

# OFFICE OF MANAGEMENT AND BUDGET

Statutory Authority: 29 Delaware Code, Section 6303A(16) (29 **Del.C.** §6303(A))

**FINAL**

**ORDER**

## **Freedom of Information Act Regulation**

AND NOW, this 1st day of June, 2010, Ann Shepard Visalli, as Director of the Delaware Office of Management and Budget, in accordance with 29 **Del.C.** §6303A(16), for the reasons stated below enters this ORDER adopting and promulgating regulation setting forth the Policy and Procedures for Responding to Requests from the Public for Information as set forth In 29 **Del.C.** Ch. 100, The Freedom of Information Act. (the "Regulation").

### **Nature of Proceedings; Synopsis of the Subject and Substance of the Proposed Regulation**

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.** Ch. 101, the Director of the Delaware Office of Management and Budget is adopting the final Regulation governing the Policy and Procedures for Responding to Requests from the Public for Information as set forth In 29 **Del.C.** Ch. 100, The Freedom of Information Act.

The purpose of the Regulation is to prescribe procedures relating to the inspection and copying of public records retained by the Delaware Office of Management and Budget pursuant to 29 **Del.C.** Ch. 100, the Freedom of Information Act. The Regulation establishes a reasonable fee structure for copying public records and streamlines procedures used to disseminate this information.

### **Findings of Fact and Conclusions**

1. The Delaware Office of Management and Budget has developed procedures for Responding to Requests from the Public for Information as set forth in 29 **Del.C.** Ch.100, The Freedom of Information Act.
2. The Regulation reflects these procedures.
3. The Director of the Delaware Office of Management and Budget has statutory authority to promulgate regulations pursuant to 29 **Del.C.** §6303A(16).

### **Decision and Order Concerning the Regulation**

**NOW THEREFORE**, under the statutory authority and for the reasons set forth above, the Director of the Delaware Office of Management and Budget does hereby ORDER that the Regulation be, and that it hereby is, adopted and promulgated as set forth below. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, in accordance with 29 **Del.C.** §10118(g).

Ann Shepard Visalli, Director,  
Delaware Office of Management and Budget

## **Freedom Of Information Act Regulation**

### **1.0 Definitions**

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

"Director" means the Director of the Delaware Office of Management and Budget.

"FOIA" means The Freedom of Information Act as established pursuant to Chapter 100 of Title 29 of the Delaware Code Annotated.

"FOIA Request" means a request to inspect public records pursuant to Section 10003, Chapter 100 of Title 29 of the Delaware Code Annotated.

"Office" means the Delaware Office of Management and Budget.

## **2.0 Enabling Legislation**

Pursuant to 29 Del.C. §6301A, the Office was established. The Office has authority to make regulations pursuant to 29 Del.C. §6303A(16). The Regulation is established in compliance with 29 Del.C. §10003(b).

## **3.0 Purpose**

The purpose of this Regulation is to set forth the policy and procedures for responding to requests from the public for Information as set forth in 29 Del.C. Ch.100.

## **4.0 Records Request, Response Procedures and Access**

- 4.1 All FOIA Requests shall be made in writing to the Office, addressed to: Director of Policy and External Affairs, Office of Management and Budget, Haslet Building, 122 William Penn St., Dover, DE 19901. All FOIA Requests shall specifically identify in writing the records sought for review in sufficient detail to enable the Office to locate the records with reasonable effort. The Office shall provide reasonable assistance to the public in identifying and locating public records to which they are entitled access.
- 4.2 The Office shall respond, in writing, within ten working days of the receipt of a FOIA Request. Such response shall specify the name and telephone number of a contact person with respect to the FOIA Request and shall state whether:
  - 4.2.1 the Office will permit inspection of the public records;
  - 4.2.2 the Office requires additional time beyond the 10 business days for circumstances to include but not be limited to, the request is for voluminous records, requires legal advice, or the public record is in storage or archived. In the event the Office is unable to make the requested public records available for inspection within the 10 business day period, the Office shall provide an expected time at which they will be made available; or
  - 4.2.3 If it does not permit such inspection, the reason or reasons for such refusal.
- 4.3 Prior to disclosure, records will be reviewed to insure that those records or portions of records deemed non-public pursuant to 29 Del.C. §10002(g) are removed. In reviewing the records, all documents shall be considered public records unless subject to one of the exceptions set forth in 29 Del.C. §10002(g).
- 4.4 After receiving the response of the Office to a FOIA Request, the requesting party shall contact the person specified in the written response thereto to schedule a mutually convenient date, time and place for the inspection of the public records.
- 4.5 All FOIA Requests shall be coordinated by the Policy and External Affairs section of the Office.
- 4.6 The Office will provide reasonable access for reviewing public records during regular business hours. The Office will make the requested public records available unless the records or portions of the records are determined to be excluded from the definition of a "public record" pursuant to 29 Del.C. §10002(g).

## **5.0 Fees**

- 5.1 Administrative Fees:
  - 5.1.1 Charges for administrative fees include:
    - 5.1.1.1 Staff time associated with processing FOIA Requests will include:
    - 5.1.1.2 Locating and reviewing files;
    - 5.1.1.3 Monitoring file reviews;
    - 5.1.1.4 Generating computer records (electronic or print-outs);
    - 5.1.1.5 Other work items as necessary per request.

5.1.2 Calculation of Administrative Charges:

5.1.2.1 Administrative charges will be billed to the requestor per quarter hour. These charges will be billed at the current, hourly pay grade rate, plus benefits (pro-rated for quarter hour increments) of the personnel performing the service. Administrative charges will be in addition to any copying charges.

5.1.2.2 Appointment Rescheduling/Cancellation - Requestors who do not reschedule or cancel appointments to view files at least one full business day in advance of the appointment may be subject to the administrative charges incurred by the Office in preparing the requested records. The Office will prepare an itemized invoice of these charges and mail to the requestor for payment.

5.2 Photocopying Fees - The following are charges for photocopies of public records made by Office personnel:

5.2.1 Standard Sized, Black and White Copies.

5.2.1.1 The first 20 pages of standard sized, black and white copied material shall be provided free of charge. The charge for copying standard sized, black and white public records for copies over and above 20 shall be \$0.25 per copied sheet. This charge applies to copies on the following standard paper sizes:

8.5" x 11"

8.5" x 14" and

11" x 17"

5.2.2 Oversized Copies/Printouts.

5.2.2.1 The charge for copying oversized public records shall be as follows:

18" x 22" \$2.00 each

24" x 36" \$3.00 each

5.2.3 Color Copies/Printouts

5.2.3.1 The charge for standard sized, color copies or color printouts shall be \$1.00 per sheet. This charge applies to copies on the following standard paper sizes:

8.5" x 11"

8.5" x 14" and

11" x 17"

5.2.4 Microfilm and/or Microfiche Printouts.

5.2.4.1 Microfilm and/or microfiche printouts, made by Office personnel on standard sized paper, will be calculated at \$0.50 per printed page.

5.3 Electronically Generated Records.

5.3.1 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: magnetic tape, diskette, or compact disc costs) and administrative costs.

5.3.2 In the event that requests for records maintained in an electronic format can be electronically mailed to the requestor, only the administrative charges in preparing the electronic records will be charged.

5.4 Payment.

5.4.1 Payment for copies and/or administrative charges will be due at the time copies are released to the requestor.

5.4.2 The Office may require pre-payment of copying and administrative charges prior to mailing copies of requested records.

**6.0 Effective Date of this Regulation.**

This Regulation will become effective 10 days after being published as a final regulation. Any and all FOIA Requests currently in process at the time of adoption will be subject to this Regulation.

**14 DE Reg. 57 (07/01/10) (Final)**