1) Oakland County has already provided the requestor with discounted copies of public records twice during that calendar year, or (2) the request is made in conjunction with outside parties who are offering or providing payment to the individual to make the request. Oakland County may require the requestor to provide an affidavit stating that the request is not being made in conjunction with outside parties in exchange for payment.
- The requestor is a nonprofit organization formally designated by the state to carry out activities under subtitle C of the developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, or their successors, if the request meets all of the following: (1) is made directly on behalf of the organization or its clients, (2) is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931, and (3) is accompanied by documentation of its designation by the state, if requested by Oakland County.

## **6. FOIA Appeals**

**Appeal of FOIA Denial.** Denial of a FOIA request may be appealed to the head of the public body that denied the FOIA request (i.e., a FOIA request denied by the FOIA Coordinator of an elected official may be appealed to the elected official responsible for that department.)

- For appeals, the requestor should submit a written appeal that specifically states the word "appeal" and identifies the reason(s) for reversal. Within ten business days after receiving the appeal, the head of the public body will do one of the following: (1) reverse the denial, (2) uphold the denial, (3) reverse the denial in part and uphold the denial in part, or (4) under unusual circumstances, issue a notice extending up to ten business days the period during which the department head will decide the written appeal. The head of the public body will not issue more than one extension per appeal.
- A requestor may appeal a denial of a FOIA request by a FOIA Coordinator, or by the head of a public body, by commencing a civil action.

**Appeal of FOIA Fee.** The amount charged for a FOIA fee may be appealed to the head of the public body that requested the fee in response to the FOIA request. (i.e., a FOIA fee requested by the FOIA Coordinator of an elected official may be appealed to the elected official responsible for that department.

- The requestor should submit a written appeal that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines for FOIA. Within ten business days after receiving the appeal, the head of the public body will do one of the following: (1) waive the fee, (2) reduce the fee and issue a written determination to the requesting person indicating the specific basis under FOIA that supports the remaining fee; the determination will include a certification that the statements in the determination are accurate and that the reduced fee amount complies with these procedures and guidelines and FOIA, (3) uphold the fee and issue a written determination to the requesting person indicating the specific basis under FOIA that supports the fee; the determination will include a certification that the statements in the determination are accurate and that the fee amount complies with these procedures and guidelines and FOIA, (4) issue a notice extending up to ten business days the period during which the head of the public body must respond to the written appeal. The head of the public body will not issue more than one extension per appeal.
- A requester may appeal the decision regarding a FOIA fee by commencing a civil action. A requestor may not commence a civil action regarding a FOIA fee unless he or she first appealed the fee to the head of the public body.