

**TITLE:** Georgia Open Records Act Procedures

**DATE:**

**PURPOSE:** To define the policies and procedures for the production of records under the Georgia Open Records Act (GORA), O.C.G.A. §50-18-70 *et seq.*

**I. Purpose:** The purpose of this policy is to provide procedures for responding to open records requests.

**II. Background:** The purpose of GORA is both to encourage public access to information and to foster confidence in government through openness to the public.

**III. Policy:** The Department of Community Affairs is committed to conducting its business in a manner that complies with all legal requirements, fosters citizen compliance in state government, and promotes efficient and effective government operations.

**IV. General:** The starting place for GORA is that all records prepared and maintained or received in the course of the operation of the Department are presumed to be open for public inspection and copying. This applies to all records compiled by DCA in the performance of its mission, including but not limited to; documents, books, tapes, photographs, letters, papers, computer records and reports. All GORA requests should immediately be forwarded to the GORA Coordinator. A written request for open records is not required by law. However, DCA staff should attempt to get all requests in writing to eliminate any dispute as to what was requested or when the request was made. If the requestor insists on making a verbal request, the staff person receiving the request should prepare a memo to the file indicating the date of the request, the name of the requestor, contact information and the documentation requested. A copy of the memo should be immediately forwarded to the GORA Coordinator.

**V. The Open Records Process:**

**A. Release of Records:**

The DCA GORA Coordinator is responsible for ensuring compliance with the Open Records Act. The Coordinator will designate DCA staff as needs dictate to assist in the production of records and response to requestors. Upon receipt of a request the Coordinator will ensure the request is date stamped indicating the date of receipt and complete the pertinent parts of the GORA Request for Information Log (Attachment A). The Coordinator will then notify the appropriate Records Custodian(s) to retrieve the information and, if appropriate, prepare a response to the request. The Records Custodian(s) will be notified of the deadline for the response.

**B. Timeliness:**

There must be a response to the requester within three business days (day 1 is the first business day after the request is received) of DCA's receipt of the request. The appropriate Assistant Commissioner will within two business days of the receipt of the request notify the Coordinator of the results of the search and provide a written response to the request if so instructed.

### C. Record Availability:

When records are readily available and subject to public access, they must be provided immediately. When this is not the case, a reasonable amount of time is allowed to determine whether the requested records are subject to access under the law. In no event shall this time exceed three business days. The records custodian must respond in one of three ways:

- (1) If the records exist, are available, and subject to public disclosure under the Open Records Act, the documents must be made available for inspection and copying.
- (2) If the records exist and are subject to public disclosure but are not available within three business days of the request, a written description of such records and a timetable for their inspection and copying must be provided within the three-day period.
- (3) If access to a record is denied in whole or in part, the response must cite the specific legal authority, by Code section, subsection, and paragraph exempting such record from release.

### D. Electronic Records:

Records maintained by computer shall be made available where practical by electronic means. This is subject to reasonable security restrictions preventing access to records not requested and/or records exempt from release. Personal email and other documents kept in DCA database or storage is subject to inspection even if it is personal (and an exception does not apply). You should have no expectation of privacy with respect to personal data or email stored on a DCA computer.

### E. Appropriate Charges:

DCA will not charge for Open Records Act requests taking less than  $\frac{1}{4}$  hour to comply to. Any request taking over  $\frac{1}{4}$  hour will be subject to appropriate charges.

- (1) **Fee Notification Requirement:** When a fee is to be charged, DCA must notify the requester of the estimated costs associated with processing the records within the three day period and prior to fulfilling the request.
- (2) **Optional Charges:** DCA may charge a reasonable fee for administrative costs associated with the search, retrieval, review, copying, reproduction and mailing of public records. However DCA must provide copies of requested documents "in the most economical means available." For any charge, it is DCA's burden to demonstrate the charge meets the standard. DCA may charge \$0.25 for each page copied. Hourly charges for administrative tasks may not exceed the salary of the lowest paid, full-time employee who has the skill to perform the request. Where the information requested is maintained by computer, DCA may charge the actual cost of computer disks or tapes onto which the data is transferred. This also applies to the actual cost of any audio/visual tapes copied.
- (3) **Invoice:** If DCA determines a fee will be charged, the GORA Invoice will be completed. A copy of this worksheet is appended as Attachment B. When completed electronically the worksheet form calculates the costs associated with production of the requested record(s) including adding costs.
- (4) **Waiver:** Fees on any request of 100 pages or less will be waived. The Records Custodian or their back-up, may, in their discretion, waive fees for requests exceeding 100 pages.

**VI. Exemptions:** Some information contained in DCA files could be exempt from public disclosure, such as trade secrets, attorney-privileged documents and documents specifically required by the federal government to be kept confidential. Note: some records that may be exempted from routine disclosure must be disclosed to news media representatives making an Open Records Act request (i.e. social security numbers). If there is any question as to whether information is exempted, the Coordinator should be notified and he or she will contract the Department of Law for instruction. (See Attachment C for list of exceptions).

**VII. Non-Compliance Penalty:** In state law, any person who knowingly or willfully violates the provisions of the Open Records Act by failing or refusing to provide access to records not subject to an exception under the Open Records Act, or by failing or refusing to provide access to records within the time limits set forth in the Open Records Act, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$100.

**VIII. Request Log and Files:**

Once the pertinent information is received from the Assistant Commissioner, the Coordinator will complete the information on the Request for Information Log and file the request and response by the name of the requestor.

**IX. Records Retention:** The retention of public records is a statutory requirement described in the Georgia Open Records Act. DCA staff must ensure that records created are retained as long as required by an approved retention schedule. These schedules are created under the direction of the Archives and History Division of the Georgia Secretary of State, with the approval of the State Records Committee. DCA has established records retention procedures as described in the [Georgia Records Act O.C.G.A. §50-18-94](#). GORA requires records of Open Records Act requests and correspondence is to be retained for seven years.

**X. Records Custodian:**

The Assistant Commissioner of each division and their designated back-up will serve as the records custodian of each respective division. The GORA Coordinator and his or her designated back-up will serve as the records custodian for the Executive Office.

## Attachment C

### Exemptions to the Open Records Law.

Some records are exempt from the open records law and do not have to be released to the public. These exceptions are interpreted narrowly, with the presumption that the public should have access to information regarding the operation and responsibilities of public agencies. If information falls within one of these categories, however, it may be withheld from disclosure:

- The documents are specifically required by the federal government to be kept confidential (O.C.G.A. § 50-18-72(a)(1)).
- The documents are medical records O.C.G.A. § 50-18-72(a)(2)).
- The documents contain information the disclosure of which would be an "invasion of personal privacy" (O.C.G.A. § 50-18-72(a)(2)).
- The documents were compiled for law enforcement or prosecution purposes and would disclose (1) the identity of a confidential source, (2) confidential investigative or prosecution material that would endanger the life or physical safety of an individual, or (3) the existence of a confidential surveillance or investigation (O.C.G.A. § 50-18-72(a)(3)).
- The documents are records of a pending investigation or prosecution of a criminal or unlawful activity by a law enforcement, prosecutory or regulatory agency (O.C.G.A. § 50-18-72(a)(3)).
- The documents are confidential evaluations relating to the appointment or hiring of a public officer or employee (O.C.G.A. § 50-18-72(a)(5)).
- The documents contain materials of an investigation relating to the suspension or firing of, or a complaint against, a public officer or employee that has not been completed for at least ten days (O.C.G.A. § 50-18-72(a)(5)).
- The documents contain information relating to the acquisition of real property and are not subject to be released until the property is purchased or the acquisition is abandoned (O.C.G.A. § 50-18-72(a)(6)).
- The documents are engineers' cost estimates, rejected bid proposals or deferred bid proposals on public road projects and are not subject to be released until the final award is made (O.C.G.A. § 50-18-72(a)(6)).
- The documents would identify individuals applying for or under consideration for employment or appointment as an executive head (O.C.G.A. § 50-18-72(a)(7)).
- The documents are of historical research value and have had a restriction of access placed upon them by the owner/donor (O.C.G.A. § 50-18-72(a)(9)).
- The documents would reveal the location or character of a historic property that the Division of Historic Preservation of the Department of Natural Resources has determined the disclosure of which would create a substantial risk of harm, theft or destruction to the property (O.C.G.A. § 50-18-72(a)(10)).
- The documents contain site specific information regarding the occurrence of rare species of plant or animals or the location of sensitive natural habitats the disclosure of which has been determined by the Department of Natural Resources to create a substantial risk of harm, theft or destruction to the species or habitat (O.C.G.A. § 50-18-72(a)(11)).

- The documents are contained in a personnel file and include an individual's social security number, insurance information or medical information and are not subject to be released until the social security number, insurance information and medical information are redacted (O.C.G.A. § 50-18-72(a)(11.1)).
- The documents would reveal the home address, home telephone number, social security number, insurance information or medical information, or identity of immediate family member or dependent of a law enforcement officer, judge, correctional employee, or prosecutor (O.C.G.A. § 50-18-72(a)(13)).
- The documents would reveal a trade secret (O.C.G.A. § 50-18-72(b)(1)).
- The documents would reveal a potentially commercially valuable plan, proposal or strategy of the hospital authority (O.C.G.A. §§ 50-18-72(c)(1) and 31-7-75.2).
- The documents are subject to the attorney client privilege or the attorney work product confidentiality. This applies solely to attorneys employed by the Law Department and not department employees that may have legal training. (O.C.G.A. § 50-18-72(e)).
- The documents contain confidential tax information (O.C.G.A. § 50-18-72(e)(3), O.C.G.A. § 48-2-15 and/or O.C.G.A. § 48-5-314(a)).
- The documents contain vital records exempt from disclosure (O.C.G.A. §§ 50-18-76 and 31-10-25).
- The documents are not required to be released pursuant to a court order (O.C.G.A. § 50-18-70(b)).