

# **DELTA COUNTY ROAD COMMISSION**

## **Freedom of Information POLICY**

**POLICY # 25**

**EFFICTIVE DATE: 8/22/2002**

**REVIEWED: 12/30/2005**

**REVISED: 2/23/2009**

**REVISED: 8/28/2012**

**REVISED: 4/7/2015**

From time to time, the Delta County Road Commission, its staff and/or employees may be requested, under the Freedom of Information Act, to furnish records, written reports, data and other materials of record or to permit inspections of documents maintained by the Commission in the conduct of its official duties and responsibilities. Therefore, the Commission has determined that it is necessary to establish a Policy governing the procedures to be followed by its employees in response to requests for information under the Freedom of Information Act, and so that such procedures comply with the requirements of the Act and assures the public right of access while protecting the rights and confidentiality of the Commission and/or its employees where applicable.

Therefore, the Managing Director of the Commission is directed to establish and shall maintain a written set of Policy Procedures regarding the processing of Freedom of Information Act requests as presented to the Commission. Said procedures shall be in compliance with the requirements of the Freedom of Information Act and may be revised from time to time as changes in the Act or Commission needs may require. The written Freedom of Information Act Procedures shall constitute the Policy of the Commission and shall be approved by the Commission, and the written Procedures shall be incorporated by reference into this Policy.

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Chairman, Randy Bjork

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Clerk, Amy Reinhardt

## **FREEDOM OF INFORMATION ACT POLICY**

Delta County Road Commission (DCRC) documents and records are available to the public for inspection and/or copying in accordance with the Freedom of Information Act (FOIA) upon receipt of a written request, which specifically describes the exact public record(s) desired, unless exempted from disclosure by Section 13 of the Act or other law. Compliance with FOIA does not require that DCRC create new public records, nor make a compilation, summary, or other reports of information in order to satisfy a request.

All FOIA requests must be made in writing. Requests made by facsimile copy or electronic mail are acceptable. A FOIA request received by facsimile copy, electronic mail, or by other electronic means, is deemed received the first business day following its transmission. Written requests will be forwarded to the FOIA Coordinator for response.

The Business Manager is the designated FOIA Coordinator. The FOIA Coordinator has the authority to issue notices extending response time, or to deny requests, in whole or part, on behalf of DCRC.

Legal Counsel should review all denials and non-routine requests prior to response. The FOIA Coordinator will keep a copy of all written requests for public records, and all responses on file for not less than one year from the date of the response.

The FOIA Coordinator will respond in writing to a FOIA request within five (5) business days of receipt, utilizing the Notice of Freedom of Information Act Request Form, with one of the following actions:

1. Grant the request;
2. Deny the request;
3. Grant the request in part and deny the request in part;
4. Issue a notice extending for not more than ten (10) business days the period during which DCRC will respond to the request. The notice will include the date by which DCRC will respond to the request.

In the event of a denial of a FOIA request, in whole or in part, the Notice of FOIA Response Form will contain: an explanation of the basis under the Act or other statute that the public record, or portion of public record, is exempt from disclosure, if that is the reason for denying the request; certification that the record does not exist under the name provided by the requester or under another name reasonably known to DCRC, if that is the reason for denying the request; a description of a public record or information in a public record that is separated or deleted pursuant to Section 14 of the Act, if a separation or deletion is made; and a full explanation of the requesting party's right to appeal or request judicial review of the denial and to receive attorney's fees and damages in appropriate cases.

In the event of an appeal, the Delta County Board of Road Commissioners will serve as the governing body responsible for hearing the appeal. Appeals should be submitted in writing addressed to the Chairperson of the Board of County Road Commissioners in care of the FOIA Coordinator. The Board will address the appeal at the next regularly scheduled meeting after the appeal is received and will respond to the appeal within ten (10) days after the Board meeting.

Upon receipt of a written request to review a public record, DCRC will make the record(s) reasonably available for supervised inspection unless the request is denied in whole or in part as provided in this policy. A mutually convenient time will be determined during DCRC's normal business hours, and the records will be made available within five (5) business days of receipt of the request, unless the time period for response has been extended as provided in this policy.

A DCRC employee, to ensure the integrity of the records, will supervise inspection of public records. Upon completion of the inspection, the employee will provide copies of inspected documents as requested according to the guidelines outlined in this policy. Records must remain in the office where they are being inspected, and no unauthorized alteration, defacement, mutilation, destruction or removal is permitted.

Fees will be assessed as allowed by law for the services performed by DCRC employees relating to the processing of FOIA requests as follows:

1. Labor costs directly associated with the necessary searching for, locating, and examining of DCRC records in conjunction with receiving and fulfilling a granted written request. Labor costs for this purpose shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down;
2. Labor costs, including necessary review, if any, directly associated with separating and deleting exempt information from nonexempt information. Labor costs for this purpose shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down;
3. The actual total incremental cost of necessary duplication, not including labor, calculated at the cost of 10 cents per sheet of paper;
4. The cost of labor directly associated with duplication. Labor costs for this purpose shall be estimated and charged in time increments of DCRC's choosing, with all partial time increments rounded down;
5. Actual mailing costs; and,
6. Any other fees or costs allowed by law.

In calculating the labor costs authorized by this policy, DCRC will not charge more than the hourly wage of the lowest paid DCRC employee capable of retrieving the information necessary to comply with the request. DCRC will also add the actual cost of fringe benefits, up to 50% of the applicable labor charge amount, to cover or partially cover fringe benefit costs, and will note the percentage multiplier used to account for benefits in a detailed itemization provided to the requesting party.

Should estimated fees exceed fifty (\$50) dollars, a good faith deposit of ½ of the total estimated fee will be required prior to the processing of the FOIA request. The FOIA Coordinator may grant waivers of the deposit and/or portion of the processing fees. A public record search and a copy of the public record will be without charge for the first twenty (\$20) dollars of the fee for each request by an eligible individual who submits an affidavit that they are then receiving public assistance or showing inability to pay because of indigence.

**Delta County Road Commission  
Notice of Freedom of Information Act Response**

**1. Name & address of requester:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2. Manner in which request was submitted:**

U.S. mail personal delivery \_\_\_  
facsimile e-mail \_\_\_  
other electronic means \_\_\_\_\_

**3. Date written request received by DCRC (if received by facsimile, e-mail, or other electronic means, request will be deemed received on next business day):**

\_\_\_\_\_

**4. Public records requested:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**5. Written request:** \_\_\_ **Granted**

\_\_\_ **Denied** because (include section/subsection if exemption is claimed)

\_\_\_\_\_  
\_\_\_\_\_

(See Section 9 for appeal rights.)

\_\_\_ **Granted** in part and **Denied** in part because (include section/subsection if exemption is claimed) \_\_\_\_\_

\_\_\_\_\_

(See Section 9 for appeal rights.)

\_\_\_ **Response period extended** up to an additional 10 business days to

\_\_\_\_\_.

**Notice of Freedom of Information Act Response (cont'd)**

**6. Fee incurred in responding to request:**

Labor costs for search, location, and examination:

\_\_\_\_ x \$ \_\_\_\_\_ hourly wage = \$ \_\_\_\_\_ Multiplier for fringe benefits \_\_\_\_\_%

Labor costs for separation and deletion of exempt information from nonexempt information:

\_\_\_\_ x \$ \_\_\_\_\_ hourly wage = \$ \_\_\_\_\_ Multiplier for fringe benefits \_\_\_\_\_%

Labor costs for duplication:

\_\_\_\_ x \$ \_\_\_\_\_ hourly wage = \$ \_\_\_\_\_ Multiplier for fringe benefits \_\_\_\_\_%

# of Pages x \$0.10 per page \$ \_\_\_\_\_

Actual costs for postage \$ \_\_\_\_\_

Other \$ \_\_\_\_\_

Total Costs \$ \_\_\_\_\_

\_\_\_\_ First \$20 of fee waived (Affidavit of Public Assistance or Indigency submitted or accepted). Please submit \$ \_\_\_\_\_.

\_\_\_\_ Because estimated fee exceeds \$50, deposit of one-half the total amount due must be received by the DCRC prior to the DCRC's response. The deposit of \$ \_\_\_\_\_ shall be payable by check or money order to the "Delta County Road Commission." Remit to Delta County Road Commission, FOIA Coordinator, 3000 32<sup>nd</sup> Ave N. Escanaba, MI 49829, with a copy of this notice.

**7. Upon receipt of fees where applicable, requested information will be:**

\_\_\_\_ Mailed to (if different than Line 1): \_\_\_\_\_

\_\_\_\_ Emailed at requester's direction to \_\_\_\_\_

\_\_\_\_ Faxed at requester's direction to \_\_\_\_\_

\_\_\_\_ To be paid for and picked up in person at DCRC office.

\_\_\_\_ Estimated time frame in which DCRC will be able to provide the requested documents: \_\_\_\_\_

**8. Date of Response:**

Mailed \_\_\_\_\_, 201\_\_

Emailed \_\_\_\_\_, 201\_\_

Faxed \_\_\_\_\_, 201\_\_

Personal delivery \_\_\_\_\_, 201\_\_

**9. Description of appeal rights due to denial of requested records.**

a. Per Section 5(4)(d)(i) of FOIA, you may submit to the Chairperson of the County Board of Road Commissioners a written appeal that specifically states the word "appeal" and that identifies the reason(s) for the requested reversal of the denial. The appeal should be mailed to the Board Chairperson, care of the FOIA Coordinator, at the County Road Commission's address, Attention: FOIA Board

Appeal. The Board will address the appeal at the next regularly scheduled meeting after the appeal is received and will respond to the appeal within ten (10) days after the Board meeting.

b. Alternately, you may seek judicial review of the denial under Section 10 of FOIA. Such review will be in the circuit court for Delta County. If you prevail in your court action, FOIA Section 10(6) provides: "The court shall award reasonable attorneys' fees, costs, and disbursements." If you or the County prevail in part, "...the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements." Section 10 also provides for payment of damages in certain cases.

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