

## RESPONDING TO A FREEDOM OF ACCESS ACT (FOAA) REQUEST

### Receipt

1. Stamp the received date on the front of the request.  
The date of receipt is the day a “sufficient description” of the record is received by the agency or official at the office responsible for maintaining the record. [§ 408-A(3)]
2. If the request is made verbally, confirm scope of request and date received in writing.

### FOAA database entry

1. Forward copy of stamped request to FOAA log coordinator to open FOAA entry.

### Communication

1. Inform Division Chief, public access officer, and OAG press contact.
2. Requests that are submitted to the OAG generally will be referred to the public access officer, who will assign the request to the appropriate staff.
3. If multiple staff have custody of responsive records, the public access officer will designate one AAG to coordinate the response.

### Acknowledgment

1. Acknowledge receipt of request within 5 working days of receipt of the request. [§ 408-A(3)]<sup>1</sup>

### Clarify

1. Restate the language of the request in the acknowledgment to confirm scope and content.
2. Communicate with requester to narrow a broad request.

### Estimate

1. Provide an estimate of time within which AGO will comply with request within a reasonable amount of time of receiving the request. [§ 408-A(3)]
  - FOAA requires a reasonable time frame for providing records. [§ 408-A]
2. Provide estimate of fees within a reasonable amount of time of receiving the request. [§ 408-A(3)]
  - Seek confirmation from requester before proceeding with response for estimate greater than \$30
  - If requester does not indicate desire to proceed within 30 days, close the FOAA request
3. Send fee waiver request to AG/Deputy AG for review.

### Notice of denial

1. Provide written notice to requester within 5 working days of receipt of the request if denying access to any public records. State reason for denial. [§ 408-A(4)]

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<sup>1</sup> All citations are to M.R.S. Title 1.  
Current with legislation through the 2016 Second Regular Session of the 127<sup>th</sup> Legislature

2. If the identification of confidential records requires more time, provide an initial written notice within 5 working days of receipt of the request explaining that access to some public records may be denied after the review is complete. This notice may be combined with acknowledgement of receipt.
3. A supplemental denial or further explanation of the grounds for the denial may be provided depending on the circumstances.

### **Search**

1. Key custodians: Public access officer and/or assigned AAG identify any OAG staff that may have responsive records.
2. Repositories: Identify repositories associated with these custodians.
  - Email regardless of source or location
  - Personal network (home directories)
  - Local repositories (“My Documents” and other local collections)
  - Shared (non-custodian based) files
  - Hard copy documents
3. Scope of the search: Develop a set of relevant filter criteria such as a keyword list, date range and file types.
  - In some circumstances, it may be necessary to agree with the requester on the culling criteria.

Instructions for electronic searches can be found at <http://inet.state.me.us/foaa/search.aspx>

### **Confidentiality review**

Determine if any public records requested are confidential, privileged or otherwise protected from disclosure. [§ 402(3), 408-A]

1. Redact confidential or privileged material where reasonably possible rather than withholding entire public record.
2. If access is denied in whole or in part, provide written notice of denial and state reason for denial. [§ 408-A(4)]
3. Depending on the circumstances, including the types and numbers of records requested, written notice may take the form of a letter summarizing the reasons for denial of access or of a more formal privilege log.

### **Provide access**

Schedule time to inspect records; provide paper copies; or provide access to an electronically stored record as either a printed document or in the medium it is stored at the discretion of the requester. [§ 408-A(5) & (7)]

### **Time and expense**

1. Staff time, actual costs and copying fees are reported to the FOAA log coordinator for entry into the database.
2. The invoice will account for the recorded costs and any fee waiver that has been granted.
3. Fees:

- Reasonable copying fee set by OAG is \$ 0.38 per page [§ 408-A(8)(A)]
  - Actual cost of searching, retrieving & compiling (compiling includes reviewing & redacting confidential information) of \$15/hour after the first hour of staff time [§ 408-A(8)(B)]
  - Actual cost to convert into form susceptible of visual or aural comprehension or into usable format [§ 408-A(7)(A) & (8)(C)]
  - Actual mailing costs [§ 408-A(8)(E)]
4. No charge for inspection unless public record cannot be inspected without being compiled or converted [§ 408-A(1) & (8)(D)]
  5. Fee notification if cost is greater than \$30.
    - If estimated total cost is greater than \$30, you must inform requester (preferably in writing) before proceeding. [§ 408-A(9)]
  6. Fee notification if cost is greater than \$100.
    - If estimated total cost is greater than \$100, requester may be required to pay all or portion of estimated costs before search, retrieval, compiling, conversion & copying
    - Payment of the estimate in advance may be required if requester has previously failed to pay properly assessed fee in timely manner [§ 408-A(9) & (10)]
  7. Part or all of the fee may be waived if:
    - Requester is indigent, or
    - The agency determines release of public record requested to be in public interest because doing so is likely to contribute significantly to public understanding of operations or activities of government and is not primarily in commercial interest of requester.

#### **Close the FOAA request**

1. Inform Division Chief, public access officer and OAG press contact that the FOAA response is complete.
2. Provide FOAA log coordinator with final recordkeeping entries for FOAA database. This information should be updated throughout process.