

EXECUTIVE DEPARTMENT

OFFICE OF MANAGEMENT AND BUDGET

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

PROPOSED

Public Notice

Freedom of Information Act Policy and Procedures

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.** Ch. 101, the Director of the Office of Management and Budget is proposing to adopt a regulation setting forth policy and procedures in dealing with requests from the public for information as set forth in 29 **Del.C.** Ch. 100, the Freedom of Information Act.

The Director of the Office of Management and Budget, or an employee of the Office of Management and Budget designated by the Director, will hold a public hearing at which members of the public may present comments on the proposed regulation on October 30, 2009 at 2:00 p.m. at the Delaware Office of Management and Budget, 122 William Penn Street, Room 133, Dover, DE, 19901. Additionally, members of the public may present written comments on the proposed regulation by submitting such written comments to Mr. Robert Scoglietti, Delaware Office of Management and Budget, 122 William Penn Street, Dover, DE, 19901. Written comments must be received on or before 12:00 p.m. on October 30, 2009. Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing Mr. Robert Scoglietti at the address of the Delaware Office of Management and Budget set forth above.

Policy and Procedures for Responding to Requests from the Public for Information as set Forth In 29 Del.C. Chapter 100, The Freedom of Information Act.

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. Chapter 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. OMB 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 seven 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 the Office will permit inspection of the public records or, if it does not permit such inspection, stating the reason or reasons for such refusal. In the event the Office is unable to make lawfully requested records available for inspection within this period, the Office shall provide an expected time at which they will be made available.
- 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 documents 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 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" \$2.00each

24" x 36" \$3.00each

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.

13 DE Reg. 493 (10/01/09) (Prop.)