

## IDAHO COMMISSION ON AGING PROCEDURE

Document Subject	
Public Records Request	

**Purpose:** The purpose of this document is to address the public disclosure of records maintained by the Idaho Commission on Aging (ICOA) in accordance with the Idaho Public Records Law, Idaho Code Sections 74-101 through 74-127 effective July 1, 2025.

**Scope:** The scope of this document is to establish a public records request ("PRR") reference document for use by ICOA employees, particularly the custodian of records. If anything in this document conflicts with the Idaho Code, the Code will control.

### **Procedure:**

#### **Requests must be written and must include all requested information.:**

1. All PRRs must be submitted in writing to ICOA, including US mail, email, facsimile, or personal delivery to the ICOA office. Idaho Code § 74-102(4).
2. The requester must provide a completed, signed, and dated PRR form, or another written, signed, and dated request that includes all information on ICOA's PRR form. Idaho Code § 74-102(4).
3. Incomplete or unsigned forms, or other writings that do not include everything requested by ICOA's form, are insufficient to constitute a PRR. Idaho Code § 74-102(4).

#### **Receiving and Responding to a PRR:**

1. The PRR is deemed to be received on the working day that ICOA actually receives the completed and signed PRR during business hours. If a PRR is sent or delivered on a non-business day, or after business hours, it will be deemed received on the next working day. Idaho Code § 74-103(2).
2. ICOA will respond to all PRRs in writing, including writings tendered by US mail, email, facsimile, or personal delivery.
3. ICOA's written response must do one of the following:
  - a. grant the request;
  - b. deny the request;
  - c. grant in part and deny in part;
  - d. give notice that additional time is needed to respond to the request; or
  - e. give notice that ICOA has no records responsive to the request.
4. *For Idaho Residents:* ICOA must provide an initial written response within 3 working days of the request. If more than 3 working days are required to locate or retrieve the requested records, ICOA must notify the requester that the agency will take 7 additional working days to respond to the request, for a total of 10 working days from receipt of the request. Idaho Code § 74-103(2)
5. *For Non-Residents:* ICOA must provide an initial written response within 21 calendar days of the request. If more than 21 calendar days are required to retrieve or locate the requested records, ICOA may take 14 additional calendar days to respond to the request, for a total of 35 calendar days from receipt of the request.
6. Note that the foregoing response times are calculated by working days for Idaho residents, and by calendar days for non-residents. Failure to respond within the statutory timeline will be deemed a denial of the request.
7. *For all requesters:* If any electronic record must be duplicated or converted to another electronic format, and that duplication or conversion cannot be completed within the

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response time allotted, ICOA staff shall notify the requester in writing of the expected delay. Thereafter, ICOA shall provide the converted record at a mutually agreeable time, giving due consideration for the conversion time required or the need to use a third party to make the conversion.

8. *For all requesters:* In addition to or in lieu of obtaining copies, a requester has the right to examine records in person at the ICOA offices, during regular working hours upon advance payment by the requester of the cost for an employee to maintain vigilance over the records during the examination. IC § 74-102(8)

### Scope of the Request:

1. Pursuant to 74-102(5), ICOA staff shall make no inquiry of any requester, except:
  - a. To verify the identity of the requester in accordance with section 74-113; or
  - b. To ensure that the requester will not use the records to create a mailing or telephone list prohibited by Section 74-120 or any other law; or
  - c. As required for protecting personal information from disclosure pursuant to state or federal law.
2. When a request is broad, unclear, or may incur fees, an ICOA employee may contact the requester to:
  - a. provide options for narrowing or clarifying the request to potentially reduce fees or processing time;
  - b. confirm whether the requester prefers to examine the records in person at the ICOA; to receive copies by US mail or by email; or to pick up the records in person at the ICOA office; and
  - c. make arrangements or appointments for in-person examination or copy pick-up
3. The ICOA staff member will document in writing any discussion with the requester, typically via email to the requester, or a written note attached to the request form. ICOA may ask the requester to submit a new signed request to confirm any agreed-upon changes to the initial request.
4. Idaho law does not require ICOA to provide copies of records in a format not used in the normal course of business. For example, ICOA is not required to alphabetize information, summarize information into a new document, or create reports in the requester's desired format.
5. Idaho law does not require ICOA to create new records, or to seek them from other sources outside of ICOA, or to provide advice about locating records not in ICOA's possession.
6. If none of the requested records are in ICOA's possession at the time of the request, the correct response is, "The ICOA has no records responsive to this request."
7. Where ICOA records are made available to the public for review during a comment period required by statute or regulation, members of the public are not required to submit a PRR for such records. However, a PRR is required for review of any related records not included in the public comment package and not otherwise exempt from disclosure.

### Confidential and Exempt Records:

1. Sections 74-104 through 74-111 list the records that are exempt from disclosure. The ICOA staff member designated as custodian of records must become very familiar with these sections in order to properly assess each PRR for application of exemptions.
2. The most common exemptions include most personnel records; investigation records; litigation-related documents; privileged communications with legal counsel; court proceedings that are confidential by statute; juvenile records; health information; birth records; records containing personally identifiable information; and trade secrets. This is not an exhaustive list; the Code is controlling as to exemptions.

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3. ICOA's custodian of records is encouraged to send each PRR to the Office of the Attorney General (OAG) to review for potential exemptions before releasing any records. Additionally, ICOA staff must forward the PRR to the OAG immediately upon receipt under any of the following circumstances:
  - a. the requester is an attorney, law office, or government agency;
  - b. the PRR potentially encompasses any communications to or from the OAG;
  - c. the scope of PRR includes records that are wholly or partially exempt from disclosure; or
  - d. the response to the PRR will include a denial or partial denial.
4. A record may be wholly exempt, or only exempt as to certain portions. All exempt information must be redacted before release to the public.

### Fees and Charges:

1. Idaho Code §74-102 authorizes ICOA to establish resident and non-resident fee schedules to recover actual costs associated with locating and copying records in responding to a PRR.
2. For Idaho residents, no fee shall be charged for PRR except:
  - a. the request is for more than 100 pages; or
  - b. the request includes records from which exempt information must be redacted; or
  - c. the actual labor associated with the response exceeds two person hours;in which cases, the fees charged shall not exceed the actual cost to ICOA as determined by Idaho Code § 74-102(c), (d), and (e). Additionally, ICOA shall waive the fees and costs for Idaho residents who meet the standards set forth in Idaho Code § 74-102(10)(f). Pursuant to Idaho Code § 74-102(11), ICOA may also aggregate a series of requests and charge fees if it appears that the multiple requests were made solely to avoid imposition of fees.
3. For all non-residents, ICOA may charge any reasonable fee that does not exceed the actual cost to ICOA, pursuant to Idaho Code , pursuant to Idaho Code § 74-102(10)(g).
4. ICOA shall provide an itemized statement of fees for every fee that is charged for a PRR.

Pursuant to Idaho Code §74-102, ICOA establishes the following Public Records Request Fee Schedule:

Idaho Code	Type of Work	Cost
§74-102(10)(b)(i)	Photocopying more than 100 sheet pages on standard 8.5 x 11-inch paper	\$.07 per page black and white (start with page 101)
§74-102 (10)(d)	Photocopying on sheets other than standard 8.5 x 11-inch paper	Actual cost depending on size
§74-102 (10)(e)	Where labor exceeds 2 person hours	Current lowest rate of person involved in request
§74-102 (10)(e)	Where review by the Office of the Attorney General is required	\$88.00 per hour
§74-102 (10)(d)	Where ICOA has an out-of-pocket cost	Actual Costs
§74-102 (10)(d)	Where records are provided in the form of computer tape or disk, compact disc (CD), digital versatile disc (DVD), microfilm, or similar form	Actual Costs
§74-102 (10)	Where copies of records are mailed or shipped	Actual Costs

### Denials and Partial Denials

1. A civil penalty of up to \$1000 may be assessed against a public official who deliberately and in bad faith denies a lawful PRR. Officials have immunity for acting in good faith, which is best demonstrated by consulting with the OAG prior to issuing any denial.

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2. ICOA shall issue a written denial or partial denial of a PRR to the extent the requested material is exempt from disclosure. The denial letter shall include all of the following:
  - the fact that a deputy attorney general reviewed the request;
  - the specific statutory authority supporting the basis for the denial or partial denial;
  - the requester's right to file an appeal of the denial; and
  - the timeline for filing an appeal.
3. Where a PRR is denied, the requester's only remedy is to file an appeal with the court pursuant to Idaho Code §74-115 within 180 calendar days from the date of mailing of the notice of denial.
4. ICOA shall maintain all records relating to denial or partial denial of a PRR, for the longer of:
  - a. the expiration of the appeal period;
  - b. until the court has ruled on the appeal;
  - c. as otherwise provided by ICOA record retention policy; or
  - d. as otherwise provided by statute.

### ***References:***

*Idaho Code §§ 74-101 through 74-127*