

GEORGIA STATE FINANCING AND INVESTMENT COMMISSION (CONSTRUCTION DIVISION) Standard Operating Procedures		
Functional Area: Records Management	Reference Number: 02	Revises Previous Effective Date: 3/9/06
Subject: Open Records Act		
Authority: OCGA § 50-18-70 et. seq.	Effective Date: 6/1/12	Page 1 of 5

Purpose of the Procedures

To define the policies and procedures for the Georgia State Financing & Investment Commission production of records under the Open Records Act, O.C.G.A. 50-18-70 thru 77;

- I. **Background:** The purpose of the Open Records Act is both to encourage public access to information and to foster confidence in government through forthrightness to the public. The intent of GSFIC is to afford the public at large a right of access to government records generally, while complying fully with the Open Records Act, including those provisions relating to when public disclosure is not required.
- II. **General:** The starting point in responding to a request for open records is to assume that all records prepared and maintained or received in the course of the operation of the agency are public records, subject to public inspection and copying. Under the Open Records Act, ‘public record’ is defined to include documents, papers, and records prepared and maintained in the course of the operation of the agency. But ‘public records’ also includes books, photographs, electronic communications, data, data fields, computer records and most other forms of communication. ‘Public record’ also includes documents prepared by or maintained by another person or entity (not a GSFIC employee) if that person or entity is performing a service or function for GSFIC.
- III. **The Open Records Process:**

A: Release of Records: Any GSFIC employee receiving a request for records held under his/her individual or departmental responsibility should immediately deliver the request to the Legal Services Department at (404) 463-5640. The GSFIC Legal Services Department is generally responsible for compliance with the Open Records Act. The Legal Services Department will designate appropriate staff members as operational needs dictate to assist in the production of records to requestors, and will coordinate all responses. **NOTE:** If you receive a document that is requesting records, but it is titled Request for Production of Documents, it should not be treated as an open record request, but should be hand-delivered to the Legal Services Department immediately.

B. Procedures for Release of Records: The law requires an agency to respond to an open records request within **three business days** of the agency's receipt of the request. The response should include the date of the request. A written request for open records is not required by law and an oral request must be honored just as if they were written. However, GSFIC 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 agency Open Records Act Log Sheet will be completed by the staff person receiving the request. A copy of the GSFIC Open Records Act Log Sheet is appended to this manual chapter as **(Attachment 1)**.

C. Record Availability: When records are readily available and subject to public access, they must be provided immediately. When the requested records are not readily available, the custodian of records is allowed a "reasonable amount of time" to gather the records and make them available. In all cases, a response to an open records request must occur within 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 records custodian must permit 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 records custodian must provide, in writing, the specific legal authority 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 or records exempt from release.

E. Appropriate Charges: GSFIC will not charge for administrative time for open records requests taking less than ¼ hour of staff time to prepare a response. Any request taking over ¼ hour will be subject to appropriate charges for administrative time.

- 1) Fee Notification Requirement: When the fee to be charged exceeds \$25.00, GSFIC must notify the requestor of the estimated costs associated with processing the records within the three day period and prior to fulfilling the request, and may defer the search and retrieval until the requester agrees to pay. If the fee to be charged exceeds \$500.00, all charges must be paid in advance.
- 2) GSFIC may charge a reasonable fee for administrative costs associated with the search, retrieval, review, copying and reproduction and mailing of public records. However, GSFIC must provide copies of requested documents “in the most economical means available.” For any charge, it is GSFIC’s

burden to demonstrate the charge meets the standard. GSFIC charges 0.10¢ per page for any copies in addition to the costs of search, retrieval, redaction and re-filing. When copies exceed one hundred pages the requestor may be required to make these copies. 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, GSFIC shall charge \$10.00 for each computer disk onto which the data is transferred.

- 3) If GSFIC determines a fee will be charged, the GSFIC Open Records Cost Worksheet will be completed. A copy of this worksheet is appended. **(Attachment II)** When completed electronically, the worksheet form calculates the costs associated with production of the requested record(s).

F. Exemptions: Some information contained in GSFIC files will be exempt from public disclosure. Examples of records that may be exempt from disclosure include records specifically required by the federal government to be kept confidential, project engineering estimates and other project bid information until such time as the final award of the contract or the project is terminated, and communications with our legal counsel. It may also be possible to redact those portions of a public record that are exempt, while still releasing the rest of the document. **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). **The designated custodian should consult with the Legal Services Department when in doubt as to whether a specific record falls under the exemption provision of the Open Records Act.**

- IV. Non-Compliance Penalty:** Under 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 exemption 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 of up to \$1,000.00 for the first violation. Any additional violations within 12 months of the first violation may result in a fine of up to \$2,500.00. It is also possible that GSFIC would be held accountable for a requester's attorney fees and litigation expenses if the requester files an action in court to obtain public records wrongfully denied by the agency.
- V. Records Retention:** The retention of public records is a statutory requirement described in the Georgia Records Act. GSFIC 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. GSFIC has established records retention schedules that comply with the requirements of the Georgia Records Act. Under the Act, records of all requests for open records as well as GSFIC's responses to such requests must be retained.