

PUBLIC RECORD REQUEST PROCEDURES

PURPOSE:

The purpose of this procedure is to provide CFX employees with the information and procedures necessary to understand and carry out their responsibilities under the Florida Public Records Law, including:

The requirements for managing CFX public records

The manner in which public record requests are to be processed to ensure that responses to the requests are organized, inclusive, and in compliance with applicable statutes and rules.

SCOPE:

This procedure applies to all CFX employees, including contractors that have been delegated the authority to perform some governmental function.

BACKGROUND:

Section 119.07(1)(a), F.S., establishes a right of access to public records in plain and unequivocal terms:

Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

The term “reasonable conditions” as used in *Section 119.07(1)(a), F.S.*, refers not to conditions which must be fulfilled before review is permitted but to reasonable regulations that would permit the custodian of records to protect them from alteration, damage, or destruction and also to ensure that the person reviewing the records is not subjected to physical constraints designed to preclude review.¹

Accordingly, the reasonable conditions do not include a rule or condition of inspection which operates to restrict or circumvent a person’s right of access.²

The custodian is at all times responsible for the custody of public records but when a citizen applies to inspect or make copies of them it is his/her duty to make provision for this to be done in such a manner as will accommodate the applicant and at that same time safeguard the records.³

PUBLIC RECORD REQUESTS:

A public record request is a request to either inspect or copy, or both, public records pursuant to Chapter 119, *Florida Statutes*.

There is no requirement that the request be made in person or in writing, or be in any particular form. The person making the request is not required to identify himself/herself, or to provide information about the reason for the request or how the records will be used.

¹ Wait v. Florida Power & Light Company, 372 So. 2d 420, 425 (Fla. 1979)

² Advisory Legal Opinion, AGO 75-50 (February 27, 1975)

³ Fuller v. State ex rel. O’Donnell, 17 So. 2d 607 (Fla. 1944)

The request must be clear enough to enable CFX employees to conduct a meaningful search. CFX employees may ask questions about the request in order to respond to the request fully and in a timely manner.

Requests for public records shall be directed to the Records & Information Management Department for review, initial response, and dissemination to the appropriate department records coordinators for their review as well.

***Note:** many routine, day to day, or operational public record requests may be handled by the respective department records coordinator or department manager. However each department records coordinator will successfully complete RIM's Public Awareness Training program prior to handling requests to ensure proper compliance.*

RESPONDING TO PUBLIC RECORD REQUESTS:

Whether a request is made in person, or by mail, facsimile, or e-mail, the CFX employee who receives the request shall forward the request to the RIM Department as soon as possible to ensure the Records Management Specialist responds accordingly.

Upon receipt of a request for public records, the Records Management Specialist shall acknowledge receipt of the request promptly and in good faith. A good faith response includes making reasonable efforts to determine from other department managers, department coordinators, and/or department employees within CFX to determine whether such records exist and, if so, the location at which these records can be accessed (*see sample acknowledgement letter in appendix A*).

The Records Management Specialist shall respond to each public record request in a reasonable time, taking into account the extent and nature of the request. Upon receipt of the request, the Records Management Specialist will take one of the following actions:

Inform the requestor that CFX is working on their request; provide an estimated time of completion, and advise them about any specific circumstances affecting completion of the request, if/when applicable.

Inform the requestor that the requested records do not exist or are not in the custody of CFX.

Notify the requestor of estimated costs and request payment in advance if the nature or volume of the requested records will require extensive use of information technology resources, extensive clerical or supervisory assistance, or both, in addition to the actual cost of duplication or production.

Provide an invoice with a cover letter to the requestor outlining the fees prescribed in Chapter 119, *Florida Statutes* (*see sample invoice and letter in appendix B*).

CFX shall provide the requested records. If for any reason the records cannot be provided within a reasonable time, CFX shall contact the requestor with an estimated time of completion. If payment is required from the requestor due to the extensive or voluminous nature of the request, CFX shall provide the records upon receipt of payment.

CERTIFIED COPIES OF PUBLIC RECORDS:

Certification Statement: When more than five pages of certified copies are requested, a certification statement may be used, instead of certifying each page. In this statement, which is a cover page for the group of documents, the custodian of record certifies that the copies provided are true and correct copies of the originals (*see sample certification statement in appendix C*).

Page Certification: When each page of the record requested to be certified, the following statement shall be typed or stamped on each page, either on the bottom or on the back page, depending on where space is available, and signed by the custodian of record.

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| <p>I HEREBY CERTIFY that the above and foregoing is a true copy of the original filed in this office.</p> <p>_____</p> <p>CENTRAL FLORIDA EXPRESSWAY AUTHORITY</p> <p>Dated _____</p> |
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CFX may not delay production of records. Records must be produced within the time reasonably required to identify, collect, review for confidential and/or exempt information and copy them for the requesting party. CFX must make a good faith effort to satisfy each request promptly, professionally, and consistent with available resources and other priorities.

The Public Records Law does not require CFX to generate or create new records not already in CFX’s custody in response to a public record requests.

CONFIDENTIAL OR EXEMPT RECORDS:

If the requested records are confidential or exempt from public disclosure by statute, the records may not be disclosed. CFX must inform the requestor that the records are exempt from disclosure and cite the applicable statute establishing the exemption. (*see sample exemption statement in appendix D*)

If only a portion of the record is confidential or exempt, CFX must redact that information and provide the remaining record to the requestor. The most efficient method should be used to redact information. For questions or guidance regarding providing confidential or exempt records, please contact the RIM Department.

In routine, day to day, or operational public record requests, the record coordinator responding to the request shall maintain the following items, up to and including, a copy of the request, acknowledgement, response, invoice (*if applicable*), records produced, or a record of what was produced, any related correspondence, and receipt of payment (*when applicable*). The record coordinator will then transfer the completed request to the Records Management Specialist for retention in accordance with CFX’s records retention schedule.

CFX shall not dispose of requested records for a period of 30 days after the date on which a request for records was made. This requirement is in addition to, and does not lessen, the obligation of CFX to retain records pursuant to the otherwise required records retention schedules.

INSPECTION/DUPLICATION OF RECORDS:

CFX will allow for the onsite inspection of any CFX public record, upon request, to satisfy a public record request. CFX records should not be removed from their respective working locations to any other facility in order to satisfy a public record requests unless authorized by the Records Administrator or the Records Management Specialist.

Arrangements of date, time, and location for the inspection of records should be coordinated through the Records Management Specialist.

The Records Administrator or the Records Management Specialist and/or the department record coordinator will be present at all times during the inspection of records to ensure the integrity of the record is maintained.

FEES:

Fees may be paid by cash, check, or money order made payable to the Central Florida Expressway Authority.

Fees collected in accordance with this procedure will be forwarded to the CFX Accounting Department for deposit.

CFX shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law. If a fee is not prescribed by law, the following fees are authorized:

Up to 15 cents per one-sided copy for duplicated copies of not more than 14 inches by 8½ inches.

No more than an additional 5 cents for each two-sided copy.

For all other copies, the actual cost of duplication of the public record.

Certified copies of public records shall be furnished upon payment of the prescribed fees in ***Section 119.07(4), F. S.***:

Per page certification. A charge of \$1 per page shall be assessed for each individually certified page.

Certification statement. A charge of \$5 for the certification statement plus any fees for copies as calculated in section 2 above.

The cost of mailing or shipping the requested material may also be added if the requestor asks that the material be delivered (instead of the requestor picking up the material in person).

If the nature or volume of the public records requested to be inspected or copied is such that it requires extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of CFX, or both, CFX may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by CFX or attributable to CFX for the clerical and supervisory assistance required, or both. (§ ***119.07(4)(d), F.S.***)

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

CFX may apply a special service charge to the requestor for inspection/duplication and/or retrieval of public records when the total time to satisfy the request exceeds 30 minutes.

The special service charge includes retrieving, reviewing for exemptions, reproduction, supervision of inspection, and manipulation/reformatting of information when necessary.

COLLECTION OF FEES:

A deposit of 50% of the estimated fee may be collected prior to beginning any research for gathering the information being requested.

After exhausting the initial fee deposit, the estimated remaining time required to complete the request shall be reviewed, and the remaining fee calculated. Upon consent from the requestor to pay the estimated remaining balance to complete the request, the processing will continue, and the amount shall be collected prior to releasing the records.

If the total amount collected exceeds the cost of gathering the information as requested, then the difference will be refunded to the requestor within 45 days of receipt of the records.

A receipt will be issued to the receiver of the public records at the time when the fees are collected. The receipt will include the date of the transaction, amount of transaction, name of recipient, signature of recipient, and a brief description of the records being released.

When public records can be sent via E-mail, CFX will do so in the interest of efficiency and in an effort to minimize costs. In these cases, CFX will charge only for extensive time, if applicable. If the records must be placed on a CD, DVD, or other media because they are too voluminous to E-mail or because the requestor does not want them sent via E-mail, the costs of the media to the provider may be recovered.

Notwithstanding what is stated herein, no charges will be assessed against the requestor if the cost of production equates to less than \$10.00.

CFX departments shall consult with the Records & Information Management Department prior to releasing or requiring a fee for the release of any CFX record to ensure compliance with the Florida Public Records Laws and this procedure.

RECORD SERIES:

Through review of the General Records Schedule for State and Local Government Agencies (GS1-SL) the record series to apply to these public record request documents is:

INFORMATION REQUEST RECORDS

Item #23

This record series consists of correspondence accumulated in answering inquiries from the public. The series may include requests for: publications or services provided by the agency; inspection and/or copies of public records; confirmation of meeting or event times/dates/locations; information on outstanding liens; and general agency information (e.g., mission statement, telephone list, map/directions, employee directory, etc.).

RETENTION: 1 fiscal year.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

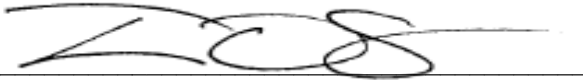
EFFECTIVE DATE:

This procedure will become effective on July 15, 2017 and remain in force until such time as it requires amending. This procedure will be reviewed annually by the RIM Department. Any requests to amend these procedures shall be submitted to the RIM Department for consideration.

FORMS:

- RIM RQ 006.17 (Acknowledgement Letter)
- RIM RQ 007.17 (Invoice Cover Letter)
- RIM RQ 008.17 (Invoice)
- RIM RQ 009.17 (Certification Statement Form)
- RIM RQ 010.17 (Response Letter – Confidential/Exempt)
- RIM RQ 011.17 (Response Letter – Records Not Maintained by CFX)
- RIM RQ 012.17 (Response Letter – No Records)
- RIM RQ 013.17 (Custodian Notice SB80)
- RIM RQ 016.17 (Processing Request)
- RIM RQ 017.17 (Competitive Solicitation Exemption)
- RIM RQ 018.17 (E-PASS Account Information Authorization)
- RIM RQ 023.17 (Personnel Information Authorization)

This procedure shall become effective as of **July 15, 2017.**



Tim O'Toole, RMLO

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| Created by: Tim O'Toole | Date: 7/15/2017 |
| Updated by: Tim O'Toole | Date: 5/31/2018 |
| Updated by: Tim O'Toole | Date: 4/9/2019 |
| Updated by: Sea Shell Hannabass | Date: 3/4/2020 |