

**SOUTH CAROLINA STATE FISCAL ACCOUNTABILITY AUTHORITY
NEWS MEDIA, FOIA, AND ELECTED OFFICIAL REQUESTS
POLICY AND PROCEDURE**

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. Policy Statement

The State Fiscal Accountability Authority (SFAA) plays a key role in central state government and is often critically involved in a wide range of issues that face the state. It is critical to SFAA's mission that the news media, public, and elected officials receive timely and accurate information about the activities of SFAA. The responsibility for providing information to these entities rests with the Office of the Executive Director and those individuals within the offices who are so designated.

This policy applies to you in your official capacity as an employee of SFAA. This policy does not prohibit an employee from exercising his or her freedom of speech as a private citizen on matters of public concern.

Employees of SFAA are instructed to use extreme care to avoid disclosing any confidential or nonpublic information.

II. News Media

A. General Procedures

Employees of the State Fiscal Accountability Authority should refer the news media to the Communications Coordinator in the Office of the Executive Director.

It is the responsibility of the Communications Coordinator, in conjunction with the Office of the Executive Director and office/division directors, to determine who will provide information directly to the news media on individual issues.

Office/division directors will be notified of non-routine requests for information from their offices/divisions; requests which are non-controversial will be handled routinely as determined by the parties involved.

If the Communications Coordinator is unavailable, employees should refer the news media to their office/division director and/or the Office of the Executive Director.

If contact with the news media is unavoidable, employees should immediately report such contact to their supervisor and their office/division director. The Communications Coordinator should also be notified as soon as possible.

Employees should respond to requests from the Communications Coordinator for information and/or access to SFAA offices in a reasonable time frame.

B. Interviews

All employee interviews with the news media should be arranged through the Communications Coordinator. This includes both print and broadcast media interviews via telephone or in person.

Interviews of a personal nature (i.e., not related to job function or employee responsibilities) should not be conducted in any SFAA office/building at any time unless specific, prior permission has been granted by the Communications Coordinator and/or Office of the Executive Director.

Exceptions:

Occasionally, executive staff or a designee will be in a position to talk directly with the news media. Executive staff is defined as one of the following: executive director, chief of staff, division director, office director, and assistant office/division director. Office/division directors may also designate other managers to speak in the office's or division's behalf.

Executive staff should carefully consider the appropriateness of such direct contacts with the news media, bearing in mind that these discretionary decisions will vary from issue to issue. Sensitive matters affecting the SFAA and its offices should always be referred to the Communications Coordinator and/or the Office of the Executive Director.

After contact with the news media, the office/division director and/or executive staff should notify the Communications Coordinator immediately as to the subject matter and details thereof.

III. Freedom of Information Act (FOIA) Requests

A. General Procedures

All FOIA requests shall be answered in accordance with the Freedom of Information Act (FOIA), including but not limited to time frames, definitions of releasable information, and exemptions. Matters not subject to disclosure under the FOIA will not be released without prior approval. See Sections 30-4-10 et seq. of the *South Carolina Code of Laws* (1976) as amended.

On matters which are questionable as to disclosure, the Office of General Counsel should be sought prior to releasing records under the FOIA.

Non-SFAA employees shall not be allowed unsupervised access to SFAA premises or record files unless approved by the Office of the Executive Director, office/division director, and/or designated staff.

Prior to the release of records or information, it is standard practice for SFAA to inform constitutional officers, members and staff of the General Assembly, other state agencies, and SFAA employees that a FOIA request concerning them has been submitted. This action should in no way be construed as circumvention of the FOIA or compromising SFAA's intention to disclose information which is releasable under the FOIA.

B. FOIA Requests from News Media

News media requests under FOIA should be referred to the Communications Coordinator in the Office of the Executive Director.

It is the responsibility of the Communications Coordinator, in conjunction with the Office of the Executive Director and office/division directors, to determine who will provide FOIA information directly to the news media. FOIA requests and responses must be in writing. A cover letter or message should be part of the FOIA response.

If appropriate, the Communications Coordinator will request information from a SFAA office employee regarding a FOIA request. This includes but is not limited to researching files, pulling archived materials, copying information, developing a computer program or running an existing computer program, making records available for review, and allowing file access to reporters.

It is the policy of the State Fiscal Accountability Authority to answer all FOIA requests in a timely manner. Requests should be handled in the course of regular office business with a goal of responding no later than the 15 business days provided for in the Act, or earlier if possible.

When requests involve a large amount of information, requestors should be given options for receiving the data. This could include allowing the requestor the opportunity to review disclosable records at our offices rather than receiving hard or electronic copies if this will be more convenient for both parties. This step should be taken before SFAA staff begins assembling the data. While records are under review, staff should remain with the individual making the FOIA request.

If information requested under the FOIA is determined to be non-releasable, the Office of the Executive Director and/or office executive staff shall provide written notification of that determination and the reasons thereof within the time requirements of the FOIA (i.e., 15 business days, excluding Saturdays, Sundays, and legal holidays).

In the event of an unavoidable delay in providing releasable information, the Communications Coordinator shall provide written approval of the FOIA request within the time requirements of the FOIA (i.e., 15 business days, excluding Saturdays, Sundays, and legal holidays) and shall forward the requested information immediately upon its availability.

All FOIA requests from the news media should be date stamped upon their receipt; if the FOIA request is received initially at a SFAA office, it should be date stamped at that location and immediately redirected to the Office of the Executive Director where it will be date stamped also.

FOIA responses may be in paper or electronic format. If the request is made electronically, it is acceptable to respond in the same format. The requested information may be attached as a PDF or other comparable medium.

A FOIA request is not required for information that is immediately disclosable under the Act. This would include approved minutes of Budget and Control Board/State Fiscal Accountability Authority meetings and other committees for which SFAA provides staff support.

No SFAA office, program or SFAA employee acting in their official capacity should submit a FOIA request to another governmental entity without prior approval of the Office of General Counsel or the Office of Executive Director.

The following text should be included in all responses to FOIA requests:

“Section 30-2-50 of the Code of Laws of the State of South Carolina provides that no person or private entity shall knowingly obtain or use any personal information obtained from a public body for any commercial solicitation directed to a person in this State. The State Fiscal Accountability Authority, as a public entity, gives notice to you,

as a requestor of records from this agency, that obtaining or using these public records for commercial solicitation is prohibited. Any person who knowingly uses public records for commercial solicitation is guilty of a misdemeanor and, upon conviction, must be fined an amount not to exceed five hundred dollars or imprisoned for a term not to exceed one year, or both. Please see S.C. Code of Laws Section 30-2-10, et. seq. for full text of Family Privacy Protection Act.”

C. FOIA Requests from Non-News Media

FOIA requests originating with non-news media (i.e., vendors, attorneys, businesses, organizations, general public, etc.) which concern non-sensitive issues should be answered by the office to which it is directed or is applicable.

In so far as it is applicable, procedures for FOIA requests from non-news media should be identical to the FOIA procedures regarding the news media.

FOIA requests originating from non-news media which concern sensitive matters or issues of interest to SFAA members and/or the Office of Executive Director should be directed to the Communications Coordinator immediately.

D. Disclosure of Applicant Information

1. Introduction

In accordance with the South Carolina's Freedom of Information Act ("FOIA"), S. C. Code § 30-4-10 et. seq. as amended, public bodies must make available to a requestor under the FOIA the total number of applicants who applied for a specific employment position. In addition, public bodies must disclose all materials gathered during the employment search for not fewer than the final three applicants under consideration for any type of position.

2. Collection of Applicant Information

The following steps are to facilitate the processing of a FOIA request before it is received:

a. Creation of a Centralized Office To Process FOIA Requests

The SFAA's Office of Human Resources is designated as the centralized office to process FOIA requests concerning applicant information. The Office of Human Resources is the designated custodian which will store all of this applicant information. The Office of Human Resources will receive all FOIA requests for applicant information within the agency and be responsible for all correspondence to and from the agency regarding

those FOIA requests.

b. Determining the Total Number of Applicants for a Position

The SFAA's Office of Human Resources shall maintain a current count of the number of applications that are accepted for an open position. Once the position is filled or applications are no longer being accepted for that position, the applications shall be grouped together, with the total number of applications accepted displayed clearly on an applicant log and maintained in the file folder in which the applications are kept.

c. Standard Materials to Gather Concerning an Applicant

The following is a list of materials that generally should be gathered for an applicant: application/resume, reference checks, and confirmation of salary for a State employee. Standardized information that must become part of the applicant's file shall be determined by the nature of the position.

d. Materials that May Be Gathered concerning an Applicant

The following is a list of some materials to gather, dependent upon the specific position being filled: criminal background checks, credit checks, school transcripts, driver's license records, drug tests (including mandatory CDL drug testing), medical examinations, certification or licensing verifications, proficiency test scores (e.g., excel, powerpoint, etc.), writing samples, and interview notes.

e. Determining Not Fewer than the Final Three Applicants for a Position

Once all applications have been gathered for a position and all interviews have been completed, the hiring office/ division must identify not fewer than the final three applicants for the position and notify the SFAA's Office of Human Resources on the Applicant Log form as to that identification.

3. FOIA Request for Applicant Information

The following steps are to facilitate the processing of an FOIA request once it is received.

a. Requiring a Written Request for Information

The SFAA's Office of Human Resources will require all requests for information concerning applicants to be in writing.

b. Providing a Written Response to the Request

When the SFAA's Office of Human Resources receives a written request under the FOIA for information concerning an applicant, the Office of Human Resources will respond in writing to the request within 15 days (excepting Saturdays, Sundays and legal public holidays). Information in the response should include a summary of any information that will be provided under the request, a summary of any information that will not be disclosed and the reasons therefore, an estimate of the fees that will be charged, and any deposit, if necessary, to be made by the requestor.

c. Assembling Information to Respond to the Request

The SFAA's Office of Human Resources will assemble all materials, regardless of their form or location, that were gathered in the search to fill the employment position.

d. Determining Which Information to Disclose

The SFAA's Office of Human Resources will determine which information to disclose under the FOIA request. The applicant's social security number, medical records, and tax information are exempt from disclosure by the FOIA. Each FOIA request will be examined on a case-by-case basis for determining which information will be disclosed or not disclosed under the Freedom of Information Act. In determining what information to disclose under §30-4-40(a)(2) of the FOIA, the Office of Human Resources should weigh the privacy interests of the applicant against the public's interest in disclosure. Depending on the specific situation, the following information should be evaluated to determine whether its disclosure would constitute an unreasonable invasion of personal privacy under § 30-4-40(a)(2): drug test results, unlisted phone numbers, salaries, criminal convictions, Family Independence Act (FIA) information, reasons for job terminations, credit check information, criminal background check information, reference letters, disability status, and driver's license numbers and records. Prior to the release of any information under this Policy, the Office of General Counsel will be consulted.

E. Charges for FOIA Requests

FOIA requests should be answered without charge when the request will benefit the public interest and requires minimal and/or a reasonable amount of employee time and photocopying expense.

For requests which require substantial employee time for searching and/or photocopying, etc., a reasonable charge may be assessed the person or

organization requesting the information. FOIA requests which involve computer programs/runs will also be assessed a reasonable charge.

Guidelines for determining what is reasonable are established for all SFAA offices as follows:

Photocopying - if the FOIA request requires copying approximately 50 pages or more at one time or a similar amount over several days, the charge would be calculated at 20 cents per page.

Employee/Administrative Time - if the FOIA request requires approximately one hour or more of staff time, the charge would be based on the hourly wage of the employee(s) responding to the request.

Postage or Fax - if the FOIA request requires postage or a fax expense of approximately \$2.00 or more, the charge would be the actual cost associated with the process.

Computer Time - if the FOIA request requires development of a computer program or running an established program, the charge would be based on costs associated with the process.

Charges may be assessed for both photocopying and employee/administrative time if considerable staff time and any amount of photocopying are required to process the FOIA response.

Charges may also be assessed if one or more related FOIA requests from the same individual or organization require considerable staff time to answer.

Charges generally will not be levied for making records accessible for review unless it is determined that considerable time by knowledgeable staff will be required for reviewing documents with the requester.

Any individual making a FOIA request which will result in a charge shall be notified in advance of the approximate cost for providing that information; notification and acceptance of those charges may be verbal or in writing.

Payment in part or in full for a FOIA request may be required by the SFAA prior to the release of any records. If the cost of responding to the request is estimated to be \$200 or more, then a minimum deposit amounting to at least half of the estimated cost will be required. Requests for payment in advance shall be in writing.

Payment for FOIA requests should be made payable to the State Fiscal Accountability Authority. Checks/money orders should be forwarded to the Finance Office. Payment will be deposited and credited to the office which

provided the response to the FOIA request.

Constitutional officers, members of the General Assembly, and other state agencies shall not be charged for information or records released under the FOIA.

Charges may be waived or levied at the discretion of the Communications Coordinator or office/division director.

IV. Requests from Elected Officials

A. General Procedures

Employees of SFAA should refer requests from elected officials or their staff to the Communications Coordinator in the Office of the Executive Director.

It is the responsibility of the Communications Coordinator, in conjunction with the Office of the Executive Director and office/division directors, to determine who will provide information regarding the request.

Office/division directors will be notified of non-routine requests for information from their offices/divisions; requests which are non-controversial will be handled routinely as determined by the parties involved.

If the Communications Coordinator is unavailable, employees should refer the legislative requests to their office/division director and/or the Office of the Executive Director.

Employees should respond to requests from the Communications Coordinator for information and/or access to SFAA offices in a reasonable time frame.