

# **DETROIT REGIONAL CONVENTION FACILITY AUTHORITY**

## **PUBLIC SUMMARY OF FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES**

### **Preamble: Statement of Principles**

**It is the public policy of the State of Michigan and the Detroit Regional Convention Facility Authority (DRCFA) that all persons, except those persons incarcerated in local, state or federal correctional facilities 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 people shall be informed so that they may fully participate in the democratic process.**

**The DRCFA's policy with respect to Freedom of Information Act (FOIA) requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.**

Consistent with the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et. seq. the following is the written Public Summary of the DRCFA's FOIA Procedures and Guidelines relevant to the general public regarding how to submit written requests to the DRCFA, an explanation of how to understand the DRCFA's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal.

This is only a summary of the DRCFA's FOIA Procedures and Guidelines. For more details and information copies of the DRCFA's FOIA Procedures and Guidelines are available at no charge on: the DRCFA's website at [www.DRCFA.org](http://www.DRCFA.org); the Cobo Center website at [www.cobocenter.com](http://www.cobocenter.com); and at the Cobo Convention Center, One Washington Boulevard, Detroit, MI 48226.

### **1. How do I submit a FOIA request to the DRCFA?**

- A person requesting to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the DRCFA must do so in writing.
- A request must sufficiently describe a public record so as to enable DRCFA personnel to identify and find the requested public record.
- If you do not utilize the DRCFA's FOIA Request Form please include the words "FOIA" or "FOIA Request" in the written request to assist the DRCFA in providing a timely response.
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the DRCFA may be submitted on the DRCFA's FOIA Request Form or in any other form of writing (letter, fax, email, etc.).

- No specific form to submit a written request is required. However, a FOIA Request Form and other FOIA related forms are available for use and convenience on: the DRCFA’s website at [www.DRCFA.org](http://www.DRCFA.org); the Cobo Center website at [www.cobocenter.com](http://www.cobocenter.com); and at the Cobo Convention Center, One Washington Boulevard, Detroit, MI 48226..
- Written requests for public records may be submitted in person or by mail to the DRCFA, Attention: FOIA Coordinator, One Washington Boulevard, Detroit, MI 48226.
- Requests may also be submitted electronically by fax to: (313) 877-8274. To ensure a timely response, faxed requests should contain the term “FOIA” or “FOIA Request” on the first/cover page.
- Requests may also be submitted electronically by email to: [DJasion@DRCFA.org](mailto:DJasion@DRCFA.org). To ensure a timely response, emailed requests should contain the term “FOIA” or “FOIA Request” in the subject line.

**2. What kind of a response can I expect to my request?**

- Within 5 business days of receipt of a FOIA request the DRCFA will issue a response. If a request is received by fax, email or other electronic transmission, the request is deemed to have been received on the following business day.
- The DRCFA will respond to the request in one of the following ways:
  - Grant the request.
  - Issue a written notice denying the request.
  - Grant the request in part and issue a written notice denying in part the request.
  - Issue a notice indicating that due to the nature of the request the DRCFA needs an additional 10 business days to respond for a total of no more than 15 business days. Only one such extension is permitted.
  - Issue a written notice indicating that the public record requested is available at no charge on the DRCFA’s website.
- If the request is granted, or granted in part, the DRCFA will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available.

- If the cost of processing a FOIA Request is expected to exceed \$50.00, or if the requestor has not paid in full for a previously granted request, the DRCFA will require a deposit before processing the request.

### 3. What are the DRCFA's deposit requirements?

- If the DRCFA has made a good faith calculation that the total fee for processing the request is expected to exceed \$50.00, the DRCFA will require that you provide a deposit in the amount of 50% of the total estimated fee. When the DRCFA requests the deposit, it will provide a non-binding best efforts estimate of how long it will take the DRCFA to provide the records after the deposit has been paid.
- If a request for public records is from a person who has not paid the DRCFA in full for copies of public records made in fulfillment of a previously granted written request, the DRCFA will require a deposit of 100% of the estimated processing fee before it begins to search for a public record for any subsequent written request by that person when all of the following conditions exist:
  - The final fee for the prior written request is not more than 105% of the estimated fee;
  - The public records made available contained the information sought in the prior written request and remain in the DRCFA's possession;
  - The public records were made available to the individual, subject to payment, within the time frame estimated by the DRCFA to provide the records;
  - Ninety (90) days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
  - The individual is unable to show proof of prior payment to the DRCFA; and
  - The DRCFA has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.
- The DRCFA will not require the 100% estimated fee deposit if any of the following apply:
  - The person making the request is able to show proof of prior payment in full to the DRCFA;

- The DRCFA is subsequently paid in full for the applicable prior written request; or
- Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to the DRCFA.

#### **4. How does the DRCFA calculate FOIA processing fees?**

The Michigan FOIA statute permits the DRCFA to charge for the following costs associated with processing a request:

- Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet or other electronic means.
- Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the DRCFA.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the DRCFA.
- The cost of duplication or publication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the DRCFA's website if you ask the DRCFA to make copies.
- The cost of computer discs, computer tapes or other digital or similar media when the requestor asks for records in non-paper physical media. This may include the cost for copies of records already on the DRCFA's website if you ask the DRCFA to make copies.
- The cost to mail or send a public record to a requestor.

#### **Labor Costs**

- All labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid DRCFA employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
- Labor costs will also include a charge to cover or partially cover the costs of fringe benefits. The DRCFA may add up to 50% to the applicable labor charge

amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.

- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at the hourly rate of \$48.90 (6 times the state minimum hourly wage).

A labor cost will not be charged for the search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the DRCFA. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the DRCFA's usual FOIA requests, because of the nature of the request in the particular instance. The DRCFA must specifically identify the nature of the unreasonably high costs in writing.

### **Copying and Duplication**

The DRCFA will use the most economical method of making copies of public records, including using double-sided printing, if it is cost-saving and available.

#### ***Non-paper Copies on Physical Media***

If the DRCFA has the technological capability necessary to provide the public record on computer discs, computer tapes or other digital or similar media the cost will be at the actual and most reasonably economical cost for the non-paper media.

#### ***Paper Copies***

- Paper copies of public records made on standard letter (8½ x 11) or legal (8½ x 14) sized paper will not exceed \$.10 per sheet of paper.
- Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The DRCFA will provide records using double-sided printing, if it is cost-saving and available.

### **Mailing Costs**

- The actual cost to mail public records using a reasonably economical and justified means.
- The DRCFA may charge for the least expensive form of postal delivery confirmation.

- No cost will be assessed for expedited shipping or insurance unless delivery using those service(s) is requested/specified by the requestor.

## **Waiver of Fees**

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefitting the general public. The DRCFA may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

### **5. How do I qualify for an indigence discount on the fee?**

The DRCFA will discount the first \$20.00 of fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance, or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

You are not eligible to receive the \$20.00 discount if you:

- Have previously received discounted copies of public records from the DRCFA twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

An affidavit is a sworn statement made under the penalty of Perjury. For your convenience, the DRCFA has provided a Waiver/Suspension of Fees Affidavit Form for use by the public, which is available on: the DRCFA's website at [www.DRCFA.org](http://www.DRCFA.org); the Cobo Center website at [www.cobocenter.com](http://www.cobocenter.com); and at the Cobo Convention Center, One Washington Boulevard, Detroit, MI 48226.

### **6. May a nonprofit organization receive a discount on the fee?**

A nonprofit organization advocating for developmentally disabled or mentally disabled individuals that is 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, may receive a \$20.00 discount if the request meets all of the following requirements in the Act:

- Is made directly on behalf of the organization or its clients;

- 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
- Is accompanied by documentation of its designation by the state, if requested by the DRCFA.

**7. How may I challenge the denial of a public record or an excessive fee?**

**Appeal of a Denial of a Public Record**

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the DRCFA Board of Directors by filing an appeal of the denial with the office of the DRCFA.

The appeal must be in writing, specifically state the word “appeal” and identify the reason or reasons you are seeking a reversal of the denial. You may use the DRCFA FOIA Appeal Form (To Appeal a Denial of Records), which is available on: the DRCFA’s website at [www.DRCFA.org](http://www.DRCFA.org); the Cobo Center website at [www.cobocenter.com](http://www.cobocenter.com); and at the Cobo Convention Center, One Washington Boulevard, Detroit, MI 48226.

The Board of Directors is not considered to have received a written appeal until the first regularly scheduled Board of Directors meeting following submission of the written appeal. Within 10 business days of receiving the appeal the Board of Directors will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or
- Reversing the disclosure denial in part and upholding the disclosure denial in part; or
- Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the Board of Directors shall respond to the written appeal. The Board of Directors shall not issue more than 1 notice of extension for a particular written appeal.

Whether or not you submitted an appeal of a denial to the DRCFA Board of Directors, you may file a civil action in Wayne County Circuit Court within 180 days after the DRCFA’s final determination to deny your request.

If you prevail in the civil action, the court will award you reasonable attorneys’ fees, costs, and disbursements. If the court determines that the DRCFA acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.00.

## **Appeal of an Excess FOIA Processing Fee**

If you believe that the fee charged by the DRCFA to process your FOIA request exceeds the amount permitted by State law, you must first appeal to the DRCFA Board of Directors by submitting a written appeal for a fee reduction to the office of the DRCFA.

The appeal must specifically state the word “appeal” and identify how the required fee exceeds the amount permitted. You may use the DRCFA FOIA Appeal Form (To Appeal an Excess Fee), which is available on: the DRCFA’s website at [www.DRCFA.org](http://www.DRCFA.org); the Cobo Center website at [www.cobocenter.com](http://www.cobocenter.com); and at the Cobo Convention Center, One Washington Boulevard, Detroit, MI 48226.

The Board of Directors is not considered to have received a written appeal until the first regularly scheduled Board meeting following submission of the written appeal.

Within 10 business days after receiving the appeal the DRCFA will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee; or
- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Board of Directors will respond to the written appeal. The Board of Directors shall not issue more than 1 notice of extension for a particular written appeal.

Within 45 days after receiving notice of the Board of Directors’ determination of the processing fee appeal, you may commence a civil action in Wayne County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or an appropriate amount of reasonable attorneys’ fees, costs, and disbursements. If the court determines that the DRCFA acted arbitrarily and capriciously by charging an excessive fee, the court may also award you punitive damages in the amount of \$500.00.