

Procedures and Guidelines

1. How to submit a FOIA request to the Public Body

- a. A FOIA request must be submitted in writing to the FOIA Office. The request may be transmitted in hard copy, by email, or by facsimile.
- b. The Public Body FOIA Coordinator address is Sarah Schulte in care of the Office of General Counsel. The email address is shschult@mtu.edu. The fax number is 906-487-2935.
- c. A request should describe the record(s) sought sufficiently to enable the Public Body to find the record(s) and should provide the requester's contact information.
- d. Requests should state that they are submitted pursuant to the Michigan Freedom of Information Act.
- e. Requests received electronically are deemed received the next business day. A business day is defined as Monday through Friday, exclusive of holidays and institutional closure days.
- f. If a request is delivered to the FOIA Coordinator junk mail folder, the request will be deemed received one business day after the FOIA Officer becomes aware of the request. The FOIA Coordinator will check the junk mail folder at least once per week.

2. Responses to FOIA requests to the Public Body

- a. The Public Body will respond to a FOIA request within five (5) business days of the FOIA Office receiving the request.
- b. A response will consist of one or more of the following:
 - i. A granting of the request
 - ii. A partial granting of the request, and a partial denial because some or a portion of the records do not exist, are not in the possession of the Public Body, and/or are exempt from disclosure
 - iii. A complete denial of the request because all of the records do not exist, are not in the possession of Michigan Tech, and/or are exempt from disclosure
 - iv. A notice that more time is needed to process the request
 1. If more time is needed, the Public Body will send out a follow-up response within 10 business days of the initial response.
 - v. A notice that a fee deposit is required prior to further processing

1. If a fee deposit is required, the Public Body will include in its response a non-binding, best efforts estimate regarding the time it will take to provide the records to the requester.
 - vi. A notice that the record(s) sought has (have) not been sufficiently described to enable the Public Body to locate the record(s).
- c. The response will state the FOIA exemptions under which any information and/or documents are withheld, if applicable.
- d. If any part of a request for records is denied for any reason, the response will set forth the procedures for challenging and/or appealing that denial.

3. Deposit Requirements

- a. A fee deposit will be required when the processing of a request will result in fees equal to or greater than \$50.00.¹
- b. The required deposit will equal up to 50% of the estimated cost of fulfilling the request as calculated at the time of the initial response.
- c. If the Public Body requires a deposit, it will not process the FOIA request further until the deposit is paid.
- d. If, after receipt of the deposit and further processing of the request, the Public Body learns that the processing costs will be significantly different from the estimated costs, the Public Body will so notify the requester. Where the actual effort to search for, review and separate exempt material significantly exceeds the original estimate, the Public Body will notify the requester. The requester may choose to receive a revised fee deposit notice, or limit his/her original request to those records which may be processed within the time stated in the original fee estimate.
- e. A person who makes a FOIA request for which a deposit is required may withdraw that FOIA request without charge instead of paying the required deposit. Failure to pay the deposit will be deemed a withdrawal of the FOIA request.
- f. The Public Body will treat multiple concurrent FOIA requests on the same topic(s) and/or regarding the same recordkeeper(s) and from the same person as one FOIA request for purposes of determining whether the fee is below \$50.00.

¹The Public Body has determined, consistent with FOIA, that failure to charge fees in situations where the fees would be equal to or greater than \$50.00 would result in unreasonably high costs to the Public Body.

- g. Where a requester who has not paid the final fee for the processing of an earlier request files a new FOIA request, the Public Body may require a deposit of all (100%) of the estimated fees for processing the subsequent request prior to processing the subsequent request.

4. Calculation and Payment of Fees

- a. Fees are calculated by adding together the following costs²:
 - i. The labor costs³ for searching for, locating, and examining responsive records
 - ii. The labor costs⁵ for review, separation, and deletion of exempt information from non-exempt information
 - iii. The cost of non-paper physical media, if used
 - iv. The cost per copy of paper copies, not to exceed \$.10/page for standard 8 ½ x 11 inch paper
 - v. The labor costs⁵ directly associated with duplication or publication, which may include copying to non-paper media
 - vi. The cost of mailing
- b. Final fees for responding to a FOIA request will be billed when the Public Body responds to the FOIA request. An invoice will be provided by the Public Body with the response. The amount invoiced must be paid within thirty (30) days.
- c. The Public Body reserves the right to require payment in full of all fees incurred in processing a FOIA request before delivering the final, responsive documents.
- d. The Public Body's decision to deny access to public records sought by a FOIA request because those records are, in whole or in part, exempt from disclosure does not excuse the person who files that FOIA request from payment of fees for the work undertaken by the Public Body in response to that request.
- e. The Public Body may waive or reduce the fees it is authorized to charge if it determines that a waiver or reduction of the fee is in the public interest because responding to the FOIA request can be considered as primarily benefiting the general public.

² A copy of the standard form that the Public Body uses for fee itemization, with additional explanatory information, is attached to these Procedures and Guidelines.

³ Labor costs will be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. The labor is charged at the hourly rate of the lowest paid Public Body employee capable of doing the work, plus fringe benefits, if applicable. If it is not possible for the work to be done by a Public Body employee, the Public Body will contract the work out and charge per the provisions of the statute.

- f. Fee reductions or waivers are required in certain instances involving proven indigence or non-profit organizations. The Public Body will apply these reductions or waivers in accordance with the statute.

5. Procedures for Challenge and Appeal

- a. If the Public Body denies a request in whole or in part, the requester may:
 - i. Submit an appeal to the Head of the Public Body, in writing, via the FOIA Office, using the contact information listed in Item 1, above. The appeal must specifically use the word “appeal” and identify the reason(s) the requester seeks reversal of the denial. The Head of the Public Body must respond to the appeal within ten (10) business days by doing one of the following:
 - 1. Reversing the FOIA Officer’s decision
 - 2. Upholding the FOIA Officer’s decision
 - 3. Reversing in part and upholding in part the FOIA Officer’s decision
 - 4. Issuing a notice of extension for not more than ten (10) additional business days.
 - ii. Commence a civil action in the Court of Claims within one hundred eighty(180) days after the Public Body’s final determination to deny a request.
- b. If a requester believes that the Public Body has required payment of a fee that exceeds the amount permitted under these Procedures and Guidelines, he or she may commence an action in the Court of Claims for a fee reduction within forty-five (45) days after receiving the notice of the required fee.
- c. If a requester has questions regarding any FOIA response, including estimated fees or actual fees assessed, the requester should not hesitate to contact the FOIA Officer by email (shschult@mtu.edu) or telephone (906-487-2229)