

## Scope and Audience

This policy applies to all Public Records of the Department of Commerce as outlined in Idaho Code Title § 74 Chapter 1 -101 through § 74-126. The Freedom of Information Act (FOIA) applies to records held by federal agencies and is not generally applicable to Idaho state records.

## Policy Purpose

To establish policy for processing public record requests and the examination and/or copying of public records of the Department of Commerce.

## Policy Statement

The Department of Commerce complies with the public record laws of the State of Idaho. The intent of public records law is that all records maintained by Idaho government entities be available for public access and copying except as otherwise expressly provided by statute Idaho Code § 74-102. The Department must balance this policy of openness against the need for privacy of certain information and information provided by citizens and businesses that is necessary for the conduct of the government's business.

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## 1. Definitions

**Department:** The Idaho Department of Commerce.

**Public Record:** Includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics. Provided, however, that personal notes created by a public official solely for his own use shall not be a public record as long as such personal notes are not shared with any other person or entity. For purposes of this policy, a "public official" is any Commerce employee.

**Writing:** Includes, but is not limited to, handwriting, typewriting, printing, photo stating, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

**Public Records Custodian:** The designated custodian of record requests for the Department of Commerce for the purpose of fulfilling the Idaho Public Records Act.

**Requester:** The person requesting examination and/or copying of public records pursuant to section 74-102, Idaho Code.

**Copy:** Transcribing by handwriting, photocopying, duplicating machine, and/or reproducing by any other means as long as the public record is not altered or damaged.

**Resident:** An Idaho "resident" means a person whose domicile has been within Idaho

continuously for a period of at least thirty (30) days, excluding a full-time student who is a resident of another state, and shall also include a domestic entity as provided in section 30-21-102, Idaho Code. Establishment of residency shall include a spouse and dependent children who reside with that person in the domicile. A domicile shall not be a person's workplace, vacation residence, or part-time residence.

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## **2. Public Records Custodian**

- 2.1. The Public Records Custodian is the designated coordinator of record requests for the Department for the purpose of fulfilling the Idaho Public Records Act. The person serving in this position fulfills the duties required by Chapter 1, Title 74, Idaho Code, as well as the custodian designation specifically required by § 74-102 (16).
- 2.2. The Custodian's name and contact information is located on the Department of Commerce's website (§ 74-119).

## **3. Requests for Records and Department Response**

- 3.1. Requests for records must be submitted in writing to the Department's Custodian via the website link.
- 3.2. A public records request must:
  1. Clearly indicate that it is a public records request.
  2. Specifically describe the subject matter and records being sought in sufficient detail to enable the public body to locate such records with reasonable effort.
  3. Include a specific date range for when the records sought were created, and as much specific identifying details as possible.
  4. A requester's name, mailing address, e- mail address, and telephone number.
  5. Include a written declaration by the requesting party attesting or affirming under oath whether the requestor is an Idaho resident.
- 3.3. Receiving and fulfilling record requests will be conducted during regular business days and hours. Business days are Monday – Friday 8:00 a.m. to 5:00 p.m. and exclude Idaho state recognized holidays. All requests received after normal business hours shall be deemed as received on the next business day.
  1. Examination of public records must be conducted during regular office or working hours unless the Custodian otherwise authorizes.
  2. Records are not to be removed during the examination from the place designated for in-person inspection unless the Custodian specifically agrees otherwise.
  3. Requests will not be considered received until they have been properly submitted to the Custodian as outlined in section 3.1.

- 3.4. The Department will not provide copies of records in a format not already used by the Department in the normal course of business (i.e., alphabetized, chronological) or provide information in a format desired by the requesting party.
  - 3.5. The Idaho Public Records Act (Idaho Code § 74-101, et. seq.) does not require the Department to create records in response to a request.
  - 3.6. **Response to Resident Requests.** Generally, the Department will either grant or deny a resident's public records request within three (3) business days of receipt. If a longer period of time is needed to locate and/or retrieve the records, the Custodian will notify the resident requester in writing and shall respond to the request within ten (10) business days following receipt of the request.
  - 3.7. **Response to Nonresident Requests.** For all non-resident records requests, we expect to respond to this request within twenty-one (21) days after receipt of the request. However, if we determine that a longer period is required to process the request, we will notify of the need for extra time, up to thirty-five (35) days following receipt of the request, unless extended for unusual or exigent circumstances, which shall be explained to you in writing. Idaho Department of Commerce will notify you if your request is likely to generate fees and provide an estimate of those fees.
- 3.1. **General Rules.**
    1. If the Custodian determines that an existing electronic record responsive to a public records request must be converted to another electronic format for disclosure and that such conversion cannot be completed within the time allotted for the response, the Custodian shall notify the Requester and the Department will provide the converted record at a time mutually agreed upon between the Department and the Requester, considering the any limits that may exist due to due to the conversion process and/or the use of a third party to make the conversion.
    2. If the date for response to a public records request falls on a non-business day, the agency will provide a response no later than the next business day following the original date for response.

#### **4. Copying, Labor Fees, and Payment**

**4.1** The Department may charge for the cost of copying or duplicating electronic public records, in various forms, in accordance with the copying fee schedule set forth in Section 7 below.

#### **4.2 Resident Requests.**

- 1.1. Except for fees that are authorized or prescribed under other provisions of Idaho law, the Department will not charge for the first two (2) hours of labor for copying, scanning,

or duplicating an electronic record for the first one hundred (100) pages of paper records in responding to residents' public records request. For example, if there are 125 pages of responsive documents, and Commerce staff expended two and one-half (2½) hours in processing the request, the Department will charge for 25 pages and one-half (½) hour of labor.

- 1.2. The fee for copying the record will not exceed the actual cost to the Department of copying the record, if a different fee is not otherwise provided by law.
- 1.3. The fee for providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public information shall not exceed the sum of:
  - 1.3.1.1. The Department's direct cost of copying the information in that form;
  - 1.3.1.2. The standard cost, if any, for selling the same information in the form of a publication; and
  - 1.3.1.3. The agency's cost of conversion, or the cost of conversion charged by a third party, if the existing electronic record is converted to another form.
- 1.4. Labor fees for resident requests will not exceed reasonable labor costs necessarily incurred in responding to the public records request and will be charged at the per hour rate of the lowest paid administrative staff employee or public official of the Department who is necessary and qualified to process the request.
- 1.5. If the response to a resident request requires redactions to be made by an attorney, the rate charged will be no more than the lowest paid deputy attorney general who is necessary and qualified to review the public records request. If the Department is required to retain an attorney to review and redact the response, the rate shall not exceed the usual and customary rate of the retained attorney.

### **5.3 Nonresident Requests**

- 1.1. The Department has established a separate uniform fee schedule for labor and copying costs associated with locating and copying documents and for duplication of computer tapes, discs, microfilm and similar or analogous record systems containing public information in response to public records requests made by requesters who are not residents or employees of residents. The fee schedule is set forth in Section 8 below. Such fees do not exceed the Department's actual costs for the activities listed in the Section 8 schedule.

### **5.4 General**

- 1.1. Requests will be charged according to the schedules in Section 7 and Section 8. The Department will issue an invoice to the Requester for requests requiring payments. Payments can be made electronically or by check. Payment details will be included on the invoice. Payment in advance is required. Any portion of the advance payment in excess of the actual costs will be returned to the requester with a detailed invoice of actual costs.
- 1.2. No lump sum costs will be assigned to any request. Requests requiring fees will receive

a final itemized invoice detailing the per page costs for copies/duplicating of an electronic record, hourly rate of the employees and attorneys involved in responding to the request, and the actual time spent on the request.

- 1.3. A requester may not file multiple public records requests solely to avoid payment of fees. If the Department, in its sole discretion, reasonably believes that one (1) or more requesters is segregating a request into a series of requests to avoid payment of authorized fees, the Department will aggregate such requests and charge the appropriate fees. The Department will not aggregate multiple requests from one requester on different subjects.

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**5. Fee Schedule: Residents**

Idaho Code	Description of Work Performed	Costs
§ 74-102(10)(a)	Copying 100 or fewer responsive pages	No charge for Idaho residents
§ 74-102(10)(c), (e)	Copying other than 8½" x 11" paper size (i.e., maps, blueprints)	Actual copying cost/duplicating electronic record and labor rate to be determined at time request is submitted, if applicable
§ 74-102(10)(c), (e)	Hard copying more than 100 pages in color, 8½" x 11" paper size	\$.15 per page in excess of 100 and labor rate to be determined at time request is submitted, if applicable for residents. For non-residents, this fee may be charged.
§ 74-102(10)(d), (e)	Physical transfer of documentation in the form of handwriting, photocopying, duplicating machine and reproducing by any other means as long as the public record is not altered or damaged.	Actual copying cost/duplicating electronic record and labor rate to be determined at time request is submitted, if applicable
§ 74-102(10)(b), (c), (e)	Copying more than 100 responsive pages	\$.15 per page for pages in excess of 100 and labor rate

		to be determined at time request is submitted, if applicable for residents. For non-residents, this fee may be charged.
§ 74-102(10)(b), (c), (e)	Redacting nonpublic information from records	\$.15 per responsive page and labor rate to be determined at time request is submitted, if applicable
§ 74-102(10)(b), (c), (e)	Labor exceeding two (2) person hours to locate and copy documents	Labor rate to be determined at time request is submitted, charge only for time in excess of two (2) hours for residents. For non-residents, this fee may be charged.
§ 74-102(12)	Electronic payment	3%

<b>Fee Schedule: Non-Residents</b>		
<b>Idaho Code</b>	<b>Description of Work Performed</b>	<b>Costs</b>
§ 74-102(10)(c), (e)	Copying other than 8½" x 11" paper size (i.e., maps, blueprints)	Actual copying cost/duplicating electronic record and labor rate to be determined at time request is submitted, if applicable
§ 74-102(10)(c), (e)	Hard copying pages in color, 8½" x 11" paper size	\$.15 per page.
§ 74-102(10)(d), (e)	Physical transfer of documentation in the form of handwriting, photocopying, duplicating machine and reproducing by any other means as long as the public record is not altered or damaged.	Actual copying cost/duplicating electronic record and labor rate to be determined at time request is submitted, if applicable

§ 74-102(10)(b), (c), (e)	Redacting nonpublic information from records	\$.15 per responsive page and labor rate to be determined at time request is submitted, if applicable
§ 74-102(12)	Electronic payment	3%

**6. Fee Waivers**

- 8.1. Fee Waivers will be determined by the Department Pursuant to Idaho Code § 74-102(10)(f),
- 8.2. No additional charge beyond the fee schedule will be made for physical examination of records by a Requester during normal Department office hours. However, if a Requester seeks to examine public records outside of normal office hours, and that person is available to accommodate the non-working hours request, then the actual compensation of the Custodian, or their designee, must be paid by the Requester before, or at the time of the examination, in addition to any incurred copying and/or labor costs.
- 8.3. The Department reserves the right to waive fees where the agency determines, in its discretion, that the costs of tracking and collecting the fee will exceed the fee. Fees will not be waived if it has been determined that the requestor is dividing up requests to avoid fees.

**7. Denial of Public Records Request**

The Department may determine that a record requested in accordance with this policy is exempt from disclosure under applicable law. If a denial or partial denial of a request for examination is made, the denial will include the rationale for the decision, the appeal rights of the requester, and notification concerning attorney review of the request.

**Revision History**

- January 20, 2026
- July 1, 2025
- April 4, 2023

*Thomas F Kealey*

Thomas F Kealey (01/26/2026 14:55:28 MST)