

# **FREEDOM OF INFORMATION ACT POLICY AND PROCEDURES**

## **DELAWARE STATE HOUSING AUTHORITY**

## **Purpose**

Since 1967, the Freedom of Information Act (FOIA) has provided the public the right to request access to records from any federal agency. It is often described as the law that keeps citizens in the know about their government.

Under [Title 29, Chapter 100 of the Delaware Code](#), the Delaware State Housing Authority (DSHA) is required to disclose any information requested under the FOIA unless it falls under one of nine exemptions that protect interests such as personal privacy, national security, and law enforcement. This policy aims to set forth the rules and procedures for responding to the public's Freedom of Information Requests (FOIA).

## **Glossary**

The following words and terms, when used in this policy, shall have the following meaning unless the context indicates otherwise: "Agency" means Delaware State Housing Authority.

- "FOIA" means the Freedom of Information Act.
- "FOIA coordinator" shall mean the person designated by the Director to receive and process FOIA Requests.
- "Requesting Party" shall mean the party filing a FOIA Request.
- "Director" means the Director of the Delaware State Housing Authority.
- "FOIA requests" means a written request for agency records that reasonably describes DSHA records sought, made by any person, including a member of the public (U.S. or foreign citizen/entity), partnership, corporation, association, and foreign or domestic governments (excluding Federal agencies).
- "FOIA Request Form" means the form promulgated by the Office of the Attorney General upon which requests for Public Records may be made.
- "Public record" is information of any kind, owned, made, used, retained, received, produced, composed, drafted, or otherwise compiled or collected by any public body, relating in any way to general business or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, recorded or reproduced.

## **FOIA Coordinator**

The FOIA Coordinator is designated by the Director and serves as the point of contact for FOIA Requests and coordinates DSHA's responses. DSHA's FOIA Coordinator is identified on DSHA's website.

DSHA's FOIA Coordinator and/or their designee will make every reasonable effort to assist the Requesting Party in identifying the records being sought and to assist DSHA in locating and providing the requested documents.

The FOIA Coordinator and/or their designee will also work to foster cooperation between DSHA and the Requesting Party. Without limitation, if a Requesting Party initiates a FOIA Request that would more appropriately be directed to another agency, the FOIA Coordinator shall promptly forward such request to the relevant Agency and promptly notify the Requesting Party that the request has been forwarded.

DSHA may close the initial request upon receipt of a written confirmation from the FOIA Coordinator of the relevant Agency that the appropriate Agency has received such a request. DSHA shall provide the Requesting Party with the name and phone number of the FOIA Coordinator of the relevant Agency. The FOIA Coordinator shall maintain a document tracking all FOIA Requests for the then-current calendar year.

### **Eligible Requesting Parties**

Any Delaware resident can make a FOIA request. Accordingly, rights granted under FOIA to access State of Delaware public records are not guaranteed if the Requesting Party does not appear to be a Delaware resident.

See Del. Op. Att'y Gen. 16-IB20 (2016) (finding that the denial of a FOIA request by a non-Delaware citizen was not a violation of FOIA because the word "'citizen,' as used in Section 10003(a), refers to citizens of the State of Delaware.").

### **Submitting a FOIA Request**

Before making a request, the Requesting Party is encouraged to see if the information is publicly available on DSHA's website. If the requested information is not publicly available, the Requesting Party can submit a FOIA request to [FOIACoordinator@destatehousing.com](mailto:FOIACoordinator@destatehousing.com) or the following online [FOIA Request Form](#).

All FOIA requests must be in writing and adequately describe the records sought in sufficient detail to enable DSHA to locate such records with reasonable effort. The Requesting Party must be as specific as possible when requesting records. DSHA may request that the Requesting Party provide additional information, such as the types of documents, dates, parties to correspondence, and subject matter of the requested records.

### **FOIA Response**

FOIA requires that DSHA responds to a request for records as soon as possible but no more than 15 business days after receiving the request. DSHA may respond by providing or denying access to the records, or if the request is for voluminous records, requires legal advice, or is for records in storage or archived, the public body may respond by citing one of these reasons for the delay and providing a good faith estimate of the time frame in which a response will be provided.

### **Eligible FOIA Topics and Formats**

A FOIA request can be made for any agency record. Requesting Party can also specify the format in which Requesting Party wishes to receive the documents (for example, printed or electronic form). The FOIA does not require agencies to create new records, conduct research, analyze data, or answer questions when responding to requests.

FOIA does not require DSHA to create a record that does not already exist in response to a FOIA request, and FOIA does not require DSHA to retain public records. Public record retention requirements are separate laws governing DSHA's obligations to maintain its records.

### **FOIA Exemptions**

Not all records are required to be released under the FOIA. The FOIA authorizes agencies to withhold information protected by one of the exemptions [found at 29 Del C. Sec. 10002\(o\)](#).

FOIA's purposes are to allow access to existing public records and permit viewing of public meetings. The FOIA does not require agencies to create new records, conduct research, analyze data, or answer questions when responding to requests.

### **Petitions**

If a citizen believes that DSHA has violated or is about to violate FOIA, the citizen may petition the Attorney General to determine whether a violation occurred. Petitions must be in writing and include the following: (1) a description of how DSHA violated FOIA or is about to violate FOIA; and (2) all the documents supporting this alleged violation, such as email correspondence with the public body or meeting agendas or minutes, if appropriate. Petitions alleging that DSHA improperly responded to a FOIA request must include a copy of the original request (if available) and the public body's response. The FOIA Petition Rules of Procedures are available [here](#). To submit a petition, clearly mark it to the attention of the DOJ FOIA Coordinator and submit via fax, email, or mail, as set forth below. All petitioners are encouraged to submit petitions by email to [opengovernment@delaware.gov](mailto:opengovernment@delaware.gov) and to supply an email address in their contact information whenever possible.

### **FOIA Fees**

There is no fee required to submit a FOIA request, but the FOIA does provide for the charging of certain types of costs in some instances.

DSHA will charge administrative fees for processing a FOIA request. DSHA will comply with the specific fee requirements outlined in [29 Del. C. § 10003\(m\)](#). DSHA will charge administrative costs incurred in responding, including any staff time in excess of two hours associated with processing the request, excluding any fees for legal review of whether a record is exempt.

### **FOIA Fee Waivers**

Requesting Party may request a waiver of fees. Under the FOIA, fee waivers are limited to situations in which a requester can show that the disclosure of the requested information is in the public interest because it is likely to contribute significantly to the general understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester. Whether a waiver request meets this standard is in the exclusive discretion of DSHA. If a request meets this standard, DSHA is not be obligated to grant the request. Whether to grant the fee waiver is in the exclusive discretion of DSHA.