

BUFFALO FISCAL STABILITY AUTHORITY
FREEDOM OF INFORMATION LAW POLICY

SECTION I. GENERAL REQUIREMENTS

A. Records Access Officer. One or more persons must be designated by the Buffalo Fiscal Stability Authority (the "Authority") governing body as Records Access Officer. The designation must be by name and specific job title and business address. The Records Access Officer is responsible for coordinating the Authority's response to public requests for access to records.

The Records Access Officer is responsible for:

1. maintaining a current subject matter list;
2. assisting the requestor of records in identifying the requested records if necessary; and
3. determining whether the records should be made available for inspection or denying access to the records in part or in whole and explaining in writing the reason therefor.

B. Requests for Records. The Authority requires that all requests for records be made in writing or electronically. The form attached hereto as Exhibit A, entitled "Application for Public Access to Records" shall be posted on the Authority's website and made available at the Authority offices. Those requesting information will be encouraged but not required to use this form so as to expedite the process. In all events, such request should include dates, file designations or other information that may be helpful to describe the records sought.

The Authority shall respond, in the manner specified, to any request reasonably describing the record or records sought within five (5) business days of receipt of the request in the form attached hereto as Exhibit B, entitled "Authority's Acknowledgement of FOIL Request." The failure to grant or deny a request within ten (10) business days, after the date the acknowledgement of receipt of a request, can be construed as a denial of access that may be appealed.

C. Fees. There shall be no fee charged for the inspection of records, search for records or certification of records. However, the Authority shall charge a fee for copies of records. The fee for copying records shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches. If a record exceeds 9 by 14 inches, the fee for copies may not exceed the actual reproduction cost, which is the average unit cost for copying the record excluding the fixed cost of the Authority, such as clerical salaries.

D. Subject Matter List. The Authority shall maintain a reasonably current general list by subject matter of all records in its possession. Such subject matter list will not indicate whether such records are subject to disclosure. The list must be updated at least twice each year, and the most recent update must appear on the first page of the subject matter list. The subject matter list must be sufficiently detailed so as to permit identification of the category of the record sought.

E. Location, Hours of Public Inspection and Public Notice. The Authority must designate location(s) where records will be made available for public inspection and copying. The Authority must accept requests for public access to records and produce such records during regular business hours. If a location where records are kept for public inspection does not have daily regular business hours, a written procedure must be established by which a person seeking records may arrange an appointment to inspect and copy those records. The written procedure must include the name, position, business address and phone number of the party to be contacted before making an appointment to inspect and/or copy records. Until otherwise directed by the Board of the Authority, the main office of the Authority shall be the place designated for access.

The Authority must publicize, by either posting in a conspicuous location and/or by publication in a local newspaper of general circulation: the location where records are available for inspection and copying; the name, title, business address and business telephone number of the Records Access Officer; and notification of the right to appeal by any person denied access to the record and the name and business address of the person or body to whom an appeal should be directed. The Authority shall comply with this requirement by posting such a notice on its website and at its main office.

Nothing in the previous paragraphs alters the requirement that a person seeking access to records must first file a written request. The Records Access Officer has the right and obligation to arrange times for review that are convenient to the Authority during normal business hours after considering primary work responsibilities.

SECTION II. RECORDS

A. Exclusions. The Authority will, in accordance with its published rules, make available for public inspection and copying all records, except that such Authority may deny access to records of portions thereof that:

1. are specifically exempted from disclosure by state or federal statute;
2. if disclosed would result in an unwarranted invasion of personal privacy;
3. if disclosed would impair present or imminent contract awards or collective bargaining negotiations;
4. are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and

which if disclosed would cause substantial injury to the competitive position of the subject enterprise;

5. are compiled for law enforcement purposes and which if disclosed would:
 - a. interfere with law enforcement investigations or judicial proceedings;
 - b. deprive a person of a right to a fair trial or impartial adjudication;
 - c. identify a confidential source or disclosure confidential information relative to a criminal investigation; or
 - d. reveal criminal investigation techniques or procedures, except routine techniques and procedures;
6. if disclosed could endanger the life or safety of any person:
7. are inter-agency or intra-agency materials which are not:
 - a. statistical or factual tabulations or data;
 - b. instructions to staff that affect the public;
 - c. final agency policy or determinations; or
 - d. external audits, including but not limited to audits performed by the comptroller and the federal government; or
8. are examination questions or answers that are requested prior to the final administration of such questions; or
9. if disclosed, would jeopardize an agency's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures; or
10. are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eleven-a of the vehicle and traffic law.

B. Records Need Not Be Created. The Records Access Officer need only produce records in the form that they are maintained by the Authority. There is no requirement that the Records Access Officer create any record not possessed or maintained by the Authority.

If the Records Access Officer is unable to locate the records sought, he or she must certify either that the Authority is not the custodian of the records or the record of which the Authority is a custodian cannot be found after a diligent search.

C. Denial of Access to Records. Denial of access to records must be in writing, must state the reason for denial, and advise the person denied access of his or her right to appeal to the person or body established who hear appeals, identifying that person or body by name, title, business address and business telephone number. The Records Access Officer may not be the appeals officer.

SECTION III. APPEALS

A. Time for Appeal. Any person denied access to records must appeal the denial within thirty (30) days. The appeal must be in writing and state the date and location of requests for records, the records that were denied and the name and return address of the person requesting the appeal.

B. Designation of Appeal Body. The Authority's governing body has designated the secretary of the BFSA Board to hear such appeals. Copies of all appeals must be transmitted to the Committee on Open Government upon receipt. The Records Access Officer shall transmit all appeals upon receipt to the Committee on Open Government.

C. Time for Deciding Appeals. The secretary of the BFSA Board, designated to hear appeals, must inform the appellant and the Committee on Open Government of its determination in writing within ten (10) business days of receipt of an appeal. The determination must fully explain to the person requesting the record the reasons for further denial or provide access to the records sought.

NOTICE

YOU HAVE A RIGHT TO APPEAL A DENIAL OF THIS APPLICATION TO:

(NAME)

(BUSINESS ADDRESS)

(BUSINESS PHONE)

WHO MUST FULLY EXPLAIN THE REASONS FOR SUCH DENIAL IN WRITING WITHIN TEN (10) BUSINESS DAYS OF RECEIPT OF AN APPEAL.

I HEREBY APPEAL: _____
(SIGNATURE)

(DATE)

(ADDRESS)

INFORMATION BELOW MUST BE COMPLETED BY RECORDS ACCESS OFFICER IF REQUEST IS DENIED

NAME AND ADDRESS OF REQUESTER:

DATE OF REQUEST:

RECORDS REQUESTED:

LOCATION OF RECORDS REQUESTED:

