

Policy and Procedures for Responding to FOIA Requests submitted to DEW – Effective August 1, 2017

I. INTRODUCTION

It is the policy of the Department of Employment and Workforce (“DEW”) that our records are open to the public for inspection and copying pursuant to, and subject to the limitations of, the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-10 et seq. (“FOIA”). DEW is committed to following both the letter and spirit of FOIA to ensure that public business is performed in an open and public manner.

DEW receives a significant number of information requests in the central office as well as in other offices throughout the state. This policy applies to most written requests for information (whether received by email, fax, hand-delivery, or U.S. mail). A specific reference to FOIA does not have to be made in the request, and DEW staff should refer any questionable requests to the Office of General Counsel (“OGC”) by forwarding the request to foia@dew.sc.gov. No particular form is required, although a standard form may be downloaded from DEW’s website or will be provided upon request.

II. POLICY AND PROCEDURES

A. Referral of Requests. To ensure timely and appropriate responses to the public, DEW staff should forward information requests to foia@dew.sc.gov. The OGC has staff located at DEW’s central office that is trained to handle FOIA requests in a consistent manner and in conformity with FOIA. Therefore, DEW staff should refer any information requests to the OGC.

B. Procedure to Process Requests. All FOIA requests must be in writing unless otherwise permitted by law. The OGC will maintain a request log, which tracks all requests received by DEW as an agency. If the requested records are available and subject to public disclosure, the OGC shall coordinate with appropriate program areas to retrieve, review, and/or copy the records. Requestors may elect to review records by appointment in DEW’s central office, receive electronic copies of the records via encrypted email, or receive paper copies of the records. At the discretion of the OGC, arrangement may be made for review of documents at DEW’s other offices around the state.

C. Limitations on Available Records. Certain requests may require the OGC to make a determination regarding confidentiality, attorney-client privilege/work product, trade secret, or other FOIA or separate statutory exemptions that limit the scope of available records. In such cases, the OGC will notify the requestor in writing that some or all of the requested records are exempt from disclosure.

D. Response to Request/Notification. Within ten (10) working days (i.e., not including Saturdays, Sundays, and public holidays) of receipt of a written FOIA request, DEW must respond to the requestor in writing regarding a determination on the release of records. This response deadline is extended to twenty (20) days for records that are more than twenty-four

(24) months old. DEW must provide records no later than thirty (30) calendar days from the date on which the final determination was provided. Similarly, if a deposit is required, DEW must provide records no later than thirty (30) calendar days from the date on which the deposit is received. These deadlines are extended to thirty-five (35) days for records that are more than twenty-four (24) months old.

E. Fees. FOIA provides for the collection of reasonable fees. Accordingly, DEW charges a fee for responding to FOIA requests. A current schedule of fees, which are subject to change, will be available from the OGC and also posted on DEW's website. Fees may include the actual cost of reproduction and personnel costs for search, retrieval and redaction of records. DEW's Finance Department will create and provide invoices for requestors once documents have been identified. The full amount of the total cost must be paid prior to the actual production of the request, and DEW will transmit documents to the requestor immediately following receipt of payment by DEW. At the discretion of DEW, the agency may require a deposit of up to twenty-five percent (25%) of the total reasonably anticipated cost from the requestor prior to searching for or making copies of records. DEW Executive Director or his/her designee may allow for a reduced fee or waiver where DEW determines the fee reduction or fee waiver is in the public interest.

F. Noncompliance. Failure to comply with FOIA can potentially subject DEW to lawsuits and/or adversely affect our perception with the public. DEW expects all employees to do their part in fulfilling the objectives of this policy. Immediately upon receipt, employees should forward any requests for information they receive, regardless of whether or not FOIA is referenced in the request, to foia@dew.sc.gov. Failure to comply with this policy (specifically, by failing to take action on information requests) may subject employees to disciplinary action, up to and including termination.